UNITED STATES. CONGRESS

ABRIDGEMENT OF THE DEBATES OF CONGRESS, FROM 1789 TO 1856 (4 OF 16 VOL.)

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Abridgement of the Debates of Congress, from 1789 to 1856 (4 of 16 vol.)

TENTH CONGRESS. – SECOND SESSION. BEGUN AT THE CITY OF WASHINGTON, NOVEMBER 7, 1808. PROCEEDINGS IN THE SENATE

Monday, November 7, 1808

Conformably to the act, passed the last session, entitled "An act to alter the time for the next meeting of Congress," the second session of the tenth Congress commenced this day; and the Senate assembled at the city of Washington.

PRESENT:

- George Clinton, Vice President of the United States and President of the Senate.
- Nicholas Gilman and Nahum Parker, from New Hampshire.
- Timothy Pickering, from Massachusetts.
- James Hillhouse and Chauncey Goodrich, from Connecticut.
- Benjamin Howland and Elisha Mathewson, from Rhode Island.
- Stephen R. Bradley and Jonathan Robinson, from Vermont.
- Samuel L. Mitchill and John Smith, from New York.
- John Condit and Aaron Kitchel, from New Jersey.
- Samuel Maclay, from Pennsylvania.
- Samuel White, from Delaware.
- William B. Giles, from Virginia.
- James Turner, from North Carolina.
- Thomas Sumter and John Gaillard, from South Carolina.
- William H. Crawford, from Georgia.
- Buckner Thruston and John Pope, from Kentucky.
- Daniel Smith, from Tennessee.
- Edward Tiffin, from Ohio.

James Lloyd, jun., appointed a Senator by the Legislature of the State of Massachusetts, to supply the place of John Quincy Adams, resigned, took his seat in the Senate, and produced his credentials, which were read, and the oath prescribed by law was administered to him.

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 Messrs. Bradley and Pope be a committee on the part of the Senate, together with such committee as may be appointed by the House of Representatives on their part, to wait on the President of the United States and notify him that a quorum of the two Houses is assembled.

A message from the House of Representatives informed the Senate that a quorum of the House is assembled and ready to proceed to business; and that the House had appointed a committee on their part, jointly with the committee 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.

Resolved, That James Mathers, Sergeant-at-Arms and Doorkeeper to the Senate, be, and he is hereby, authorized to employ one assistant and two horses, for the purpose of performing such services as are usually required by the Doorkeeper to the Senate; and that the sum of twenty-eight dollars be allowed him weekly for that purpose, to commence with, and remain during the session, and for twenty days after.

On motion, by Mr. Bradley,

Resolved, That two Chaplains, of different denominations, be appointed to Congress during the present session, one by each House, who shall interchange weekly.

Mr. Bradley reported, from the joint committee, that they had waited on the President of the United States, agreeably to order, and that the President of the United States informed the committee that he would make a communication to the two Houses at 12 o'clock to-morrow.

Tuesday, November 8

Samuel Smith and Philip Reed, from the State of Maryland, attended.
The following Message was received from the President of the United States:

To the Senate and House ofRepresentatives of the United States:

It would have been a source, fellow-citizens, of much gratification, if our last communications from Europe had enabled me to inform you that the belligerent nations, whose disregard of neutral rights has been so destructive to our commerce, had become awakened to the duty and true policy of revoking their unrighteous edicts. That no means might be omitted to produce this salutary effect, I lost no time in availing myself of the act authorizing a suspension, in whole, or in part, of the several embargo laws. Our Ministers at London and Paris were instructed to explain to the respective Governments there, our disposition to exercise the authority in such manner as would withdraw the pretext on which aggressions were originally founded, and open the way for a renewal of that commercial intercourse which it was alleged, on all sides, had been reluctantly obstructed. As each of those Governments had pledged its readiness to concur in renouncing a measure which reached its adversary through the incontestable rights of neutrals only, and as the measure had been assumed by each as a retaliation for an asserted acquiescence in the aggressions of the other, it was reasonably expected that the occasion would have been seized by both for evincing the sincerity of their professions, and for restoring to the commerce of the United States its legitimate freedom. The instructions of our Ministers, with respect to the different belligerents, were necessarily modified with a reference to their different circumstances, and to the condition annexed by law to the Executive power of suspension requiring a degree of security to our commerce which would not result from a repeal of the decrees of France. Instead of a pledge therefore of a suspension of the embargo as to her, in case of such a repeal, it was presumed that a sufficient inducement might be found in other considerations, and particularly in the change produced by a compliance with our just demands by one belligerent, and a refusal by the other, in the relations between the other and the United States. To Great Britain, whose power on the ocean is so ascendant, it was deemed not inconsistent with that condition to state, explicitly, on her rescinding her orders in relation to the United States, their trade would be opened with her, and remain shut to her enemy, in case of his failure to rescind his decrees also. From France no answer has been received, nor any indication that the requisite change in her decrees is contemplated. The favorable reception of the proposition to Great Britain was the less to be doubted, as her Orders of Council had not only been referred for their vindication to an acquiescence on the part of the United States no longer to be pretended, but as the arrangement proposed, whilst it resisted the illegal decrees of France, involved, moreover, substantially, the precise advantages professedly aimed at by the British Orders. The arrangement has, nevertheless, been rejected.

This candid and liberal experiment having thus failed, and no other event having occurred on which a suspension of the embargo by the Executive was authorized, it necessarily remains in the extent originally given to it. We have the satisfaction, however, to reflect, that in return for the privations imposed by the measure, and which our fellow-citizens in general have borne with patriotism, it has had the important effects of saving our mariners, and our vast mercantile

property, as well as of affording time for prosecuting the defensive and provisional measures called for by the occasion. It has demonstrated to foreign nations the moderation and firmness which govern our councils, and to our citizens the necessity of uniting in support of the laws and the rights of their country, and has thus long frustrated those usurpations and spoliations which, if resisted, involved war, if submitted to, sacrificed a vital principle of our national independence.

Under a continuance of the belligerent measures, which, in defiance of laws which consecrate the rights of neutrals, overspread the ocean with danger, it will rest with the wisdom of Congress to decide on the course best adapted to such a state of things; and bringing with them, as they do, from every part of the Union, the sentiments of our constituents, my confidence is strengthened that, in forming this decision, they will, with an unerring regard to the essential rights and interests of the nation, weigh and compare the painful alternatives out of which a choice is to be made. Nor should I do justice to the virtues which, on other occasions, have marked the character of our fellow-citizens, if I did not cherish an equal confidence that the alternative chosen, whatever it may be, will be maintained with all the fortitude and patriotism which the crisis ought to inspire.

The documents containing the correspondences on the subject of foreign edicts against our commerce, with the instructions given to our Ministers at London and Paris, are now laid before you.

The communications made to Congress at their last session explained the posture in which the close of the discussions relating to the attack by a British ship of war on the frigate Chesapeake, left a subject on which the nation had manifested so honorable a sensibility. Every view of what had passed authorized a belief that immediate steps would be taken by the British Government for redressing a wrong, which, the more it was investigated, appeared the more clearly to require what had not been provided for in the special mission. It is found that no steps have been taken for the purpose. On the contrary, it will be seen, in the documents laid before you, that the inadmissible preliminary, which obstructed the adjustment, is still adhered to; and, moreover, that it is now brought into connection with the distinct and irrelative case of the Orders in Council. The instructions which had been given to our Minister at London, with a view to facilitate, if necessary, the reparation claimed by the United States, are included in the documents communicated.

Our relations with the other powers of Europe have undergone no material changes since our last session. The important negotiations with Spain, which had been alternately suspended and resumed, necessarily experience a pause under the extraordinary and interesting crisis which distinguishes her internal situation.

With the Barbary Powers we continue in harmony, with the exception of an unjustifiable proceeding of the Dey of Algiers towards our Consul to that Regency. Its character and circumstances are now laid before you, and will enable you to decide how far it may, either now or hereafter, call for any measures not within the limits of the Executive authority.

Of the gun boats authorized by the act of December last, it has been thought necessary to build only one hundred and three in the present year. These, with those before possessed, are sufficient for the harbors and waters most exposed, and the residue will require little time for their construction when it shall be deemed necessary.

Under the act of the last session for raising an additional military force, so many officers were immediately appointed as were necessary for carrying on

the business of recruiting; and in proportion as it advanced, others have been added. We have reason to believe their success has been satisfactory, although such returns have not yet been received as enable me to present you a statement of the number engaged.

The suspension of our foreign commerce, produced by the injustice of the belligerent powers, and the consequent losses and sacrifices of our citizens, are subjects of just concern. The situation into which we have thus been forced has impelled us to apply a portion of our industry and capital to internal manufactures and improvements. The extent of this conversion is daily increasing, and little doubt remains that the establishments formed and forming will, under the auspices of cheaper materials and subsistence, the freedom of labor from taxation with us, and of protecting duties and prohibitions, become permanent. The commerce with the Indians, too, within our own boundaries, is likely to receive abundant aliment from the same internal source, and will secure to them peace and the progress of civilization, undisturbed by practices hostile to both.

The accounts of the receipts and expenditures during the year ending on the thirtieth day of September last, being not yet made up, a correct statement will hereafter be transmitted from the Treasury. In the mean time, it is ascertained that the receipts have amounted to near eighteen millions of dollars, which, with the eight millions and a half in the Treasury at the beginning of the year, have enabled us, after meeting the current demands, and interest incurred, to pay two millions three hundred thousand dollars of the principal of our funded debt, and left us in the Treasury, on that day, near fourteen millions of dollars. Of these, five millions three hundred and fifty thousand dollars will be necessary to pay what will be due on the first day of January next, which will complete the reimbursement of the eight per cent. stock. These payments, with those made in the six years and a half preceding, will have extinguished thirty-three millions five hundred and eighty thousand dollars of the principal of the funded debt, being the whole which could be paid or purchased within the limits of the law and our contracts; and the amount of principal thus discharged will have liberated the revenue from about two millions of dollars of interest, and added that sum annually to the disposable surplus. The probable accumulation of the surpluses of revenue beyond what can be applied to the payment of the public debt, whenever the freedom and safety of our commerce shall be restored, merits the consideration of Congress. Shall it lie unproductive in the public vaults? Shall the revenue be reduced? Or, shall it not rather be appropriated to the improvements of roads, canals, rivers, education, and other great foundations of prosperity and union, under the powers which Congress may already possess, or such amendment of the constitution as may be approved by the States? While uncertain of the course of things, the time may be advantageously employed in obtaining the powers necessary for a system of improvement, should that be thought best.

Availing myself of this, the last occasion which will occur, of addressing the two Houses of the Legislature at their meeting, I cannot omit the expression of my sincere gratitude for the repeated proofs of confidence manifested to me by themselves and their predecessors since my call to the administration, and the many indulgences experienced at their hands. The same grateful acknowledgments are due to my fellow-citizens generally, whose support has been my great encouragement under all embarrassments. In the transaction of their business I cannot have escaped error. It is incident to our imperfect nature. But

I may say with truth my errors have been of the understanding, not of intention, and that the advancement of their rights and interests has been the constant motive for every measure. On these considerations I solicit their indulgence. Looking forward with anxiety to their future destinies, I trust that, in their steady character, unshaken by difficulties, in their love of liberty, obedience to law, and support of the public authorities, I see a sure guarantee of the permanence of our Republic; and retiring from the charge of their affairs, I carry with me the consolation of a firm persuasion that Heaven has in store for our beloved country long ages to come of prosperity and happiness.
TH. JEFFERSON.

November 8, 1808.

The Message and papers were in part read, and one thousand copies ordered to be printed for the use of the Senate.

A confidential Message was also received, with sundry documents therein referred to, which were read for consideration.

Wednesday, November 9

Jesse Franklin, from the State of North Carolina, attended.

Friday, November 11

A message from the House of Representatives informed the Senate that the House have appointed the Rev. Mr. Brown a Chaplain to Congress, on their part, during the present session.

Monday, November 14

Joseph Anderson, from the State of Tennessee, and Andrew Moore, from the State of Virginia, attended.

Wednesday, November 16

Andrew Gregg, from the State of Pennsylvania, attended.

Monday, November 21

The Embargo

This being the day fixed for the discussion of the following resolution, offered by Mr. Hillhouse:

> *Resolved*, That it is expedient that the act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," and the several acts supplementary thereto, be repealed; and that a committee be appointed to prepare and report a bill for that purpose:

Mr. Hillhouse opened the debate. When the reporter entered the Senate chamber, Mr. H. had been speaking for a few minutes, and was then discussing the effect which the embargo had had upon France, and the light in which it was viewed by her rulers. He alluded to the declaration of satisfaction at the measure, contained in a late French exposé, and made many observations tending to show that it was not a measure of hostility or coercion, as applied to France.

On England it had little or no effect. Her resources were immense. If deprived of a supply of grain here, she could obtain it elsewhere. The Barbary Powers were at war with France and at peace with England, who might thence obtain wheat in any quantity she pleased. Great Britain, he said, was a nation with the whole world before her; her commerce spread over every sea, and she had access to almost every port and clime. Could America expect to starve this nation? It was a farce, an idle farce. As to her West India Islands, they raised Indian corn; all their sugar plantations could be converted into corn-fields, and would any man say that they would starve because they could not get superfine flour? Was this a necessary of life without which they could not subsist? On the contrary, a great proportion of the American people subsisted on it, and enjoyed as good health as if they ate nothing but the finest of wheat flour. The moment people understood that they could not get their necessary supplies from a customary source, they would look out for it in another quarter, and ample time had been given to them to make arrangements for this purpose. A man of the first respectability in the town in which Mr. H. lived, had been there during this embargo, under the President's permission. What accounts did he bring? Why, that the trade in corn-meal and live cattle, articles of great export from Connecticut, and comprising not only the product of that State, but of parts of the neighboring States, would be entirely defeated; that, where they had formerly sent a *hundred* hogsheads of meal, they would not now find vent for *ten*; and that, from South America, where cattle had, in times past, been killed merely for their hides and tallow, cattle in abundance could be procured. Were these people to be starved out, when they could actually purchase cheaper now from other places than they had formerly done from us? No; the only consequence would be, and that too severely felt, that we should lose our market; the embargo thus producing, not only present privation and injury, but permanent mischief. The United States would have lost the chance of obtaining future supplies, they would have lost their market, and ten or twenty years would place them on the same footing as before. Mr. H. said the West Indians would have learnt that they can do without us; that they can raise provisions cheaper on their own plantations than we can sell them; and knowing this, they would never resort to us. Though we might retain a part of this commerce, the best part would be lost forever. The trade would not be worth pursuing; though this might answer one purpose intended by the embargo, and which was not expressed.

Having considered the article of provisions as important to various parts of the Union, Mr. H. said he would now turn to another article, cotton. It had been very triumphantly said, that the want of this article would distress the manufacturers of Great Britain, produce a clamor amongst them,

and consequently accelerate the repeal of the Orders in Council. Mr. H. said he would examine this a little, and see if all the evil consequences which opened on him at the time of the passage of the embargo law were not likely to be realized. He had hinted at some of them at that time, but the bill had gone through the Senate like a flash of lightning, giving no time for examination; once, twice, and a third time in one day, affording no time for the development of all its consequences. This article of cotton was used not only by Britain, but by France and other nations on the Continent. Cotton, not being grown in Europe, must be transported by water carriage. This being the case, who would now be most likely to be supplied with it? Not the Continental Powers who have so little commerce afloat nor any neutrals to convey it to them; for the United States were the only neutral which, of late, traded with France, and now the embargo was laid, she had no chance of getting it, except by the precarious captures made by her privateers. To Great Britain, then, was left the whole commerce of the world, and her merchants were the only carriers. Would not these carriers supply their own manufacturers? Would they suffer cotton to go elsewhere, until they themselves were supplied? America was not the only country where cotton was raised; for he had seen an account of a whole cargo brought into Salem from the East Indies, and thence exported to Holland, with a good profit. Cotton was also raised in Africa, as well as elsewhere; and this wary nation, Great Britain, conceiving that the United States might be so impolitic as to keep on the embargo, had carried whole cargoes of the best cotton seed there for the purpose of raising cotton for her use. Great Britain had possessions in every climate on the globe, and cotton did not, like the sturdy oak, require forty or fifty years to arrive at maturity; but, if planted, would produce a plentiful supply in a year. Thus, then, when this powerful nation found America resorting to such means to coerce her, she had taken care to look out for supplies in other quarters; and, with the command of all the cotton on the globe which went to market, could we expect to coerce her by withholding ours? Mr. H. said no; all the inconvenience which she could feel from our measure had already been borne; and Great Britain was turning her attention to every part of the globe to obtain those supplies which she was wont to get from us, that she might not be reduced to the humiliating condition of making concession to induce us to repeal our own law, and purchase an accommodation by telling us that we had a weapon which we could wield to her annoyance. Mr. H. wished to know of gentlemen if we had not experience enough to know that Great Britain was not to be threatened into compliance by a rod of coercion? Let us examine ourselves, said he, for if we trace our genealogy we shall find that we descend from them; were they to use us in this manner, is there an American that would stoop to them? I hope not; and neither will that nation, from which we are descended, be driven from their position, however erroneous, by threats.

This embargo, therefore, instead of operating on those nations which had been violating our rights, was fraught with evils and privations to the people of the United States. They were the sufferers. And have we adopted the monkish plan of scourging ourselves for the sins of others? He hoped not; and that, having made the experiment and found that it had not produced its expected effect, they would abandon it, as a measure wholly inefficient as to the objects intended by it, and as having weakened the great hold which we had on Great Britain, from her supposed dependence on us for raw materials.

Some gentlemen appeared to build up expectations of the efficiency of this system by an addition to it of a non-intercourse law. Mr. H. treated this as a futile idea. They should however examine it seriously, and not, like children, shut their eyes to danger. Great Britain was not the only manufacturing nation in Europe. Germany, Holland, France, Spain, Portugal, and Italy, manufactured more or less, and most of them had colonies, the exclusive supply of whose manufactures they had heretofore reserved to themselves. While we had enjoyed the carrying trade, we had supplied the deficiency in navigation of those nations; and all the inconvenience felt for the want of it ceased because we stepped in and aided them. This trade had been cut up, and perhaps it was not a trade which the energies of the nation should be embarked in defending. Who was there

now to supply all these various colonies that used to be supplied by us? None but England, the sole mistress of the ocean. Whose products, then, would Great Britain carry? Would she carry products of other nations, and let her own manufacturers starve? No; and this exclusion from the colonies of other manufactures, and leaving her merchants the sole carriers of the world, produced a greater vent for her manufactures than the whole quantity consumed in the United States.

This, however, was arguing upon the ground that the United States would consume none of her manufactures in case of a non-intercourse. Mr. H. said he was young when the old non-intercourse took place, but he remembered it well, and had then his ideas on the subject. The British army was then at their door, burning their towns and ravaging the country, and at least as much patriotism existed then as now; but British fabrics were received and consumed to almost as great an extent as before the prohibition. The armies could not get fresh provisions from Europe, but they got them here by paying higher prices in guineas for them than was paid by our Government in ragged continental paper money. When the country was in want of clothing, and could get it for one-fourth price from the British, what was the consequence? Why, all the zealous patriots – for this work of tarring and feathering, and meeting in mobs to destroy their neighbor's property, because he could not think quite as fast as they did, which seemed to be coming in fashion now, had been carried on then with great zeal – these patriots, although all intercourse was penal, carried on commerce notwithstanding. Supplies went hence, and manufactures were received from Europe. Now, what reliance could be placed on this patriotism? A gentleman from Vermont had told the Senate at the last session, that the patriotism of Vermont would stop all exportation by land, without the assistance of the law. How had it turned out? Why, patriotism, cannon, militia, and all had not stopped it; and although the field-pieces might have stopped it on the Lakes, they were absolutely cutting new roads to carry it on by land. And yet the gentleman had supposed that their patriotism would effectually stop it! Now, Mr. H. wanted to know how a non-intercourse law was to be executed by us with a coast of fifteen hundred miles open to Great Britain by sea, and joining her by land? Her goods would come through our Courts of Admiralty by the means of friendly captors; they would be brought in, condemned, and then naturalized, as Irishmen are now naturalized, before they have been a month in the country.

Mr. Pope said it had been his opinion this morning that this resolution should have been referred to that committee, but after what had been said, it was his wish that some commercial gentleman, whose knowledge of commercial subjects would enable him to explore the wide field taken by the gentleman from Connecticut, would have answered him. He had hoped, at this session, after the Presidential election was decided, that all would have dismounted from their political hobbies, that they would have been all Federalists, all Republicans, all Americans. When they saw the ocean swarming with pirates, and commerce almost annihilated, he had hoped that the demon of party spirit would not have reared its head within these walls, but that they would all have mingled opinions and consulted the common good. He had heretofore been often charmed with the matter-of-fact arguments of the gentleman from Connecticut; but on this day the gentleman had resorted to arguments from newspapers, and revived all the old story of French influence, in the same breath in which he begged them to discard all party feelings and discuss with candor. The gentleman had gone into a wide field, which Mr. H. said he would not now explore, but begged time till to-morrow, when he would endeavor to show to the nation and to the world that the arguments used by the gentleman in favor of his resolution were most weighty against it. If patriotism had departed the land, if the streams of foreign corruption had flowed so far that the people were ready to rise in opposition to their Government, it was indeed time that foreign intercourse should cease. If the spirit of 1776 were no more – if the spirit of commercial speculation had surmounted all patriotism – if this was the melancholy situation of the United States, it was time to redeem the people from this degeneracy, to regenerate them, to cause them to be born again of the spirit of 1776. But he believed he should be able to show that the proposition of the gentleman from Connecticut hardly

merited the respect or serious consideration of this honorable body. Mr. P. said he had expected that in advocating his resolution the gentleman would have told the Senate that we should go to war with Great Britain and France; that he would have risen with patriotic indignation and have called for a more efficient measure. But to his surprise, the gentleman had risen, and with the utmost *sang froid* told them, let your ships go out, all's well, and nothing is to be apprehended. Mr. P. said he would not go into the subject at this moment; he had but risen to express his feelings on the occasion. He wished the subject postponed, the more because he wished to consult a document just laid on their table, to see how the memorials presented a short time ago from those whose cause the gentleman from Connecticut undertook to advocate, accorded with the sentiments he had this day expressed for them.

Mr. Lloyd said he considered the question now under discussion as one of the most important that has occurred since the adoption of the Federal Constitution. It is a subject, said Mr. L., deeply implicating, and perhaps determining, the fate of the commerce and navigation of our country; a commerce which has afforded employment for nearly a million and a half of tons of navigation; which has found occupation for hundreds of thousands of our citizens; which has spread wealth and prosperity in every region of our country, and which has upheld the Government by furnishing the revenue for its support.

A commerce which has yielded an annual amount of exports exceeding one hundred millions of dollars; an amount of exports three times as great as was possessed by the first maritime and commercial nation of the world at the commencement of the last century, when her population was double that of the United States at this time; an amount of exports equal to what Great Britain, with her navy of a thousand ships, and with all her boasted manufactures, possessed even at so recent a period as within about fifteen years from this date; surely this is a commerce not to be trifled with; a commerce not lightly to be offered up as the victim of fruitless experiment.

Our commerce has unquestionably been subject to great embarrassment, vexation, and plunder, from the belligerents of Europe. There is no doubt but both France and Great Britain have violated the laws of nations, and immolated the rights of neutrals; but there is, in my opinion, a striking difference in the circumstances of the two nations; the one, instigated by a lawless thirst of universal domination, is seeking to extend an iron-handed, merciless despotism over every region of the globe; while the other is fighting for her *natale solum*, for the preservation of her liberties, and probably for her very existence.

The one professes to reluct at the inconvenience she occasions you by the adoption of measures which are declared to be intended merely as measures of retaliation on her enemies, and which she avows she will retract as soon as the causes which occasion them are withdrawn. The other, in addition to depredation and conflagration, treats you with the utmost contumely and disdain; she admits not that you possess the rights of sovereignty and independence, but undertakes to legislate for you, and declares that, whether you are willing or unwilling, she considers you as at war with her enemy; that she had arrested your property, and would hold it as bail for your obedience, until she knew whether you would servilely echo submission to her mandates.

There is no doubt that the conduct of these belligerents gave rise to the embargo; but if this measure has been proved by experience to be inoperative as it regards them, and destructive only as it respects ourselves, then every dictate of magnanimity, of wisdom, and of prudence, should urge the immediate repeal of it.

The propriety of doing this is now under discussion. The proposition is a naked one; it is unconnected with ulterior measures; and gentlemen who vote for its repeal ought not to be considered as averse from, and they are not opposed to, the subsequent adoption of such other measures as the honor and the interest of the country may require.

In considering this subject, it naturally presents itself under three distinct heads:

1st. As it respects the security which it gave to our navigation, and the protection it offered our seamen, which were the ostensible objects of its adoption.

2dly. In reference to its effect on other nations, meaning France and Great Britain, in coercing them to adopt a more just and honorable course of policy towards us: and,

3dly. As it regards the effects which it has produced and will produce among ourselves.

In thus considering it, sir, I shall only make a few remarks on the first head. I have no desire to indulge in retrospections; the measure was adopted by the Government; if evil has flowed from it, that evil cannot now be recalled. If events have proved it to be a wise and beneficial measure, I am willing that those to whom it owes its parentage should receive all the honors that are due to them; but if security to our navigation, and protection to our seamen, were the real objects of the embargo, then it has already answered all the effects that can be expected from it. In fact, its longer continuance will effectually counteract the objects of its adoption; for it is notorious, that each day lessens the number of our seamen, by their emigration to foreign countries, in quest of that employment and subsistence which they have been accustomed to find, but can no longer procure, at home; and as it regards our navigation, considered as part of the national property, it is not perhaps very material whether it is sunk in the ocean, or whether it is destined to become worthless from lying and rotting at our wharves. In either case, destruction is equally certain, it is death; and the only difference seems to be between death by a *coup de grace*, or death after having sustained the long-protracted torments of torture.

What effect has this measure produced on foreign nations? What effect has it produced on France?

The honorable gentleman from Connecticut has told you, and told you truly, in an exposé presented by the French Minister of Foreign Affairs to the Emperor, that this measure is much applauded: it is called a magnanimous measure of the Americans! And in a conversation which is stated to have passed recently at Bayonne, between the Emperor of France and an American gentleman, it is said, and I believe correctly, that the Emperor expressed his approbation of the embargo. I have no doubt that this is the fact; the measure is too consentaneous with his system of policy, not to be approbated by him. So long as the extreme maritime preponderancy of Great Britain shall continue, with or without the existence of an American embargo, or with or without the British Orders in Council, France can enjoy but very little foreign commerce, and that little the Emperor of France would undoubtedly be willing to sacrifice, provided that, by so doing, he could insure the destruction of a much larger and more valuable amount of British and American commerce.

It is therefore apparent, that this measure, considered as a coercive measure against France, is nugatory in the extreme.

What, sir, are, or have been its effects on Great Britain?

When the embargo was first laid the nation were alarmed. Engaged in a very extended and important commerce with this country, prosecuted upon the most liberal and confidential terms, this measure, whether considered as an act of hostility, or as a mere municipal restrictive regulation, could not but excite apprehension; for most of our writers, in relation to her colonies, had impressed the belief of the dependence of the West India settlements on the United States for the means of subsistence. Accordingly, for several months after the imposition of the embargo, we find it remained an object of solicitude with them, nor have I any doubt that the Ministry, at that time, partook of the national feeling; for it appears, so late as June, that such a disposition existed with the British Ministry, as induced our Minister at the Court of London to entertain the belief, and to make known to his Government the expectation he entertained, that an adjustment would take place of the differences between this country and Great Britain.

But, sir, the apprehensions of the British nation and Ministry gradually became weaker; the embargo had been submitted to the never-erring test of experience, and information of its real effects flowed in from every quarter.

It was found that, instead of reducing the West Indies by famine, the planters in the West Indies, by varying their process of agriculture, and appropriating a small part of their plantations for the raising of ground provisions, were enabled, without materially diminishing their usual crops of produce, in a great measure to depend upon themselves for their own means of subsistence.

The British Ministry also became acquainted about this time (June) with the unexpected and unexampled prosperity of their colonies of Canada and Nova Scotia. It was perceived that one year of an American embargo was worth to them twenty years of peace or war under any other circumstances; that the usual order of things was reversed; that in lieu of American merchants making estates from the use of British merchandise and British capital, the Canadian merchants were making fortunes of from ten to thirty or forty thousand pounds in a year, from the use of American merchandise and American capital: for it is notorious, that great supplies of lumber, and pot and pearl ashes, have been transported from the American to the British side of the Lakes; this merchandise, for want of competition, the Canadian merchant bought at a very reasonable rate, sent it to his correspondents in England, and drew exchange against the shipments; the bills for which exchange he sold to the merchants of the United States for specie, transported by wagon loads at noon-day, from the banks in the United States, over the borders into Canada. And thus was the Canadian merchant enabled, with the assistance only of a good credit, to carry on an immensely extended and beneficial commerce, without the necessary employment, on his part, of a single cent of his own capital.

About this time, also, the revolution in Spain developed itself. The British Ministry foresaw the advantage this would be to them, and immediately formed a coalition with the patriots: by doing this, they secured to themselves, in despite of their enemies, an accessible channel of communication with the Continent. They must also have been convinced, that if the Spaniards did not succeed in Europe, the Colonies would declare themselves independent of the mother country, and rely on the maritime force of Great Britain for their protection, and thus would they have opened to them an incalculably advantageous mart for their commerce and manufactures; for, having joined the Spaniards without stipulation, they undoubtedly expected to reap their reward in the exclusive commercial privileges that would be accorded to them; nor were they desirous to seek competitors for the favor of the Spaniards: if they could keep the navigation, the enterprise, and the capital of the United States from an interference with them, it was their interest to do it, and they would, from this circumstance, probably consider a one, two, or three years' continuance of the embargo as a boon to them.

Mr. Smith, of Maryland, said he was not prepared to go as largely into this subject as it merited, having neither documents nor papers before him. He would therefore only take a short view of it in his way, and endeavor to rebut a part of the argument of the gentleman from Massachusetts, and perhaps to notice some of the observations of the gentleman from Connecticut. He perfectly agreed with the latter gentleman that this subject ought to be taken up with coolness, and with temper, and he could have wished that the gentleman from Connecticut would have been candid enough to pursue that course which he had laid down for others. Had he done it? No. In the course of the discussion, the gentleman had charged it upon some one, he knew not whom, that there was a disposition to break down commerce for the purpose of erecting manufactures on its ruins. If this was the disposition of those who had advocated the embargo, Mr. S. said he was not one to go with them, and perfectly corresponded with the gentleman in saying that such a plan would be extremely injurious; that possibly it could not be enforced in the United States; and that, if it could, merchants would conceive themselves highly aggrieved by it. But the gentleman's ideas had no foundation. Mr. S. said he had before seen it in newspapers, but had considered it a

mere electioneering trick; that nothing like common sense or reason was meant by it, and nobody believed it. The gentleman surely did not throw out this suggestion by way of harmonizing; for nothing could be more calculated to create heat.

The gentleman last up, throughout his argument, had gone upon the ground that it is the embargo which has prevented all our commerce; that, if the embargo were removed, we might pursue it in the same manner as if the commerce of the whole world was open to us. If the gentleman could have shown this, he would have gone with him heart and hand; but it did not appear to him that, were the embargo taken off to-morrow, any commerce of moment could be pursued. Mr. S. said he was not certain that it might not be a wise measure to take off the embargo; but he was certain that some other measure should be taken before they thought of taking that. And he had hoped that gentleman would have told them what measure should have been taken before they removed the embargo. Not so, however. A naked proposition was before them to take off the embargo; and were that agreed to, and the property of America subject to depredations by both the belligerents, they would be foreclosed from taking any measure at all for its defence. For this reason this resolution should properly have gone originally to the committee on the resolution of the gentleman from Virginia, (Mr. Giles.)

Mr. S. said he was not prepared for a long discussion, he should take but a short view. He would not go back to see which nation had been the first offender. He was not the apologist of any nation, but, he trusted, a fervent defender of the rights, honor, and interests of his own country. By the decrees of France every vessel bound to or from Great Britain, was declared good prize. And still further; if spoken alone by any British vessel, they were condemned in the French prize courts. When a vessel arrived in the ports of France, Mr. S. said, bribery and corruption were made use of in order to effect her condemnation. Every sailor on board was separately examined as to what had happened in the course of the voyage; they were told, you will have one-third of the vessel and cargo as your portion of the prize-money, if you will say that your vessel has touched at a British port or has been visited by a British cruiser. Of course then, by the decrees of France, all American property that floats is subject to condemnation by the French, if it had come in contact with British hands. Were gentlemen willing to submit to this: to raise the embargo, and subject our trade to this depredation? Yes, said the gentleman from Connecticut, who was willing, however, that our ships should arm and defend themselves. Mr. S. said that he had hoped the honorable gentleman would have gone further, and said not only that he would in this case permit our vessels to defend themselves, but to make good prize of any vessel which should impede the trade admitted by the laws of nations. But the gentleman had stopped short of this.

By the orders in Council, now made law, (said Mr. S.,) all neutrals – all *neutrals*, this is a mere word *ad captandum*, as it is well known there is no neutral commerce but American – all American vessels, then, bound to France, or countries in alliance with her, are made good prize in the British courts. When bound to any part of the continent of Europe, or any possessions in Turkey or Asia, they are a good prize, Sweden alone excepted. We are then permitted to trade – for it is a permission to trade, since we must acknowledge ourselves indebted to her for any she permits – we are graciously permitted to go to Sweden, to which country our whole exports amount to $56,157! This petty trade is generously permitted us as a boon, and this boon will be struck off the list of permission, the moment any difference arises between Great Britain and Sweden. I am aware, sir, that gentlemen will say this may require explanation. I will give it to them. Great Britain says you shall not trade to any of the countries I have interdicted till you have my leave; pay me a duty and then you may go to any port; pay me a tribute, and then you shall have my license to trade to any ports you choose. What is this tribute? Not having the documents before me, I may make an error of a fraction, but in the principle I am correct. On the article of flour, they tell us, you may bring flour to Great Britain from America, land it, and, if you re-export it, pay into our treasury two dollars on every barrel. For every barrel of flour which we send to Spain, Portugal, or Italy, where

the gentleman from Massachusetts has correctly told us much of it is consumed, little of it being used in Great Britain or France, you must pay two dollars besides your freight and insurance. And this tribute is to be paid for a permission to trade. Are gentlemen willing to submit to this?

On the article of wheat, exported, you must pay in Great Britain a duty of, I believe, two shillings sterling a bushel, before it can be re-exported. On the important article of cotton they have charged a duty on its exportation of nine pence sterling per lb., equal to the whole value of the article itself in Georgia or South Carolina. This is in addition to the usual import duty of two pence in the pound. Thus, if we wish to go to the Continent, we may go on condition of paying a tribute equal to the value of the cotton, in addition to risk or insurance. It is generally understood that two-thirds of the cotton exported by us, may be consumed in England, when all her manufactures are in good work. On the remaining third the people of the Southern country are subject to a tribute – on twenty millions of pounds, at the rate of 17 cents per pound. Let this be calculated, and it will be seen what tax we must pay for leave to sell that article.

The English Orders had told us we might trade as usual with the West India Islands; but now, believing no doubt that this Government has not strength or energy in itself to maintain any system long, what has she done? Proclaimed a blockade on the remaining islands of France, so that we are now confined to British islands alone! We are restricted from trading there by blockade, and what security have we, that if the embargo be taken off – for I wish it were off: no man suffers more from it, in proportion to his capital, than I do; but I stand here the Representative of the people, and must endeavor to act in such a manner as will best secure their interests; and I pledge myself to join heart and hand with gentlemen to take it off, whenever we can have a safe and honorable trade – that, from our submitting to these interdictions, as a right of Great Britain, she may not choose to interdict all trade, she being omnipotent, and sole mistress of the ocean, as we were told by the gentleman from Connecticut. I have seen a late English pamphlet, called "Hints to both Parties," said to be by a ministerial writer, to this effect: that Great Britain, having command over all the seas, could and ought to exclude and monopolize the trade of the world to herself. This pamphlet goes critically into an examination of the subject; says that by a stroke of policy she can cut us off from our extensive trade; that she has the power, and, having the power, she ought to do it.

Tuesday, November 22

The Embargo

Mr. Moore said the gentleman from Connecticut had asked if the embargo had been productive of the consequences expected to result from it when passed? Had it not been more injurious to the United States than to foreign nations? It is certainly true (said Mr. M.) that it has not been productive of all the effects expected by those who were its advocates when it passed, but it has not had a fair experiment. The law has been violated, and an illicit commerce carried on, by which the belligerents have received such supplies as to have partially prevented its good effects.

The publications throughout the United States, and thence in England, that the embargo could not be maintained, have induced the belligerents to believe that we wanted energy, and that we are too fluctuating in our councils to persevere in a measure which requires privations from the people. Under these circumstances, it appears to me that the embargo has not had a fair trial. I have ever been of opinion that the only warfare which we could ever carry on to advantage, must be commercial; and, but for evasions and miscalculations on our weakness, we should before this have been suffered to pursue our accustomed trade.

It has been asked whether the embargo has not operated more on the United States than on the European Powers? In estimating this, it will be proper to take into consideration the evils prevented, as well as the injury done by the embargo. If the embargo had not passed, is it not certain that the whole produce of the United States would have invited attack and offered a bait to the rapacity of the belligerent cruisers? If a few have accidentally escaped them, it is no evidence that, if the embargo had not been laid, the whole would not have been in the hands of the belligerents. That both belligerents have manifested hostilities by edicts which prostrated our commerce, will not be denied by any gentleman. Great Britain, on a former occasion, passed an order, sent it out secretly, and before our Minister was officially notified, it was in full operation. Their late orders included all our commerce which was afloat. Was it not to be expected that such would have been the policy of Great Britain in this case, and such our proportionate loss, if the embargo had not been laid, and thus snatched this valuable commerce from their grasp?

Wednesday, November 23

The Embargo

Mr. Crawford said that one of the objects of the gentleman from Connecticut was, no doubt, to obtain information of the effects of the embargo system from every part of the United States. This information was very desirable at the present time, to assist the Councils of the nation in an opinion of the course proper to be pursued in relation to it. A Government founded, like ours, on the principle of the will of the nation, which subsisted but by it, should be attentive as far as possible to the feelings and wishes of the people over whom they presided. He did not say that the Representatives of a free people ought to yield implicit obedience to any portion of the people who may believe them to act erroneously; but their will, when fairly expressed, ought to have great weight on a Government like ours. The Senate had received several descriptions of the effects produced by the embargo in the eastern section of the Union. As the Representative of another extreme of this nation, Mr. C. said he conceived it his duty to give a fair, faithful, and candid representation of the sentiments of the people whom he had the honor to represent. It was always the duty of a Representative to examine whether the effects expected from any given measure, had or had not been produced. If this were a general duty, how much more imperiously was it their duty at this time! Every one admitted that considerable sufferings have been undergone, and much more was now to be borne.

Gentlemen have considered this subject, generally, in a twofold view, (said Mr. C.,) as to its effects on ourselves, and as to its effects on foreign nations. I think this a proper and correct division of the subject, because we are certainly more interested in the effects of the measure on ourselves than on other nations. I shall therefore thus pursue the subject.

It is in vain to deny that this is not a prosperous time in the United States; that our situation is neither promising nor flattering. It is impossible to say that we have suffered no privations in the year 1808, or that there is a general spirit of content throughout the United States; but I am very far from believing that there is a general spirit of discontent. Whenever the measures of the Government immediately affect the interest of any considerable portion of its citizens, discontents will arise, however great the benefits which are expected from such measures. One discontented man excites more attention than a thousand contented men, and hence the number of discontented is always overrated. In the country which I represent, I believe no measure is more applauded or more cheerfully submitted to than the embargo. It has been viewed there as the only alternative to avoid war. It is a measure which is enforced in that country at every sacrifice. At the same time that I make this declaration, I am justified in asserting that there is no section of the Union whose interests are more immediately affected by the measure than the Southern States – than the State of Georgia.

We have been told by an honorable gentleman, who has declaimed with great force and eloquence against this measure, that great part of the produce of the Eastern country has found its way into market; that new ways have been cut open, and produce has found its way out. Not so with us; we raise no provisions, except a small quantity of rice, for exportation. The production of our lands lies on our hands. We have suffered, and now suffer; yet we have not complained.

The fears of the Southern States particularly have been addressed by the gentleman from Connecticut, by a declaration that Great Britain, whose fleets cover the ocean, will certainly find a source from which to procure supplies of those raw materials which she has heretofore been in the habit of receiving from us; and that having thus found another market, when we have found the evil of our ways, she will turn a deaf ear to us. By way of exemplification, the gentleman cited a

familiar example of a man buying butter from his neighbors. It did not appear to me that this butter story received a very happy elucidation. In the country in which he lives there are so many buyers and so many sellers of butter, that no difficulty results from a change of purchasers or customers. Not so with our raw material. Admitting that Britain can find other markets with ease, there is still a great distinction between this and the gentleman's butter case. When a man sells butter he receives money or supplies in payment for it. His wants and wishes and those of his purchasers are so reciprocal, that no difficulty can ever arise. But Great Britain must always purchase raw materials of those who purchase her manufactures. It is not to oblige us that she takes our raw materials, but it is because we take her manufactures in exchange. So long as this state of things continues, so long they will continue to resort to our market. I have considered the gentleman's argument on this point as applied to the feelings of the Southern country. No article exported from the United States equals cotton in amount. If then we are willing to run the risk, I trust no other part of the United States will hesitate on this subject.

Another reason offered by the gentleman from Connecticut, and a substantial one if true, is, that this measure cannot be executed. If this be the case, it is certainly in vain to persevere in it, for the non-execution of any public law must have a bad tendency on the morals of the people. But the facility with which the gentleman represents these laws to have been evaded, proves that the morals of the evaders could not have been very sound when the measure was adopted; for a man trained to virtue will not, whatever facility exists, on that account, step into the paths of error and vice.

Although I believe myself that this measure has not been properly executed, nor in that way in which the situation of our country might reasonably have induced us to expect, yet it has been so far executed as to produce some good effect. So far as the orders and decrees remain in full force, so far it has failed of the effect hoped from it. But it has produced a considerable effect, as I shall attempt to show hereafter.

In commenting on this part of the gentleman's observations, it becomes proper to notice, not an insinuation, but a positive declaration that the secret intention of laying the embargo was to destroy commerce; and was in a state of hostility to the avowed intention. This certainly is a heavy charge. In a Government like this, we should act openly, honestly, and candidly; the people ought to know their situation, and the views of those who conduct their affairs. It is the worst of political dishonesty to adopt a measure, and offer that reason as a motive for it which is not the true and substantial one. The true and substantial reason for the embargo, the gentleman says he believes, was to destroy commerce, and on its ruins to raise up domestic manufactures. This idea, I think, though not expressly combated by the observations of the gentleman from Delaware, (Mr. White,) was substantially refuted by him. That gentleman, with great elegance and something of sarcasm, applied to the House to know how the Treasury would be filled in the next year; and observed that the "present incumbent of the Presidential palace" would not dare to resort to a direct tax, because a former Administration had done so and felt the effects of it, insinuating that the present Administration did not possess courage enough to attempt it. Now, I ask, if they dare not resort to a direct tax, excise laws, and stamp acts, where will they obtain money? In what way will the public coffers be filled? The gentleman must acknowledge that all our present revenue is derived from commerce, and must continue to be so, except resort be had to a direct tax, and the gentleman says we have not courage enough for that. The gentleman from Connecticut must suppose, if the gentleman from Delaware be correct, that the Administration seeks its own destruction. We must have revenue, and yet are told that we wish to destroy the only way in which it can be had, except by a direct tax; a resort to which, it is asserted, would drive us from the public service.

But we are told, with a grave face, that a disposition is manifested to make this measure permanent. The States who call themselves commercial States, when compared with the Southern States, may emphatically be called manufacturing States. The Southern States are not manufacturing States, while the great commercial States are absolutely the manufacturing States. If

this embargo system were intended to be permanent, those commercial States would be benefited by the exchange, to the injury of the Southern States. It is impossible for us to find a market for our produce but by foreign commerce; and whenever a change of the kind alluded to is made, that change will operate to the injury of the Southern States more than to the injury of the commercial States, so called.

But another secret motive with which the Government is charged to have been actuated is, that this measure was intended and is calculated to promote the interests of France. To be sure none of the gentlemen have expressly said that we are under French influence, but a resort is had to the exposé of the French Minister, and a deduction thence made that the embargo was laid at the wish of Bonaparte. The gentleman from Connecticut told us of this exposé for this purpose; and the gentleman from Massachusetts appeared to notice it with the same view.

Now we are told that there is no danger of war, except it be because we have understood that Bonaparte has said there shall be no neutrals; and that, if we repeal the embargo, we may expect that he will make war on us. And this is the only source from whence the gentleman could see any danger of war. If this declaration against neutrality which is attributed to the Gallic Emperor be true, and it may be so, his Gallic Majesty could not pursue a more direct course to effect his own wishes than to declare that our embargo had been adopted under his influence. And unless the British Minister had more political sagacity than the gentleman who offered the evidence of the exposé in proof of the charge, it would produce the very end which those gentlemen wished to avoid – a war with Great Britain; for she would commence the attack could she believe this country under the influence of France. I would just as much believe in the sincerity of that exposé, as Mr. Canning's sincerity, when he says that his Majesty would gladly make any sacrifice to restore to the commerce of the United States its wonted activity. No man in the nation is silly enough to be gulled by these declarations; but, from the use made of them, we should be led to think otherwise, were it not for the exercise of our whole stock of charity. Now, I cannot believe that any man in this nation does believe in the sincerity of Mr. Canning's expressions, or that Bonaparte believes that the embargo was laid to promote his interest. I cannot believe that there is any man in this nation who does candidly and seriously entertain such an opinion.

The gentleman from Massachusetts says it is true that a considerable alarm was excited in England when the news of the embargo arrived there; that they had been led to believe, from their writers and speakers, that a discontinuance of their intercourse with this country would be productive of most injurious consequences; but that they were now convinced that all their writers and statesmen were mistaken, and that she can suffer a discontinuance of intercourse without being convulsed or suffering at all. To believe this requires a considerable portion of credulity, especially when the most intelligent men affirm to the contrary. In the last of March or the first of April last, we find, on an examination of merchants at the Bar of the British House of Commons, that the most positive injury must result from a continuance of non-intercourse. It is not possible that our merchants on this side of the water, however intelligent they may be, can be as well acquainted with the interests of Great Britain as her most intelligent merchants. This alarm, however, the gentleman has told us, continued through the spring and dissipated in the summer. It is very easy to discover the cause of the dissipation of this alarm. It was not because the loss of intercourse was not calculated to produce an effect, but it proceeded from an adventitious cause, which could not have been anticipated – the revolution in Spain; and there is no intelligent man who will not acknowledge its injurious effects on our concerns. No sooner did the British Ministers see a probability that the struggle between the Spanish patriots and France would be maintained, than they conceived hopes that they might find other supplies; and then they thought they might give to the people an impulse by interesting the nation in the affairs of Spain, which would render lighter the effects of our embargo. This is the cause of the change in Mr. Canning's language; for every gentleman in the House knows that a very material change took place in it in the latter part of the summer. If

then the embargo has not produced the effects calculated from it, we have every reason to believe that its failure to produce these effects has been connected with causes wholly adventitious, and which may give way if the nation adheres to the measure. If, however, there be any probability that these causes will be continued for a long time, we ought to abandon it. I am not in favor of continuing any measure of this kind, except there be a probability of its producing some effect on those who make it necessary for us to exercise this act of self-denial. When I first saw the account of the revolution in Spain, my fears were excited lest it should produce the effect which it has done. As soon as I saw the stand made by the Spanish patriots, I was apprehensive that it might buoy up the British nation under the sufferings arising from the effects of their iniquitous orders, which, compared with the sufferings which we ourselves have borne, have been as a hundred to one. If there be evidence that the effects of this measure will yet be counteracted by recent events in Spain, I will abandon it, but its substitute should be war, and no ordinary war – I say this notwithstanding the petitions in the other branch of the Legislature, and the resolutions of a State Legislature which have lately been published. When I read the resolutions, called emphatically the Essex resolutions, I blush for the disgrace they reflect on my country. We are told there that this nation has no just cause of complaint against Great Britain; and that all our complaints are a mere pretext for war. I blush that any man belonging to the great American family should be so debased, so degraded, so lost to every generous and national feeling, as to make a declaration of this kind. It is debasing to the national character.

How are these orders and decrees to be opposed but by war, except we keep without their reach? If the embargo produces a repeal of these edicts, we effect it without going to war. Whenever we repeal the embargo we are at war, or we abandon our neutral rights. It is impossible to take the middle ground, and say that we do not abandon them by trading with Great Britain alone. You must submit, or oppose force to force. Can arming our merchant vessels, by resisting the whole navy of Great Britain, oppose force to force? It is impossible. The idea is absurd.

By way of ridiculing the embargo, the gentleman from Connecticut, in his familiar way, has attempted to expose this measure. He elucidated it by one of those familiar examples by which he generally exemplifies his precepts. He says your neighbor tells you that you shall not trade with another neighbor, and you say you will not trade at all. Now this, he says, is very magnanimous, but it is a kind of magnanimity with which he is not acquainted. Now let us see the magnanimity of that gentleman, and see if it savors more of true magnanimity than our course. Great Britain and France each say that we shall not trade with the other. We say we will not trade with either of them, because we believe our trade will be important to both of them. The gentleman says it is a poor way of defending the national rights. Suppose we pursue his course. Great Britain says we shall not trade to France; we say we will not, but will obey her. We will trade upon such terms as she may impose. "This will be magnanimity indeed; this will be defending commerce with a witness!" It will be bowing the neck to the yoke. The opposition to taxation against our consent, at the commencement of the Revolution, was not more meritorious than the opposition to tribute and imposition at the present day. I cannot, for my soul, see the difference between paying tribute and a tacit acquiescence in the British Orders in Council. True, every gentleman revolts at paying tribute. But where is the difference between that and suffering yourself to be controlled by the arbitrary act of another nation? If you raise the embargo you must carry your produce to Great Britain and pay an arbitrary sum before you can carry it elsewhere. If it remains there, the markets will be glutted and it will produce nothing. For it appears, from the very evidence to which I have before alluded, that at least four-fifths of our whole exports of tobacco must go to England and pay a tax before we could look for a market elsewhere, and that out of seventy-five thousand hogsheads raised in this country, not more than fifteen thousand are consumed in Great Britain. Where does the remainder usually go? Why, to the ports of the Continent. I ask, then, if the whole consumption of Great Britain be but fifteen thousand hogsheads, if an annual addition of sixty thousand hogsheads be

thrown into that market, would it sell for the costs of freight? Certainly not. The same would be the situation of our other produce.

The gentleman from Delaware (Mr. White) has said, that, by repealing the embargo, we can now carry on a safe and secure trade to the extent of nearly four-fifths of the amount of our domestic productions. There is nothing more delusive, and better calculated to impose on those who do not investigate subjects, than these calculations in gross. If the gentleman will take the trouble to make the necessary inquiries, he will find that instead of Great Britain taking to the amount he supposes of our domestic productions, she takes nothing like it. It is true that a large proportion of our domestic exports is shipped ostensibly for Great Britain; but it is equally true that a very large proportion of these very exports find their way into the continental ports. For the British merchants in their examination before the House of Commons, already alluded to, say that three-fourths of their receipts for exportation to the United States have been usually drawn from the Continent; and that even if the embargo was removed and the Orders in Council were continued, they must stop their exportation, because the continental ports would be closed against American vessels; because their coasts swarm with English cruisers, the French must know that the American vessels attempting to enter have come from an English port. That they had facilities of conveyance to the Continent prior to the Orders in Council, the merchants acknowledged; and when requested to explain the mode of conveyance, they begged to be excused. No doubt every gentleman has seen these depositions, or might have seen them, for they have been published in almost every paper on the Continent. They have opened to me and to my constituents a scene perfectly new. They tell you that the Berlin decree was nothing. Notwithstanding that decree, they had a facility of conveying produce into the continental ports; but the Orders of Council completely shut the ports of the Continent against the entrance of American vessels. On this point there was no contrariety of opinion; and several of these merchants declared that they had sent vessels to the Continent a very few days before the date of the Orders of Council. This clearly shows that any conclusion to be drawn from the gross amount of exports must be fallacious, and that probably three-fourths ought to be deducted from the gross amount. This statement of the gentleman from Delaware, which holds out to the public the prospect of a lucrative trade in four-fifths of their exports, will certainly have a tendency to render them uneasy under the privations which they are called upon to suffer by the iniquitous measures of foreign nations. Although the statement was extremely delusive, I do not say that the gentleman meant to delude by it. This, however, being the effect of the gentleman's assertion, I am certainly warranted in saying that the evidence of the British merchants who carry on this trade, is better authority than the gentleman's statements.

But admit, for the sake of argument, and on no other ground would I admit it, that these gross statements are correct; and that, at the time the embargo was adopted, these Orders in Council notwithstanding, the trade of the United States could have been carried on to this extent. What security have we, if the embargo had not been laid, after submitting and compromitting the national dignity and independence, that the British aggressions and Orders in Council would have stopped at the point at which we find them? Have we not conclusive evidence to the contrary? Are we not officially notified that the French leeward islands are declared by proclamation in a state of blockade? And do we not know that this is but carrying into effect a report of the committee of the British House of Commons on the West India Islands, in which this measure is recommended, and in which it is stated that His Britannic Majesty's West India subjects ought to receive further aid by placing these islands in a state of blockade? I can see in this measure nothing but a continuation of the system recommended last winter in this report, and published – for the information of the United States, I suppose.

If the embargo should be repealed, and our vessels suffered to go out in the face of the present orders in Council and blockading decrees and proclamations, Mr. C. said, they would but expose us to new insults and aggressions. It was in vain to talk about the magnanimity of nations. It was not

that magnanimity which induced nations as well as men to act honestly; and that was the best kind of magnanimity. The very magnanimity which had induced them to distress our commerce, would equally induce them to cut off the pitiful portion they had left to us. In a general point of view, there was now no lawful commerce. No vessel could sail from the United States without being liable to condemnation in Britain or France. If they sailed to France, Mr. C. said, they were carried into Britain; if they sailed to Britain, they were carried into France. Now, he asked, whether men who had any regard to national honor would consent to navigate the ocean on terms so disgraceful? We must be cool calculators, indeed, if we could submit to disgrace like this!

The last reason offered by the supporters of the present resolution, Mr. C. said, may properly be said to be an argument *in terrorem*. The gentleman from Massachusetts says, by way of abstract proposition, that a perseverance in a measure opposed to the feelings and interests of the people may lead to opposition and insurrection; but the gentleman from Connecticut uses the same expressions as applicable to the embargo. It may be a forcible argument with some gentlemen, and most likely may have had its effect on those who intended it to produce an effect on others. But I trust that this House and this nation are not to be addressed in this way. Our understandings may be convinced by reason, but an address to our fears ought to be treated with contempt. If I were capable of being actuated by motives of fear, I should be unworthy of the seat which I hold on this floor. If the nation be satisfied that any course is proper, it would be base and degrading to be driven from it by the discordant murmurs of a minority. We are cautioned to beware how we execute a measure with which the feelings of the people are at war. I should be the last to persist in a measure which injuriously affected the interest of the United States; but no man feels more imperiously the duty of persevering in a course which is right, notwithstanding the contrary opinion of a few; and though I may regret and respect the feelings of these few, I will persist in the course which I believe to be right, at the expense even of the Government itself.

Mr. Mitchill said he was not prepared to vote on the question of repealing the embargo laws, in the precise form in which it had been brought before the Senate. There was as yet a want of information; for certain additional documents, expected from the Executive, had not yet been communicated, and the select committee to which the part of the Message concerning the foreign relations of the country was lately referred, had not brought forward a report. He would have been better pleased if the proposition had been so framed as to have expressed indignation at the injuries our Government had received from foreign nations. Then he would cheerfully have given it his concurrence. But now, when those who are willing to do something, though not exactly what the motion proposes, are made to vote directly against a removal of the existing restrictions upon our commerce, their situation is rather unpleasant; indeed, it is unfair, inasmuch as they must either give their assent to a measure, to the time and manner of which they may be averse, or they must vote negatively in a case which, but for some incidental or formal matter, would have met their hearty approbation. He could, therefore, have wished that the question had been presented to the House in such terms as to afford an opportunity of expressing their sense of the wrongs our nation had endured from foreign Sovereigns, and of the restrictions laid upon American commerce by their unjust regulations, as well as on the further restrictions that, under the pressure of events, it had been thought necessary for our own Legislature to impose.

I now come to the year 1806, an eventful year to the foreign commerce of our people. An extravagant and armed trade had for a considerable time been carried on by some of our citizens with the emancipated or revolted blacks of Hayti. The French Minister, conformably to the instructions of his Government, remonstrated against this traffic as ungracious and improper; and under an impression that our citizens ought to be restrained from intercourse with the negroes of Hispaniola, Congress passed an act forbidding that altogether. This was the second time that our Government circumscribed the commercial conduct of its citizens. It was also during this year that memorials were forwarded to the Executive and legislative branches of our Government by

the merchants of our principal seaports, stating the vexations of their foreign commerce to be intolerable, and calling in the most earnest terms for relief or redress. These addresses were mostly composed with great ability; it seemed as if the merchants were in danger of total ruin. Their situation was depicted as being deplorable in the extreme. The interposition of their Government was asked in the most strenuous and pressing terms; and your table, Mr. President, was literally loaded with petitions. The chief cause of this distress was briefly this: These citizens of the United States were engaged during the war in Europe, in a commerce with enemies' colonies not open in time of peace; by this means, the produce of the French West Indies was conveyed under the neutral flag to the mother country. Great Britain opposed the direct commerce from the colony to France through the neutral bottom. The neutral then evaded the attempt against him by landing the colonial produce in his own country, and after having thus neutralized or naturalized it, exported it under drawback for Bordeaux or Marseilles; this proceeding was also opposed by the British, and much property was captured and condemned in executing their orders against it. Their writers justified their conduct by charging fraud upon the neutral flag, and declaring that under cover of them a "war in disguise" was carried on, while on our side the rights of neutrals were defended with great learning and ability in a most profound investigation of the subject.

This same year was ushered in by a proclamation of General Ferrand, the French commandant at St. Domingo, imposing vexations on the trade of our citizens; and a partial non-importation law was enacted against Great Britain by Congress about the middle of April. But these were not all the impediments which arose. Notices were given to the American Minister in London of several blockades. The chief of these was that of the coast, from the Elbe to Brest inclusive, in May. And here, as it occurs to me, may I mention the spurious blockade of Curaçoa, under which numerous captures were made. And lastly, to complete the catalogue of disasters for 1806, and to close the woful climax, the French decree of Berlin came forth in November, and, as if sporting with the interests and feelings of Americans, proclaimed Great Britain and her progeny of isles to be in a state of blockade.

Hopes had been entertained that such a violent and convulsed condition of society would not be of long duration. Experience, however, soon proved that the infuriate rage of man was as yet unsatisfied, and had much greater lengths to go. For early in the succeeding year (1807), an order of the British Council was issued, by which the trade of neutrals, and of course of American citizens, was interdicted from the port of one belligerent to the port of another. And in the ensuing May, the rivers Elbe, Weser, and Ems, with the interjacent coasts were declared by them to be in a state of blockade, and a similar declaration was made on their part to neutrals in regard to the straits of the Dardanelles and the city of Smyrna. But these were but subordinate incidents in this commercial drama; the catastrophe of the tragedy was soon to be developed. "On the 22d of June, by a formal order from a British Admiral, our frigate Chesapeake, leaving her port for a distant service, was attacked by one of these vessels, which had been lying in our harbors under the indulgence of hospitality, was disabled from proceeding, had several of her crew killed, and four taken away." Immediately the President by proclamation interdicted our harbors and waters to all British armed vessels, and forbade intercourse with them. Under an uncertainty how far hostilities were intended, and the town of Norfolk being threatened with an immediate attack, a sufficient force was ordered for the protection of that place, and such other preparations commenced and pursued as the prospect rendered proper.

In furtherance of these schemes, a proclamation was published, holding all their absent seamen to their allegiance, recalling them from foreign services, and denouncing heavy penalties for disobedience. The operation of this upon the American merchant service would have been very sensibly felt. Many British born subjects were in the employ of our merchants, and that very Government, which claimed as a British subject every American citizen who had been but two years a seaman in their service, refused to be bound by their own rule in relation to British subjects

who had served an equal term on board the ships of the United States. But this was not all. The month of November was distinguished by an order retaliating on France a decree passed by her some time before, declaring the sale of ships by belligerents to be illegal; and thus, by virtue of concurrent acts of these implacable enemies, the poor neutral found it impossible to purchase a ship either from a subject of Great Britain or of France. That season of gloom was famous, or rather infamous, for another act prohibiting wholly the commerce of neutrals with the enemies of Great Britain, and for yet another, pregnant with the principles of lordly domination on their part, and of colonial vassalage on our, by which the citizens of these independent and sovereign States are compelled to pay duties on their cargoes in British ports, and receive licenses under the authority of that Government, as a condition of being permitted to trade to any part of Europe in possession of her enemies.

This outrageous edict on the part of Britain was succeeded by another on the side of France, equalling, or if possible, surpassing it in injustice. In December came forth the decree of Milan, enforcing the decree of Berlin against American trade; dooming to confiscation every vessel of the United States that had been boarded or even spoken to by a Briton, and encouraging, by the most unjustifiable lures, passengers and sailors to turn informers. The abominable mandate was quickly echoed in Spain, and sanctioned by the approbation of His Most Catholic Majesty. It has been executed with shocking atrocity. In addition to other calamities, the property of neutrals has been sequestered in France, and their ships burned by her cruisers on the ocean.

Such, Mr. President, was the situation of the European world, when Congress deemed it necessary to declare an embargo on our own vessels. Denmark and Prussia, and Russia, and Portugal, had become associated or allied with France; and, with the exception of Sweden, the commerce of our citizens was prohibited, by the mutually vindictive and retaliating belligerents, from the White Sea to the Adriatic. American ships and cargoes were declared the prize and plunder of the contending powers. The widely-extended commerce of our people was to be crushed to atoms between the two mighty millstones, or prudently withdrawn from its dangerous exposure, and detained in safety at home. Policy and prudence dictated the latter measure. And as the ocean was become the scene of political storm and tempest, more dreadful than had ever agitated the physical elements, our citizens were admonished to partake of that security for their persons and property, in the peaceful havens of their country, which they sought in vain on the high seas and in European harbors. The regulations, so destructive to our commerce, were not enacted by us. They were imposed upon us by foreign tyrants. Congress had no volition to vote upon the question. In the shipwreck of our trade, all that remained for us to do, was to save as much as we could from perishing, and as far as our efforts would go, to prevent a total loss.

I touch, with a delicate hand, the mission of Mr. Rose. The arrival of this Envoy Extraordinary from Britain was nearly of the same date with an order of his Government, blockading Carthagena, Cadiz, and St. Lucar, and the intermediate ports of Spain, and thereby vexing the commerce of American citizens. The unsuccessful termination of his negotiation has been but a few months since followed by a refusal on the part of his Government to rescind its orders, that work so much oppression to our commerce, on condition of having the embargo suspended in respect to theirs. And the French Ministry has treated a similar friendly and specific overture, from our Executive, with total disregard. In addition to all which we learn, from the highest source of intelligence, that the British naval commander at Barbadoes did, about the middle of October, declare the French leeward Caribbean Islands to be in a state of strict blockade, and cautioning neutrals to govern themselves accordingly, under pain of capture and condemnation.

Thursday, November 24

The Embargo

Mr. Giles addressed the Senate:

Mr. President: Having during the recess of Congress retired from the political world, and having little agency in the passing political scenes, living in a part of the country, too, where there is little or no difference in political opinions, and where the embargo laws are almost universally approved, I felt the real want of information upon the subject now under discussion. I thought I knew something of the general objects of the embargo laws, and I had not been inattentive to their general operations upon society, as far as I had opportunities of observing thereupon.

When I arrived here, and found that this subject had excited so much sensibility in the minds of many gentlemen I met with, as to engross their whole thoughts, and almost to banish every other topic of conversation, I felt also a curiosity to know what were the horrible effects of these laws in other parts of the country, and which had escaped my observation in the part of the country in which I reside. Of course, sir, I have given to the gentlemen, who have favored us with their observations on both sides of the question under consideration, the most careful and respectful attention, and particularly to the gentlemen representing the eastern section of the Union, where most of this sensibility had been excited. I always listen to gentlemen from that part of the United States with pleasure, and generally receive instruction from them; but on this occasion, I am reluctantly compelled to acknowledge, that I have received from them less satisfaction and less information than usual; and still less conviction.

It was hardly to have been expected, Mr. President, that after so many angry and turbulent passions had been called into action, by the recent agitations throughout the whole United States, resulting from the elections by the people, to almost all the important offices within their gift, and particularly from the elections of electors for choosing the President and Vice President of the United States, that gentlemen would have met here perfectly exempt from the feelings which this state of things was naturally calculated to inspire. Much less was it to have been expected, sir, that gentlemen who had once possessed the power of the nation, and who, from some cause or other, had lost it; (a loss, which they now tell us they *but too well remember*, and I fear, might have added, *too deeply deplore*,) gentlemen too, sir, who at one time during the electioneering scene had indulged the fond and delusive hope, that through the privations necessarily imposed upon our fellow-citizens, by the unexampled aggressions of the belligerent powers, they might once more find their way to office and power, and who now find themselves disappointed in this darling expectation – it was not at all to be expected, sir, that these gentlemen should now appear here, perfectly exempt from the unpleasant feelings which so dreadful a disappointment must necessarily have produced. It was a demand upon human nature for too great a sacrifice; and however desirable such an exemption might have been at the present moment, and however honorable it would have been to those gentlemen, it was not expected.

But, sir, I had indulged a hope that the extraordinary dangers and difficulties pressed upon us by the aggressing belligerents, attended, too, with so many circumstances of indignity and insult, would have awakened a sensibility in the bosom of every gentleman of this body, which would have wholly suppressed, or at least suspended, these unpleasant feelings, until some measures, consulting the general interests and welfare of the people, could have been devised, to meet, resist, and if possible, to subdue the extraordinary crisis. But, sir, even in this hope, too, I have been totally disappointed. I was the more encouraged in this hope, when upon opening this debate the gentleman from Connecticut (Mr. Hillhouse) seemed sensible of this sacred obligation, imposed by the crisis;

when he exhorted us, in conducting our deliberations, utterly to discard the influence of party spirit. It would have given me great pleasure, sir, if the gentleman had afforded us a magnanimous example of a precept so admirably suited to the present state of things. But in this too, sir, I have been unfortunately disappointed. That gentleman's observations consisted almost exclusively of retrospective animadversions upon the original objects and horrible effects of the embargo laws, without seeming to think it was worth his attention to favor us with any reflections upon the prospective course of measures which the people's interests, the public safety, and general welfare, so imperiously demand. That gentleman represented the embargo laws as mere acts of volition, impelled by no cause nor necessity; whilst the British orders, and French edicts, were scarcely glanced at, and certainly formed the least prominent feature of his observations. He represented these laws as a wanton and wicked attack upon commerce, with a view to its destruction, whilst he seemed scarcely to have recollected the extraordinary dangers and difficulties which overspread the ocean – indeed, sir, he described the ocean as perfectly free from dangers and difficulties, unruffled by any storms, and that we had nothing to do but to unfurl our canvas to the wind, that it would be filled with prosperous gales, and wafted to the ports of its destination, where it would be received with open arms of friendship and hospitality. I wish, sir, with all my heart, the gentleman could but realize these dreaming visions; their reality would act like a, magic spell upon the embargo laws, and dissipate them in a moment! But, alas! sir, when we come to look at realities, when we turn our eyes upon the real dangers and difficulties which do overspread the ocean, we shall find them so formidable, that the wisdom of our undivided counsels, and the energy of our undivided action, will scarcely be sufficient to resist and conquer them. To my great regret, sir, we now see, that the United States cannot even hope to be blessed with this union of mind and action, although certainly their dearest interests demand it.

Mr. President, perhaps the greatest inconvenience attending popular governments, consists in this: that whenever the union and energy of the people are most required to resist foreign aggressions, the pressure of these aggressions presents most temptations to distrusts and divisions. Was there ever a stronger illustration of the truth and correctness of this observation than the recent efforts made under the pressure of the embargo laws? The moment the privations, reluctantly but necessarily imposed by these laws, became to be felt, was the moment of signal to every political demagogue, who wished to find his way to office and to power, to excite the distrusts of the people, and then to separate them from the Government of their choice, by every exaggeration which ingenuity could devise, and every misrepresentation which falsehood could invent: nothing was omitted which it was conceived would have a tendency to effect this object. But, Mr. President, the people of the United States must learn the lesson now, and at all future times, of disrespecting the bold and disingenuous charges and insinuations of such aspiring demagogues. They must learn to respect and rally round their own Government, or they never can present a formidable front to a foreign aggressor. Sir, the people of the United States have already learnt this lesson. They have recently given an honorable and glorious example of their knowledge in this respect. They have, in their recent elections, demonstrated to the nation and to the world that they possess too much good sense to become the dupes of these delusive artifices, and too much patriotism to desert their Government when it stands most in need of their support and energy.

The gentleman from Connecticut (Mr. Hillhouse) has made the most strict, and I had almost said, uncharitable scrutiny into the objects and effects of the embargo laws, in the delusive hope, I presume, of obtaining a triumph over his political adversaries. I propose to follow the gentleman, in a fair and candid comparison of information and opinions upon this subject; and I shall do so in the most perfect confidence, that whenever a thorough examination of the objects and effects of the embargo laws shall be made known, and the merits of the measure fully understood, that there is not a man in the United States who will not applaud and support the Administration for its adoption, who has the uncontaminated heart of an American throbbing within his bosom.

Sir, I have always understood that there were two objects contemplated by the embargo laws. The first, precautionary, operating upon ourselves. The second, coercive, operating upon the aggressing belligerents. Precautionary, in saving our seamen, our ships, and our merchandise, from the plunder of our enemies, and avoiding the calamities of war. Coercive, by addressing strong appeals to the interests of both the belligerents. The first object has been answered beyond my most sanguine expectations. To make a fair and just estimate of this measure, reference should be had to our situation at the time of its adoption. At that time, the aggressions of both the belligerents were such, as to leave the United States but a painful alternative in the choice of one of three measures, to wit, the embargo, war, or submission. I know that this position has not been admitted, though but faintly denied in the discussion. I shall however proceed upon this hypothesis for the present, and in the course of my observations will prove its correctness by the statements of the gentlemen in favor of the resolution.

Before the recommendation of the measure, the laudable and provident circumspection of the Administration had obtained tolerably correct estimates of the amount and value of the ships and merchandise belonging to the citizens of the United States then afloat, and the amount and value of what was shortly expected to be afloat; together with a conjectural statement of the number of the seamen employed in the navigation thereof.

It was found that merchandise to the value of one hundred millions of dollars was actually afloat, in vessels amounting in value to twenty millions more. That an amount of merchandise and vessels equal to fifty millions of dollars more, was expected to be shortly put afloat, and that it would require fifty thousand seamen to be employed in the navigation of this enormous amount of property. The Administration was informed of the hostile edicts of France previously issued, and then in a state of execution, and of an intention on the part of Great Britain to issue her orders, the character and object of which were also known. The object was, to sweep this valuable commerce from the ocean. The situation of this commerce was as well known to Great Britain as to ourselves, and her inordinate cupidity could not withstand the temptation of the rich booty she vainly thought within her power. This was the state of information at the time this measure was recommended.

The President of the United States, ever watchful and anxious for the preservation of the persons and property of all our fellow-citizens, but particularly of the merchants, whose property is most exposed to danger, and of the seamen whose persons are also most exposed, recommended the embargo for the protection of both; and it has saved and protected both. Let us now suppose, for a moment, that the President, possessed of this information, had not apprised the merchants and seamen of their danger, and had recommended no measure for their safety and protection; would he not in that case have merited and received the reproaches which the ignorance or ingratitude of merchants and others have so unjustly heaped upon him, for his judicious and anxious attentions to their interests? It is admitted by all, that the embargo laws have saved this enormous amount of property, and this number of seamen, which, without them, would have forcibly gone into the hands of our enemies, to pamper their arrogance, stimulate their injustice, and increase their means of annoyance.

I should suppose, Mr. President, this saving worth some notice. But, sir, we are told that instead of protecting our seamen, it has driven them out of the country, and into foreign service. I believe, sir, that this fact is greatly exaggerated. But, sir, suppose for a moment that it is so, the Government has done all, in this respect, it was bound to do. It placed these seamen in the bosoms of their friends and families, in a state of perfect security; and if they have since thought proper to abandon these blessings, and emigrate from their country, it was an act of choice, not of necessity. But, what would have been the unhappy destiny of these brave tars, if they had been permitted to have been carried into captivity, and sent adrift on unfriendly and inhospitable shores? Why, sir, in that case, they would have had no choice; necessity would have driven them into a hard and ignominious service, to fight the battles of the authors of their dreadful calamities, against a

nation with which their country was at peace. And is the bold and generous American tar to be told, that he is to disrespect the Administration for its anxious and effectual attentions to his interests? for relieving him from a dreadful captivity? Even under the hardships he does suffer, and which I sincerely regret, every generous feeling of his noble heart would repel the base attempt with indignation. But, sir, the American seamen have not deserted their country; foreign seamen may and probably have gone into foreign service; and, for one, I am glad of it. I hope they will never return; and I am willing to pass a law, in favor of the true-hearted American seamen, that these foreign seamen never should return. I would even prohibit them from being employed in merchant vessels. The American seamen have found employment in the country; and whenever the proper season shall arrive for employing them on their proper element, you will find them, like true birds of passage, hovering in crowds upon your shores.

Whilst considering this part of the subject, I cannot help expressing my regret that, at the time of passing our embargo laws, a proportion of our seamen was not taken into the public service; because, in my judgment, the nation required their services, and it would have been some alleviation to their hardships, which the measure peculiarly imposed upon them, as a class of citizens, by affecting their immediate occupation; and the other classes, as well as the public Treasury, were able to contribute to their alleviation; and I am willing to do the same thing at this time. Indeed, its omission is the only regret I have ever felt, at the measures of the last Congress. I like the character – I like the open frankness, and the generous feelings of the honest American tar; and, whenever in my power, I am ready to give, and will with pleasure give him my protection and support. One of the most important and agreeable effects of the embargo laws, is giving these honest fellows a safe asylum. But, sir, these are not the only good effects of the embargo. It has preserved our peace – it has saved our honor – it has saved our national independence. Are these savings not worth notice? Are these blessings not worth preserving? The gentleman from Delaware (Mr. White) has, indeed, told us, that under the embargo laws, the United States are bleeding at every pore. This, surely, sir, is one of the most extravagant effects that could have been ascribed to these laws by the frantic dreams of the most infatuated passions. Bloodletting is the last effect that I ever expected to hear ascribed to this measure. I thought it was of the opposite character; but it serves to show that nothing is too extravagant for the misguided zeal of gentlemen in the opposition. I have cast my eyes about in vain to discover those copious streams of blood; but I neither see nor hear any thing of them from any other quarter. So far from the United States bleeding at every pore, under the embargo, it has saved them from bleeding at any pore; and one of the highest compliments to the measure is, that it has saved us from the very calamity which the gentleman attributed to it; but which, thanks to our better stars and wiser counsels, does not exist.

Mr. President, the eyes of the world are now turned upon us; if we submit to these indignities and aggressions, Great Britain herself would despise us; she would consider us an outcast among nations; she would not own us for her offspring: France would despise us; all the world would despise us; and what is infinitely worse, we should be compelled to despise ourselves! If we resist, we shall command the respect of our enemies, the sympathies of the world, and the noble approbation of our own consciences.

Mr. President, our fate is in our own hands; let us have union and we have nothing to fear. So highly do I prize union, at this awful moment, that I would prefer any one measure of resistance with union, to any other measure of resistance with division; let us then, sir, banish all personal feelings; let us present to our enemies the formidable front of an indissoluble band of brothers, nothing else is necessary to our success. Mr. President, unequal as this contest may seem; favored as we are by our situation, and under the blessing of a beneficent Providence, who has never lost sight of the United States in times of difficulty and trial, I have the most perfect confidence, that if we prove true to ourselves, we shall triumph over our enemies. Deeply impressed with these considerations, I am prepared to give the resolution a flat and decided negative.

Friday, November 25

John Milledge, from the State of Georgia, attended.

Wednesday, November 30

The Embargo

Mr. Pickering. – Mr. President: I am aware, sir, of the consequences of advancing any thing from which conclusions may be drawn adverse to the opinions of our own Administration, which, by many, are conceived to be indisputably just. Merely to state these questions, and to mention such arguments as the British Government may, perhaps, have urged in their support on her side, is sufficient to subject a man to the popular charge of being under British influence, or to the vulgar slander of being a "British tory." He will be fortunate to escape the accusation of touching British gold. But, sir, none of these things move me. The patrons of the miscreants who utter these slanders know better, but are, nevertheless, willing to benefit by the impression they may make on the minds of the people. From an early period of my life I was zealously engaged in every measure opposed to the attempts of Great Britain to encroach upon our rights, until the commencement of our Revolutionary war; and during its whole continuance, I was uninterruptedly employed in important civil or military departments, contributing all my efforts to bring that war to a successful termination.

I, sir, am not the advocate of wrong-doers, to whatever country they belong, whether Emperors, or Kings, or the Administrators of a Republic. Justice is my object, and Truth my guide; and wherever she points the way I shall not fear to go.

Great Britain has done us many wrongs. When we were Colonies, she attempted to deprive us of some of our dearest birth-rights – rights derived from our English ancestors, rights which we defended, and finally established, by the successful conclusion of the Revolutionary war. But these wrongs, and all the wounds of war, were intended to be obliterated and healed by the treaty of peace, when all enmities should have ceased.

Great Britain wronged us in the capture and condemnation of our vessels under her orders of 1793, and she has made reparation for these wrongs, pursuant to a treaty, negotiated on practical principles by a statesman who, with liberal views and real candor, sought adjustment and reparation.

Monday, December 12

Enforcement of the Embargo Laws

Mr. Giles, from the committee appointed the 11th of November last, on that part of the Message of the President of the United States which relates to the embargo laws, and the measures necessary to enforce due observance thereof, made a further report, in part, of a bill to authorize and require the President of the United States to arm, man, and fit out for immediate service, all the public ships of war, vessels, and gunboats of the United States; and the bill was read, and passed to the second reading.

The bill is as follows:

> "*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That the President be, and he is hereby, authorized and required to cause to be fitted out, officered, manned, and employed, as soon as may be, all the frigates and other armed vessels of the United States, including gunboats; and to cause the frigates and armed vessels, so soon as they can be prepared for active service, respectively to be stationed at such ports and places on the seacoast as he may deem most expedient, or to cruise on any part of the coast of the United States, or territories thereof.
>
> "Sec. 2. *And be it further enacted*, That, for the purpose of carrying the foregoing provision into immediate effect, the President of the United States be, and is hereby, authorized and required, in addition to the number of petty officers, able seamen, ordinary seamen, and boys, at present authorized by law, to appoint, and cause to be engaged and employed as soon as may be, – midshipmen, – corporals of marines, – able seamen, – ordinary seamen and boys, which shall be engaged to serve for a period not exceeding – years, but the President may discharge the same sooner, if in his judgment their services may be dispensed with; and to satisfy the necessary expenditures to be incurred therein, a sum not exceeding – dollars be, and the same is hereby, appropriated, and shall be paid out of any moneys in the Treasury not otherwise appropriated."

Saturday, December 17

The credentials of Michael Leib, appointed a Senator by the State of Pennsylvania, were presented and read, and ordered to lie on file.

Enforcement of the Embargo

The Senate resumed the bill making further provision for enforcing the embargo.

Mr. Goodrich rose, and addressed the Senate as follows —

Mr. President: This bill, making further provision for enforcing the embargo, requires all our attention. We are not on ordinary business. An embargo for an indefinite period, over a great country like ours, abounding in rich staples and domestic products, and carrying on in its own vessels an extensive and profitable commerce, is a phenomenon in the civilized world. We are about entering on the second year of this novel measure, and even in defiance of the lessons which experience teaches, that without producing any beneficial results, it is embroiling the choicest interests of the nation. On foreign powers it has made no impression, and its ruinous effect on our own country, we see in the waste of private property and public revenue; in the discontents of our citizens; in the perplexed state of the public councils, and the increasing difficulties that are fast gathering round the Government. The friends of the embargo say, that it has been evaded and violated, but that when strictly enforced, it will compel foreign nations to respect our rights. Under these impressions, the system is to be maintained. To enforce it, the powers of the Government are to be put in array throughout our country, especially in places where discontents are manifested; and an extension is to be given to that system of arbitrary seizures of vessels, goods, merchandise, and domestic products, on suspicion of their being intended for exportation, which came in with the embargo laws, and has attended their execution.

In all this, sir, I see nothing that is to conciliate the conflicting opinions and passions of our citizens, and restore concord amongst them. I see nothing that will invigorate the public councils, and resuscitate the dormant spirit and resources of the nation. To me it seems that the Administration, without presenting to public view any definite object or course, are pressing forward our affairs into a chaos of inextricable difficulties. And I cannot but regard this bill as holding a prominent place among the measures leading on that unfortunate issue.

This bill bears marks of distrust entertained by the Government of the people, or a considerable portion of them, and of the State authorities; it places the coasting trade under further and vexatious restraints, as well as its general regulations under the control of the President. It intrenches on the municipal polity of the States, and the intercourse of the people in their ordinary business. And, what above all will wound the public sentiment, for the accustomed and mild means of executing the laws by civil process through the tribunals of justice, it substitutes military powers to be called out and exercised, not in aid, but in place, of the civil authorities.

The coasting trade is placed under the regulation of the President by this bill:

1st. Collectors may refuse permission to put a cargo on board of any ship, vessel, or boat, in any case where they have their own personal suspicions that it is intended for foreign exportation, and in every case which may be comprehended within the scope of any general instructions, issued by command of the President. But there is a proviso as to coasting vessels uniformly employed in the navigation of bays, sounds, rivers, and lakes, which shall have obtained a general permission.

2d. General permissions may be granted to the last-mentioned vessels, under such general instructions as the President of the United States may give, when it can be done without danger of the embargo being violated, to take on board such articles as may be designated in such general permission or permissions.

By these general instructions, the President may prescribe the kind and quantity of exports from, and imports into the individual States, and from and to the particular districts within a State. He may suspend them in part or in whole.

The power of issuing general instructions now proposed to be given to the President by law, he exercised in the recess of Congress, and in my opinion, without law. The Governor of Massachusetts was authorized to give certificates, or licenses for the importation of flour into that State; and, under general instructions from the President, without personal suspicion of his own, the collector at Charleston, in South Carolina, detained a vessel; which called forth the independent exercise of the judicial power of the circuit court in that State, to control the President's instructions. I am sensible the Administration and its friends have an arduous task in executing the embargo; difficulties beset them on every side; difficulties inherent in the measure itself, and not to be overcome by accumulating rigorous penalties, and an extension of the Executive power. The power to regulate commerce is vested in Congress, and by granting it to the President, do we not transfer to him one of the most important and delicate of the legislative powers? What State would have adopted the constitution, if it had been foreseen that this power would be granted to any man, however distinguished by office?

The sections I have considered, principally affect merchants and seafaring men in their business, at stores, custom-houses, about wharves, ships, and vessels. But other sections take a wider range, and intrench on the ordinary concerns of the great body of the people, by the powers they give for unreasonable and arbitrary searches for, and seizures of their property.

Collectors of the customs throughout the United States, by the tenth section, are empowered to take into custody specie, or any articles of domestic growth or manufacture, under these circumstances, when deposited in unusual places, in unusual quantities, in places where there is reason to believe they are intended for exportation in vessels, sleighs, or other carriages, or in any manner apparently on their way towards the territories of foreign nations, or a place whence such articles are intended to be exported. And, when taken into custody, they are not permitted to be removed without bonds being given for their being relanded in some place whence, in the opinion of the collector, there is no danger of their being exported.

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

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

The military may be employed by such person as the President may have empowered. He may designate, at certain places in the States, persons to call out such part of the land or naval forces of the United States, or of the militia, as may be judged necessary. Those will be selected who are most convenient and in all respects qualified to act in the scenes to which they may be called. In these appointments the Senate is to have no concurrence. They are to be Presidential agents for issuing requisitions to the standing army, for militia, and not amenable to any tribunal for their conduct. Heretofore a delicate and respectful attention has been paid to the State authorities on this subject. The requisitions of the General Government for the militia have been made to the Governors of the States; and what reason is there for taking a different course to enforce the embargo?

Under our present system have not insurrections been suppressed, rebellions quelled, and combinations and resistance against lawful authority overcome, by the force of the General Government in co-operation with the State Governments? Is not the authority of the marshals competent to the execution of the laws? I see no cause for these arrays of the military throughout the country, and the unrestrained license that is to be given to its operations. It is a fundamental principle of a free government, "that the military be kept in subordination to the civil power," and never be put in motion until those be found incompetent to preserve the public peace and authority. But, by the provisions of this bill, these Presidential agents may call out the standing army or militia, or part of them, to follow in the collector's train, to seize specie and goods in houses, stores, and elsewhere, and generally for executing the embargo laws. And even the public peace, so far as respects the suppressing armed and riotous assemblages of persons resisting the custom-house officers in the exercise of their duties, it would seem can no longer be confided to the States, and it is thought necessary to surround custom-house officers with bands of the standing army or militia.

The bill before us is bottomed on a report of the Secretary of the Treasury. How often were his strenuous remonstrances, and those of the chairman of the committee who reported the bill, (Mr. Giles,) formerly heard against the extension of the Executive patronage and influence; the interference of the General Government in the local policy of the States, and, the ordinary concerns of the people; and, above all, against standing armies? Then no such Executive prerogatives were claimed as this bill contains; no such attempts made as here are made for intrenchments on the internal policy of the States, and the ordinary concerns of the people; and then our army, small in comparison with the present establishment, was kept aloof from the affairs of the State, and the persons and property of the citizens. Our country was happy, prosperous, and respected. The present crisis is portentous. Internal disquiets will not be healed, nor public sentiment controlled, by precipitate and rash measures. It is time for the public councils to pause. This bill, sir, ought not to pass. It strikes at the vital principles of our republican system. It proposes to place the country in a time of peace under military law, the first appearance of which ought here to be resisted with all our talents and efforts. It proposes to introduce a military despotism, to which freemen can never submit, and which can never govern except by terror and carnage.

Tuesday, December 20

Enforcement of the Embargo

Mr. Giles said, I am sensible that I owe an apology to the Senate, as chairman of the committee, for not having made an exposition of the objects and principles of the bill, reported for consideration, at an earlier stage of the discussion. This omission has not in the smallest degree been influenced by any apprehension, that these principles are indefensible; but, in some degree, from a desire to screen myself, as much as possible, from intermixing in discussions; a task which is never agreeable, but is at present peculiarly distressing and afflicting to my feelings. I also thought that the session had already been sufficiently fruitful of discussions intimately connected with the bill before us; and that the public interests, at this time, required action. I know, too, sir, that I owe an apology to the Senate, for the great number of amendments which, under their indulgence, has been made to this bill after it was first presented to their consideration. But, sir, you will find some apology in the intrinsic difficulty and delicacy of the subject itself, and also in the disposition manifested by the committee, to give to the objections made by the opponents of the bill, that respectful attention to which many of them were certainly entitled, and to accommodate its provisions, as far as possible, to the views of those gentlemen. After every effort, however, to effect this object, it still appears that the bill presents temptations for addressing the popular sensibility too strong to be resisted by gentlemen in the opposition. They have, accordingly, with great zeal and ability, described the provisions of the bill as dangerous and alarming to the rights and liberties of the people. This, sir, is the common course of opposition, and applies to every strong measure requiring the exercise of much Executive discretion. I think, however, I shall be able to show that there is no new principle contained in the provisions of that bill; but that every provision it contains is amply justified by precedents in pre-existing laws, which have not been found to be so destructive to the rights of the people, as gentlemen strenuously insist similar provisions in this bill will be, if they receive the sanction of law. In performing this task, I shall bring into view only such parts of the bill as have been objected to by gentlemen, presuming that, as their objections have evidently been the result of great industry and deliberation, all other parts of the bill remain unobjectionable. I shall also, perhaps, avoid some of the observations respecting minute details; apply my remarks generally to principles; and thus bring my observations and replies into as short a compass as possible.

The gentleman from Connecticut (Mr. Goodrich) commenced his remarks by declaring the embargo to be a permanent measure, deprecating its effects, as ruinous at home and ineffectual abroad. These observations have been repeatedly made by others, and already replied to by several gentlemen, as well as myself; and I am strengthened in the correctness of those replies by all the further reflections I have been enabled to bestow upon them. This part of the subject will, therefore, be passed over without further notice, except to remark, that perhaps one of the causes of the inefficacy of the measure abroad, has been the unprincipled violations of its provisions at home; and the great and leading object of the present bill is to prevent such violations. Upon this part of the subject I am happy to find that one of its most strenuous and judicious opposers (Mr. Hillhouse) has candidly informed the Senate, that the provisions of the bill are admirably calculated to effect that object – and if in their practical operation they should realize the character anticipated by that gentleman, I shall feel no regret for that portion of labor I have bestowed upon them. Indeed, I shall congratulate the committee as well as myself in having been so fortunate as to find a competent remedy for so great an evil.

The gentleman from Connecticut (Mr. Goodrich) informs us, that the public councils are pressing on to measures pregnant with the most alarming results. I hope the gentleman is mistaken in his apprehensions, and I should have been much pleased if the gentleman had been good enough to point them to a better course; but, sir, he has not done so, nor has any gentleman on the same side of the question. Indeed, sir, it would give me great pleasure to do something that would be agreeable to our Eastern friends; but, unfortunately, amidst all the intrinsic difficulties which press upon us, that seems to be not among the least of them. The gentlemen themselves will not explicitly tell us what would produce the effect – and I am inclined to think that nothing short of putting the Government in their hands would do it. Even this would not be exempt from difficulties. The gentlemen from that part of the United States are nearly equally divided among themselves respecting the proper course of measures to be pursued, and there is an immense majority in every other part of the United States, in favor of the measures proposed; we are therefore surrounded with real and intrinsic difficulties from every quarter, and those of a domestic nature are infinitely the most formidable, and most to be deprecated. Indeed, sir, under present circumstances, the administration of the Government cannot be a pleasant task; and, in my judgment, it requires a great effort of patriotism to undertake it, not on account of external pressures, but on account of internal discontents, stimulated, too, by so many artful intrigues. But for these unfortunate circumstances, every gentleman would feel an honorable pride in contributing his efforts to devise measures for repelling foreign aggressions, and he would court the responsibility attached to his station. I would not, Mr. President, give up a scintilla of that portion of the responsibility which the crisis imposes on me. Indeed, sir, to have the honor of bearing my full share of it, is the only inducement I have at this moment for occupying a place on this floor. Without that consideration I should now be in retirement. But when I turn my eyes upon internal divisions, discontents and violations of law, and am compelled to think of measures for their suppression, it produces the most painful sensations and distressing reflections.

The great principle of objection, the gentlemen tell us, consists in the transfer of legislative powers to the Executive Department. This is an old an abstract question, often heretofore brought into view, and leads to endless discussion. I think I shall be able to show that the bill introduces no new principle in this respect, but only applies an established principle to new practical objects. The general principle of the separation of departments is generally admitted in the abstract; but the difficulties in this discussion arise from applying the principle to practical objects. The great difficulty exists in the attempt to fix on the precise boundary line between legislative and Executive powers in their practical operation. This is not possi-[1] You might attempt the search for the philosopher's stone, or the discovery of the perpetual motion, with as much prospect of success. The reason of this difficulty is, that the practical objects and events to which this abstract principle is attempted to be applied, are perpetually varying, according to the practical progression of human affairs, and therefore cannot admit of any uniform standard of application. This reflection might have saved the gentleman from Massachusetts (Mr. Lloyd) the trouble of reading to us the constitution or bill of rights of Massachusetts, in which the principle of separation of departments is very clearly and properly laid down, and which will be very readily assented to in the abstract, but which forms no part of the question in dispute. It cannot, however, escape observation, that this principle is not laid down, even in the abstract, in the Constitution of the United States; and, although it is the leading principle of the constitution, and probably was the principal guide in its formation, it is nevertheless in several respects departed from.

This body partakes essentially both of the legislative and Executive powers of the Government. The Executive Department also partakes of the legislative powers, as far at least as an approbation of, and a qualified negative of the laws extend, &c. I make these observations,

[1] Missing line.

however, not in derogation of the general principle of the separation of powers among the several departments, so far as is practicable, but merely to show that there must necessarily be some limitations in its practical operation. Perhaps the best general rule for guiding our discretion upon this subject will be found to consist in this: That legislation ought to extend as far as definition is practicable – when definition stops, execution must necessarily begin. But some of the particular provisions of this bill will furnish more precise illustrations of my opinions upon this question; it will, therefore, be waived until I shall come to their consideration.

I will now proceed to examine the more particular objections urged against the detail of this bill. Its provisions respecting the coasting trade are said to be objectionable in the following respects:

First objection: The penalty of the bonds required, is said to be excessive. To enable us to decide correctly upon this point, the object proposed to be effected, and the penalty required, should be considered in reference to each other. The object is to prevent, by means of coasting vessels, domestic articles from being carried abroad. Flour, for instance, to the West Indies. The price of that article here is less than five dollars; in the West Indies it is said to be thirty and upward. The penalty of the bonds required is six times the amount of the value of the vessel and cargo. Is any gentleman prepared to say a smaller penalty will effect the object? I presume not. Indeed, the committee were disposed to put it at the lowest possible point, consistently with an effectuation of the object; and probably it is rather too low for that purpose. As to the penalty, according to the tonnage of vessels, it is believed no alteration in the existing laws is made in that respect. These penalties will appear the more reasonable, when it is recollected, that through the indulgence given of the coasting trade, most of the violations of the embargo laws have been contrived and effected.

Second objection: The collectors may be influenced by party spirit in the exercise of their discretion. It is hoped that this will not be the case, and if it were, it would certainly be much to be regretted. It may, however, probably happen, and is one of the inconveniences of the system.

Third objection: The high penalties of the bonds will drive many persons of small means from their accustomed occupations. They will not be able to procure the competent security for their prosecution. It is not to be presumed that this will be the effect to any great extent. If the owner is known to be honest, and has in view legal and honest objects, I have very little apprehension of his not being able to get the security required. But here the question recurs, are these apprehended inconveniences of such a nature as to render it necessary to abandon a great national object, for the accommodation of a few individuals who are affected by them? Is the last effort to preserve the peace of the nation, to be abandoned from these considerations? I should conclude, certainly not.

The next objections are made to the seventh section of the bill, which provides that stress of weather, and other unavoidable accidents at sea, shall not be given in evidence in a trial at law to save the penalty of bonds given as security against the violation of the embargo laws. It is known that, through pretexts derived from this permission, at present, most of the violations of these laws have been committed with impunity – it is, therefore, important to the future execution of the laws, to take away these pretexts. But it is objected that this regulation manifests a distrust of oaths. It does, of what is called custom-house oaths; their violation is already almost proverbial; it does not, however, produce nor encourage this profligacy; it takes away the temptation to it. It is further said, it impairs the trial by jury – very far from it; the trial by jury still exists; this provision only regulates the evidence to be produced before the jury. Gentlemen state particular hardships which may take place under this regulation. It is easy to state possible hardships under any general regulation; but they have never been deemed sufficient objections to general regulations producing in other respects beneficial results. This bill, however, contains a provision for relief in all cases of hardships under the embargo laws. The Secretary of the Treasury is authorized to grant relief in all such cases. This power, vested in the Secretary, is also objected to. It is said to manifest a distrust of courts, and to transfer their powers to the Secretary of the Treasury. Whatever may be

my distrust of some of the courts of the United States, I can say that consideration furnished no inducement to this provision. It is a power not suited to the organization of courts, and it has for a long time been exercised by the Secretary of the Treasury without being complained of. Congress proceeded with great caution on this subject. On the third day of March, 1797, they first introduced this principle into their laws in relation to the collection of the revenue; and, after an experiment of nearly three years, on the eleventh day of February, 1800, they made the law perpetual. This will appear from the 12th section of this bill, which merely borrows this provision from pre-existing laws. It introduces no new principle whatever. This doctrine is carried still further, by an act passed the 3d of March, 1807, in the eighth volume of the laws, page 318:

> "An Act to prevent settlements being made on lands ceded to the United States, until authorized by law.
>
> "And it shall moreover be lawful for the President of the United States to direct the Marshal, or officer acting as Marshal, in the manner hereinafter directed, and also to take such other measures, and to employ such military force as he may judge necessary and proper, to remove from lands ceded, or secured to the United States by treaty, or cession as aforesaid, any person or persons who shall hereafter take possession of the same, or make or attempt to make a settlement thereon, until authorized by law."

Here the President is authorized to use the military force to remove settlers from the public lands without the intervention of courts; and the reason is, that the peculiarity of the case is not suited to the jurisdiction of courts, nor would their powers be competent to the object, nor, indeed, are courts allowed to interfere with any claims of individuals against the United States, but Congress undertakes to decide upon all such cases finally and peremptorily, without the intervention of courts.

This part of the bill is, therefore, supported both by principle and precedent.

While speaking of the distrust of courts, I hope I may be indulged in remarking, that individually my respect for judicial proceedings is materially impaired. I find, sir, that latterly, in some instances, the callous insensibility to extrinsic objects, which, in times past, was thought the most honorable trait in the character of an upright judge, is now, by some courts, entirely disrespected. It seems, by some judges, to be no longer thought an ornament to the judicial character, but is now substituted by the most capricious sensibilities.

Wednesday, December 21

Enforcement of the Embargo

Mr. Pope spoke in favor of the bill.

And on the question, Shall this bill pass? it was determined in the affirmative – yeas 20, nays 7, as follows:

> Yeas. – Messrs. Anderson, Condit, Crawford, Franklin, Gaillard, Giles, Gregg, Kitchel, Milledge, Mitchill, Moore, Pope, Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Thruston, Tiffin, and Turner.
>
> Nays. – Messrs. Gilman, Goodrich, Hillhouse, Lloyd, Mathewson, Pickering, and White.

Wednesday, December 28

The Vice President being absent by reason of the ill state of his health, the Senate proceeded to the election of a President *pro tempore*, as the constitution provides; and Stephen R. Bradley was appointed.

Friday, January 6, 1809

Return Jonathan Meigs, jun., appointed a Senator by the General Assembly of the State of Ohio, to fill the vacancy occasioned by the resignation of John Smith, and, also, for six years ensuing the third day of March next, attended, and produced his credentials, which were read; and the oath prescribed by law was administered to him.

Tuesday, January 10

James A. Bayard, from the State of Delaware, attended.

Monday, January 16

The credentials of Michael Leib, appointed a Senator by the Legislature of the State of Pennsylvania, to fill the vacancy occasioned by the resignation of Samuel Maclay, were read, and ordered to lie on file.

Thursday, January 19

Michael Leib, appointed a Senator by the Legislature of the State of Pennsylvania, to fill the vacancy occasioned by the resignation of the Honorable Samuel Maclay, attended, and the oath prescribed by law was administered to him.

Tuesday, January 24

Foreign Intercourse – the Two Millions
Secret Appropriation – Florida the object

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

To the Senate of the United States:

According to the resolution of the Senate, of the 17th instant, I now transmit them the information therein requested, respecting the execution of the act of Congress of February 21, 1806, appropriating two millions of dollars for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations.

January 24, 1809.

TH. JEFFERSON.

The Message and documents were read, and one thousand copies thereof ordered to be printed for the use of the two Houses of Congress.

In compliance with the resolution of the Senate, so far as the same is not complied with by the report of the Secretary of the Treasury of the 20th instant, the Secretary of State respectfully reports, that neither the whole nor any portion of the two millions of dollars appropriated by the act of Congress of the 21st of February, 1806, "for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations," was ever authorized or intended to be applied to the use of either France, Holland, or any country other than Spain; nor otherwise to be applied to Spain than by treaty with the Government thereof, and exclusively in consideration of a cession and delivery to the United States of the territory held by Spain, eastward of the river Mississippi.

All which is respectfully submitted.

JAMES MADISON.

Department of State, Jan. 21.

Monday, January 30

The Vice President having retired, the Senate proceeded to the election of a President *pro tempore*, as the constitution provides; and the Hon. John Milledge was appointed.

Thursday, February 2

The credentials of Samuel White, appointed a Senator by the Legislature of the State of Delaware, for six years, commencing on the 4th of March next, were read, and ordered to lie on file.

Tuesday, February 7

Examination and Count of Electoral Votes for President and Vice President

Mr. Smith, of Maryland, from the joint committee appointed to ascertain and report a mode of examining the votes for President and Vice President, and of notifying the persons elected of their election, and for regulating the time, place, and manner, of administering the oath of office to the President, reported in part the following resolution, which was read and agreed to:

> *Resolved*, That the two Houses shall assemble in the Chamber of the House of Representatives, on Wednesday next, at 12 o'clock; that one person be appointed a teller on the part of the Senate, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, and the persons elected, to the two Houses assembled as aforesaid; which shall be deemed a declaration of the persons elected President and Vice President, and, together with a list of the votes, to be entered on the Journals of the two Houses.

Ordered, That Mr. Smith, of Maryland, be appointed teller on the part of the Senate, agreeably to the foregoing resolution.

A message from the House of Representatives brought to the Senate "the several memorials from sundry citizens of the State of Massachusetts, remonstrating against the mode in which the appointment of Electors for President and Vice President has been proceeded to on the part of the Senate and House of Representatives of said State, as irregular and unconstitutional, and praying for the interference of the Senate and House of Representatives of the United States, for the purpose of preventing the establishment of so dangerous a precedent."

The message last mentioned, referring to the memorials of sundry citizens of the State of Massachusetts, was read.

Ordered, That the message and memorials lie on the table.

A message from the House of Representatives informed the Senate that the House agree to the report of the joint committee "appointed to ascertain and report a mode of examining the votes for President and Vice President, and of notifying the persons elected of their election, and to regulate the time, place, and manner of administering the oath of office to the President," and have appointed Messrs. Nicholas and Van Dyke tellers on their part.

Wednesday, February 8

The two Houses of Congress, agreeably to the joint resolution, assembled in the Representatives' Chamber, and the certificates of the Electors for the several States were, by the President of the Senate, 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 President of the Senate, which was read, as follows:

States.	For President.			For Vice-President.				
	James Madison.	George Clinton.	C. C. Pinckney.	George Clinton.	James Madison.	James Monroe.	John Langdon.	Rufus King.
New Hampshire	—	—	7	—	—	—	—	7
Massachusetts	—	—	19	—	—	—	—	19
Rhode Island	—	—	4	—	—	—	—	4
Connecticut	—	—	9	—	—	—	—	9
Vermont	6	—	—	—	—	—	6	
New York	13	6	—	13	3	3		
New Jersey	8	—	—	8				
Pennsylvania	20	—	—	20				
Delaware	—	—	3	—	—	—	—	3
Maryland	9	—	2	9	—	—	—	2
Virginia	24	—	—	24				
North Carolina	11	—	3	11	—	—	—	3
South Carolina	10	—	—	10				
Georgia	6	—	—	6				
Kentucky	7	—	—	7				
Tennessee	5	—	—	5				
Ohio	3	—	—	—	—	—	3	
Totals	122	6	47	113	3	3	9	47

The whole number of votes being 175, of which 88 make a majority.

Whereupon the President of the Senate declared James Madison elected President of the United States for four years, commencing with the fourth day of March next; and George Clinton Vice President of the United States for four years, commencing with the fourth day of March next.

The votes of the Electors were then delivered to the Secretary of the Senate; the two Houses of Congress separated; and the Senate returned to their own Chamber.

On motion, by Mr. Smith of Maryland,

Resolved, That the President of the United States be requested to cause to be delivered to James Madison, Esq., of Virginia, now Secretary of State of the United States, a notification of his election to the office of President of the United States; and to be transmitted to George Clinton, 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, in the year of our Lord one thousand eight hundred and nine, the underwritten, President of the Senate *pro tempore*, did, in 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 Vice President of the United States. Whereupon, it appeared that James Madison, of Virginia, had a majority of the votes of the Electors as President, and George Clinton, of New York, had a

majority of the votes of the Electors as Vice President. By all which it appears that James Madison, of Virginia, has been duly elected President, and George Clinton, of New York, has been duly elected Vice President of the United States, agreeably to the constitution.

In witness whereof, I have hereunto set my hand, and caused the seal of the Senate to be affixed, this – day of February, 1809.

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.

Tuesday, February 21

The credentials of Joseph Anderson, appointed a Senator for the State of Tennessee, by the Executive of that State, from and after the expiration of the time limited in his present appointment, until the end of the next session of the Legislature thereof, were presented and read, and ordered to lie on file.

Franking Privilege to Mr. Jefferson

The bill freeing from postage all letters and packets to Thomas Jefferson was read the second time, and considered as in Committee of the Whole; and no amendment having been proposed, on the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

Non-Intercourse

Mr. Tiffin, from the committee, reported the bill to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes, correctly engrossed; and the bill was read the third time, and the blanks filled – section three, with the words *twentieth* and *May* in two instances.

On motion by Mr. Bradley, the words, "or being pursued by the enemy," were stricken out of the first and third sections, by unanimous consent.

Mr. Lloyd addressed the Senate as follows:

Mr. President: When the resolution on which this bill is founded was brought forward, I had expected it would have been advocated – as a means of preserving peace – as a menace to the belligerents, that a more rigorous course of conduct was about to be adopted towards them, on the part of the United States, provided they continued to persist in their injurious decrees, and Orders in Council – as giving us time to prepare for war – or as a covert, but actual war, against France and Great Britain.

I feel indebted to the honorable gentleman from Virginia, (Mr. Giles,) for not only having very much narrowed the consideration of this subject, but for the open, candid, and manly ground he has taken, both in support of the resolution and the bill. I understood him to avow, that the effect must be war, and that a war with Great Britain; that, notwithstanding the non-intercourse attached to this bill, the merchants would send their vessels to sea; those vessels would be captured by British cruisers; these captures would be resisted; such resistance would produce war, and that was what he both wished and expected. I agree perfectly with the gentleman, that this is the natural progress, and must be the ultimate effect of the measure; and I am also glad, that neither the honorable Senate nor the people of the United States can entertain any doubts upon the subject.

I understood the gentleman also to say, that this was a result he had long expected. Now, sir, as there have been no recent decrees, or Orders in Council issued, if war has been long looked for, from those now in operation, I know not what excuse those who have the management of our concerns can offer to the people of the United States, for leaving the country in its present exposed, naked, and defenceless situation.

What are our preparations for war? After being together four-fifths of the session, we have extorted a reluctant consent to fit out four frigates. We have also on the stocks, in the navy yard and elsewhere scattered along the coast, from the Mississippi to the Schoodick, one hundred and seventy gunboats, which, during the summer season, and under the influence of gentle western breezes, may, when in commission, make out to navigate some of our bays and rivers, not, however,

for any effectual purposes of defence, for I most conscientiously believe, that three stout frigates would destroy the whole of them; and of the enormous expense at which this burlesque naval establishment is kept up, we have had a specimen the present session, by a bill exhibited to the Senate, of eight hundred dollars for medical attendance, on a single gunboat for a single month, at New Orleans. If other expenditures are to be made in this ratio, it requires but few powers of calculation to foretell that, if the gunboats can destroy nothing else, they would soon destroy the public Treasury.

We have also heard of a project for raising fifty thousand volunteers, which has, I believe, been very properly stifled in its birth, and we have appropriated, during the present session, one hundred and fifty thousand dollars towards the erection, repairing, and completion of our fortifications. A sum about equal to the expenditure of the British Government for six weeks, or two months, on a single fortress in the Province of Canada, and which sum, with us, is to put into a state of defence, against the naval power of Great Britain, an exposed and accessible maritime frontier of two thousand miles in extent!

In contemplating war, it is also proper to advert to the state of the Treasury. Under such an event, and with any serious preparation for war or actual prosecution of it, the present funds would soon be exhausted. How soon cannot be stated, because the amount of them cannot be accurately ascertained. A part, and a considerable part, of the money now on hand, does not belong to the public. It is the property of the merchants; it is deposited in the Treasury as in a bank, to be checked for, whenever that commerce, which Mr. Jefferson, in his Notes on Virginia, most emphatically says, our country *will have*, shall be again reopened.

And thus situated, what are the projects offered for replenishing the public coffers in future? It is the duty of the Secretary of the Treasury to develop the resources of the nation, and to point out new sources of supply, whenever the usual channels are impeded. He has designated three modes. The first, if executed, embraces, in my view, and I am sorry to say it, a marked violation of the public faith. It is the suggestion of stopping drawbacks on merchandise, which, in many instances, the merchants, from a reliance on the stability of your laws, and the integrity of the Government, have imported expressly for exportation, and not for domestic use or consumption in this country, and which exportation you have prevented them, alike contrary to their inclinations and their interests, from making for a longer period than ever was known or endured in any other nation.

The second project is one which, in my opinion, would do little honor to the genius of any man. It is a sweeping project for doubling, at the moment, the duties on every description of imported merchandise, on which a duty is now payable. Without notice to the merchant, without inquiry, without discrimination, without distinction between the necessaries of the poor man and the luxuries of the rich one; between the indispensable raw materials of the manufacturer and the useless decorations of fashion. By which, bohea tea and Madeira wine, brown sugar and cosmetics, coaches and carpenters tools, are all, by a single stroke of the pen, raised in the same ratio; and a duty of 100 per cent. on the present rates, without favor or affection, equally recommended to be imposed on the whole of them.

The third project is certainly not a novel one; it is simply that of shifting the burden off our own shoulders on to those of our successors: it is that of borrowing money on loans.

I have been, sir, among those who have respected the intelligence and acuteness of the Secretary of the Treasury. I have thought the office very ably filled; nor has my estimation of his talents been diminished from the few personal conferences I have had with him since I have been in this city; but if his fame rested on no firmer a basis than the reports made to Congress the present session, in relation to enforcing the embargo laws, and to our fiscal concerns, then an infant's breath might easily burst the bubble. At any rate, it may very truly be said, that if such are our preparations for commencing, and our resources for continuing a war, they are those which will serve neither to inspirit ourselves, nor to frighten our enemies.

If we are to have war, with whom is it to be prosecuted – not in terms I mean, but in fact? Certainly not with France. Her few possessions in the West Indies have probably, by this time, ceased to belong to her, and between her European territories and the United States a gulf intervenes, a power is interposed, which neither the Emperor of the West nor the King of the two Americas can either fathom or resist.

It then appears, if we are to have war, it is to be a covert war with the two belligerents, but in reality an actual war with Great Britain alone, and not a war with both France and Great Britain, as the face of this bill seems to import.

If this be the determination of our Government, and the war is to commence at a future day, and not instantly, what is the course which policy would dictate to this country to pursue? Certainly not a prohibition of the importation of her manufactures. A long period of years must elapse before we can furnish for ourselves many articles we receive from her even of the first necessity, or those which, from habit, have become such to us. We should, therefore, sedulously endeavor, not only to guard against exhausting our present stock, but to adopt every means in our power to replenish it.

It would be expedient to throw wide open the entrance of our ports for importations, to overstock as much as possible the United States with British manufactures. This would procure for us a double advantage; it would promote our own accommodation, by giving us the means of commencing and prosecuting war with fewer privations, and it would powerfully tend to unite the interests of a certain class of the inhabitants of that country with our own – for, as the mass of importations from Great Britain are made on long credits, should a war ensue before such credits are cancelled, it is obvious that, until the conclusion of the war, those debts could not be collected, and this circumstance alone, to a certain extent, might operate as a preventive check to war, or, at any rate, would secure in the bosom of the British nation a party whose interests and feelings would be intimately connected with a speedy return of peace.

By adopting a non-intercourse antecedent to a state of war, our own stock of supplies becomes exhausted, the British merchants have time and notice given them to collect, or alienate, by assignment, their debts in this country. A warning is given them to buckle on their armor; their good disposition towards us is not only changed, but embittered, and the very persons who, in the one case, might possibly prevent a war, or be instrumental in effecting the restoration of peace, would, in the other, probably be among the most willing to rush into the contest, from the impulse of temper, and from the conviction that their own circumstances would not be deteriorated by its consequences.

A non-intercourse would also be attended with great hazard and disadvantage. It would be as well understood by others as by ourselves; it could alone be considered as the precursor of war; and the blow would be struck, not when we were prepared, but when our opponents were ready for the contest; and should this bill go into operation, it is very possible that during the ensuing summer, some of our cities may exhibit heaps of ruins and of ashes, before expresses could convene at the seat of Government even the heads of our departments.

Another evil would arise, and that a permanent one; whether a non-intercourse eventuated in war or peace, it would materially and adversely affect both the habits of the people and the revenue of the State. Many of the articles which are now imported from Great Britain are indispensable for our comfort, and some of them for our existence. The people cannot do without them: the consequence must be, that, instead of being regularly imported, the articles will be smuggled into this country, and thereby the price not only becomes greatly enhanced to the consumer, but the duties are wholly lost to the Government.

Hitherto, the revenue of the United States, arising from impost, has been collected with a degree of integrity and punctuality highly honorable and unexampled in the history of commercial nations. This successful collection of duties has not however been effected by the employment of swarms of revenue officers, spies, and informers, as in other countries; it has been infinitely

more effectually secured, by an honorable pride of character, and that sentiment of affection which was naturally excited in the hearts of freemen towards the Government of their choice, and a Government under which, in the main, they have experienced much prosperity. But barriers of this description, like other high-toned sentiments of the mind, being once broken down, can with difficulty be restored, and the chance of materially impairing this, in reality, "cheap defence of nations," should, in my opinion, of itself, afford a sufficient reason for the rejection of all measures of doubtful policy.

In a country nearly surrounded by, and everywhere intersected with navigable waters, encompassed by a frontier beyond the ability of ten Bonapartean armies to guard, and inhabited by a race of men unrivalled for hardihood and enterprise, and at present in a state of poverty, the temptation of great prices will be irresistible – for there is no truism in morals or philosophy better established than the commercial axiom, that demand will ultimately furnish a supply.

There are, undoubtedly, periods in the history of a nation, in which a contest would be both honorable and indispensable, but it should ever be the result of great deliberation, and in an extended republic, perhaps, of necessity. That government is most wise and most patriotic, which so conducts the affairs of the nation over which it presides, as to produce the greatest ultimate good; and when a nation is attacked at the same time by two assailants, it is no reflection on its honor or its bravery, to select its opponent; and on principles of reciprocity, independently of those of interest, the first aggressor would undoubtedly be entitled to the first notice.

Who then has been the first aggressor? I answer, France. The Berlin Decree is in a great measure the cause of our present difficulties. In justification of France in doing this, I know gentlemen resort to the convention between Russia and Great Britain in 1793, to prohibit a supply of grain to France; but this is by no means sufficient justification to France, even without referring to a decree to the same effect issued in May of the same year by France, while she was ignorant of the secret stipulation between Russia and Great Britain.

For a long period, and among most of the maritime nations of Europe, the right of inhibiting a supply of provisions to an enemy, was tacitly acquiesced in, or expressly admitted. This practice existed even so long ago as the Mithridatic war, and has probably been followed up, without an interval at any one time of fifty years, from the commencement of the Christian era to the present day. This attempt, therefore, of Great Britain to injure France, formed no excuse for France to attempt to injure Great Britain by violating the commerce of the United States.

On the 31st of December, 1806, the British Government formally notified the American Government, that Great Britain would consider an acquiescence in the Berlin Decree on the part of neutral nations, as giving to her (Great Britain) the right to retaliate in the same way against France.

Had the American Government, at this period, manfully and explicitly made known its determination to support our rights at all hazards, I have no belief that our present difficulties would ever have existed.

In May succeeding, advices were received of French privateers, under this decree, depredating upon American vessels in the West Indies; and during the same month the ship Horizon, in distress, was thrown by the act of God on the French coast, and was seized under the same authority.

In November, 1807, the British, in conformity with their notice, issued their retaliating order. A prior Order in Council of January, 1807, had been issued, but this only affected vessels trading between different ports of France, or between ports of France and her allies; a trade always obnoxious to suspicion, and one which during war must ever be expected in a great degree to be restricted, and which is also interdicted by a standing law of the French Government, passed in 1778, and confirmed by the present Emperor.

Then followed in succession, on the part of France, the Milan and Bayonne decrees. The last of which dooms an American vessel to condemnation from the exercise of a right universally

acknowledged to belong to belligerents, and one which the neutral has no possibility of preventing, that of being spoken with by an enemy cruiser, which from her superior sailing there was no possibility of avoiding. In point of principle, this is the most outrageous violation of neutral rights ever known, and this, too, took place under the existence of a treaty made within a few years by the same person who issued these very decrees. While with Great Britain we have no treaty, and whose orders are expressly bottomed upon and limited in duration by the French decrees, and issued after having given twelve months' notice of her intention to oppose them in this way, and the Orders in Council are even as yet not co-extensive in principle with the French decrees.

I have, in taking this brief view, confined myself exclusively to the decrees and orders of the two Governments, without adverting to other causes of complaint on either side. I consider myself as warranted in doing this, from the American Government having explicitly taken this ground, and made known that, on the removal of the decrees and orders, it would, on our part, remove the embargo, and restore the accustomed intercourse between the two countries.

From this consideration of the subject, it irresistibly follows, that France was the first aggressor on us, in issuing her decrees – that in point of principle, they are much more outrageous violations of right than the British Orders in Council – that the latter originate from, and co-exist only with the former, and that France should of consequence be the first object of our vengeance.

The effects of a war with one or the other nation, would be as distinctly perceptible. With France it would make no difference to us. For as long as she continues her decrees, commerce with her could not be prosecuted – no man would be mad enough while her coast is lined, and the ocean covered with British cruisers, to send his vessel to France, where she would meet with certain condemnation for being even seen and spoken with by a British frigate. With France, therefore, the actual difference arising from passing this bill, and declaring a non-intercourse, would be next to nothing.

With Great Britain the effects would be reversed. No one now doubts her ability or disposition to carry her orders into effect, nor her preparation to extend the theatre of war. If we commenced war upon France, as she would be the common enemy of both nations, there is no doubt in my mind that our differences with Great Britain would be favorably settled, that the commerce of the world, excepting as it respects France and her allies, would be again open to us, and that a trade, which has hitherto employed nearly seventy millions of our capital, might be again accessible to the industry and enterprise of our citizens.

Reverse this picture, admitting that you have a war with Great Britain, what will be its consequences? If your citizens are united, you can capture Canada, Nova Scotia, and New Brunswick; when you have effected this, what remains next to be done? You have reached the *ne plus ultra* of your ability. Thenceforward your ports are hermetically sealed. Privateering, from the convoy system adopted by Great Britain, could not be successfully prosecuted; no food for enterprise remains, and thus you would remain, five, ten, or fifteen years, as the case might be, until the wisdom and good sense of the nation predominated over its passion, when an accommodation would be made with Great Britain, following her example with regard to her West India conquests, restoring the captured provinces, enriched by American population and industry, and giving us perhaps a treaty still less favorable than the much execrated instrument of 1794, which, bad as it was said to be, has proved a *cornucopia* of wealth to our country, if it produced nothing less than a thirteen years' peace, and which, to my view, is vastly preferable to its abortive successor of the year eighteen hundred and six.

The question was now taken on the passage of the bill, and determined in the affirmative – yeas 21, nays 12, as follows:

Yeas. – Messrs. Anderson, Condit, Franklin, Gaillard, Giles, Gregg, Howland, Kitchel, Leib, Mathewson, Meigs, Milledge, Mitchill, Moore, Pope,

Robinson, Smith of Maryland, Smith of New York, Smith of Tennessee, Thruston, and Tiffin.

Nays. – Messrs. Bayard, Crawford, Gilman, Goodrich, Hillhouse, Lloyd, Parker, Pickering, Reed, Sumter, Turner, and White.

So it was resolved that this bill pass, and that the title thereof be, "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes."

Friday, February 24

Additional Duties

The bill, entitled "An act for imposing additional duties upon all goods, wares, and merchandise, imported from any foreign port or place," was read the third time as amended.

Mr. Lloyd moved to postpone the further consideration of this bill until the first Monday in June next; and addressed the chair as follows:

Mr. President: After the observations which I have before made, sir, on this bill, and the detailed consideration which was given to it yesterday, I should not again rise, were the subject not a commercial, and an exceedingly important one; nor is it now my intention to make more than a few remarks, and these the Senate will probably think entitled to more than usual respect, when I inform them they will principally be, neither my own, nor wholly accordant with my opinions.

This bill can only be advocated upon the ground that a war is about to ensue, and that, to prepare the public Treasury to sustain the prosecution of such war, this proposed duty is necessary. My purpose is to cite some authorities to show that neither the one nor the other is either expected or necessary; and the authorities I shall adduce to prove this, are those to which the Senate is accustomed to pay the highest respect.

> [Here Mr. Lloyd quoted from Mr. Gallatin's Treasury reports, to show that he deemed loans preferable to taxes if war ensued, and that there was revenue enough until the next winter.]

Now, sir, it is clear, from the showing even of this honorable gentleman whose calculations are received with so much respect here, that whether there is peace, war, or embargo, our resources are yet abundant to carry us on, at least until the next winter; and as we are to meet again in three months, it follows that the present undigested project must be worse than useless.

To all this mass of evidence and authority against both the necessity and policy of laying this duty, I have only to add a few observations to show that it will, in its operation, be both unequal and unjust.

It is well known that permanent duties, except on their first imposition, are paid by the consumer; but whenever duties are to be of short duration, as in the present instance, or until the stocks of merchandise prior to the assessment of the duty are run off, the price does not rise in ratio with the duty, and that, of consequence, the whole, or part of the duty, is thus much of loss to the merchant. This, in a degree, cannot be avoided, nor is it even a subject of complaint, where due notice has been given of the intention to lay the duty; but if it be imposed without notice, or giving time for preparation, then the interest of the merchant is sacrificed.

The basis of all commerce is calculation; what calculation can be found for distant enterprises when the data are perpetually shifting? If a merchant rests on the stability of the laws of the Government, and sends away his vessel, and on her return finds a new duty of 50 per cent. imposed, which, for the circumstance of it, the consumer does not pay, his whole calculations are defeated, and he pockets a loss instead of a profit for his industry.

Commerce is very probably as well understood in England as any where. In that country new duties on imports are imposed with great caution; whenever contemplated, the subject is generally a long time under consideration, sometimes hanging over from one session to another. The Ministry make it a point frequently to consult committees of merchants from most of the principal seaports in the kingdom. The result is, the subject is well considered; and, when the duties are imposed, they are submitted to with cordiality and cheerfulness. Mr. Pitt, in the latter part of his life, always

adopted this mode. He did not think it condescension to consult merchants on subjects with which they were better acquainted than himself. In the early part of his administration, I have understood, he rashly imposed some additional and heavy duties on imported merchandise; the consequence was, the revenue diminished, and smuggling increased. With his characteristic vigor he determined to stop it, and lined the coast with luggers, revenue cutters, and frigates; still the revenue did not increase. He consulted the merchants – they told him the articles were taxed beyond their bearing; he manfully retraced his steps, and took off the additional duty – and immediately smuggling did not pay its cost – his luggers, cutters, and frigates, became useless, and the revenue advanced to its ancient standard. This is one among many memorable instances that might be adduced to show that an unwise augmentation of duties is very far from producing an increase of revenue.

There is another view of the subject on which I shall say a few words. This new duty will operate as a bounty to monopolizers, forestallers, and speculators. Gentlemen are not aware of the avidity with which mercantile men have regarded the proceedings of this session. I am told that, within half an hour after the question was taken, about a fortnight since, in the other House, ten expresses started for different parts of the United States. It is notorious that English and West India goods, and most articles of foreign merchandise in the United States, have been bought up by speculators; it is now in the hands of a few persons; by passing this law, you discourage new importations, and enable the present holders to grind the poor, by extorting high prices for the articles they hold, from a want of competition in the market. From all these views of the subject, and from the sentiments I have quoted from the President, Mr. Gallatin, and General Smith, it is apparent that this measure is unwise, unnecessary, and impolitic.

I am unwilling, sir, to take up the time of the Senate; but, however unavailing may be the efforts of my friends and myself, I wish to have it recorded that I was neither ignorant of the very injurious operation of this bill upon my constituents, nor unwilling to endeavor to prevent it. I therefore ask the indulgence of the Senate, that the ayes and noes may be taken when this question is decided.

And on the question, it was determined in the negative – yeas 10, nays 19, as follows:

> Yeas. – Messrs. Bayard, Bradley, Gilman, Hillhouse, Lloyd, Mitchill, Parker, Pickering, Reed, and White.
>
> Nays. – Messrs. Anderson, Condit, Crawford, Franklin, Gaillard, Gregg, Howland, Kitchel, Leib, Meigs, Milledge, Moore, Pope, Smith of Maryland, Smith of New York, Smith of Tennessee, Sumter, Thruston, and Turner.

On motion, by Mr. Smith, of Maryland, the further consideration of the bill was postponed to Monday next.

Friday, March 3

A message from the House of Representatives informed the Senate that the House disagree to the first and fourth amendment of the Senate to the bill, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, and making appropriations for the support of the Military Establishment and the Navy of the United States for the year 1809;" and they agree to the other amendments to the said bill.

Oath of Office to the President elect

The President communicated to the Senate the following letter from the President elect of the United States:

City of Washington, March 2, 1809

> 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 Saturday the 4th instant, at twelve o'clock, in the Chamber of the House of Representatives.
>
> I have the honor to be, with the greatest respect, sir, your most obedient and most humble servant,
> *JAMES MADISON.*
>
> The Hon. John Milledge,

President pro tempore of the Senate

Five o'clock in the Evening

Adjournment

Mr. Mitchill, from the committee, reported that they had waited on the President of the United States, who informed them that he had no further communications to make to the two Houses of Congress.

Ordered, That the Secretary notify the House of Representatives that the Senate having finished the business before them, are about to adjourn.

The Secretary having performed that duty, the Senate adjourned without day.

EXTRA SESSION

The President of the United States

to – , Senator for the State of —:

Certain matters touching the public good requiring that the Senate should be convened on Saturday, the fourth day of March next, you are desired to attend at the Senate Chamber, in the city of Washington, on that day; then and there to deliberate on such communications as shall be made to you.
TH. JEFFERSON.

Washington, Dec. 30, 1808.

Saturday, March 4

In conformity with the summons from the President of the United States, the Senate assembled in the Chamber of the House of Representatives.

PRESENT:

- John Milledge, from the State of Georgia, President *pro tempore*.
- Nicholas Gilman, and Nahum Parker, from New Hampshire.
- Timothy Pickering, from Massachusetts.
- Chauncey Goodrich, from Connecticut.
- Elisha Mathewson, from Rhode Island.
- Stephen R. Bradley, from Vermont.
- John Smith, from New York.
- Aaron Kitchel, from New Jersey.
- Andrew Gregg, from Pennsylvania.
- James A. Bayard, from Delaware.
- Philip Reed, from Maryland.
- William B. Giles, from Virginia.
- James Turner, and Jesse Franklin, from North Carolina.
- Thomas Sumter, and John Gaillard, from South Carolina.
- William H. Crawford, from Georgia.
- Buckner Thruston, and John Pope, from Kentucky.
- Daniel Smith, from Tennessee.
- Edward Tiffin, from Ohio.

John Lambert, appointed a Senator by the Legislature of the State of New Jersey for six years, and Samuel Smith, appointed a Senator by the Executive of the State of Maryland, attended, and their credentials were read.

James Lloyd, junior, appointed a Senator by the Legislature of the State of Massachusetts, attended, stating that he was elected, but not in possession of his credentials.

Joseph Anderson, from the State of Tennessee; Richard Brent, from the State of Virginia; James Hillhouse, from the State of Connecticut; Michael Leib, from the State of Pennsylvania; Return J. Meigs, from the State of Ohio; Jonathan Robinson, from the State of Vermont; Samuel White, from the State of Delaware, severally attended.

The oath required by law was administered to the Senators above mentioned, in the six years' class, respectively, except to Mr. Brent.

The President of the United States attended, and communicated the following

ADDRESS:

> Unwilling to depart from examples of the most revered authority, I avail myself of the occasion now presented, to express the profound impression made on me by the call of my country to the station, to the duties of which I am about to pledge myself by the most solemn of sanctions. So distinguished a mark of confidence, proceeding from the deliberate and tranquil suffrage of a free and virtuous nation, would, under any circumstances, have commanded my gratitude and devotion, as well as filled me with an awful sense of the trust to be

assumed. Under the various circumstances which give peculiar solemnity to the existing period, I feel that both the honor and the responsibility allotted to me are inexpressibly enhanced.

The present situation of the world is, indeed, without a parallel, and that of our own country full of difficulties. The pressure of these, too, is the more severely felt, because they have fallen upon us at a moment when the national prosperity being at a height not before attained, the contrast, resulting from the change, has been rendered the more striking. Under the benign influence of our Republican institutions, and the maintenance of peace with all nations, whilst so many of them were engaged in bloody and wasteful wars, the fruits of a just policy were enjoyed in an unrivalled growth of our faculties and resources. Proofs of this were seen in the improvements of agriculture; in the successful enterprises of commerce; in the progress of manufactures and useful arts; in the increase of the public revenue, and the use made of it in reducing the public debt; and in the valuable works and establishments every where multiplying over the face of our land.

It is a precious reflection that the transition from this prosperous condition of our country, to the scene which has for some time been distressing us, is not chargeable on any unwarrantable views, nor, as I trust, on any involuntary errors in the public councils. Indulging no passions which trespass on the rights or the repose of other nations, it has been the true glory of the United States to cultivate peace by observing justice; and to entitle themselves to the respect of the nations at war, by fulfilling their neutral obligations with the most scrupulous impartiality. If there be candor in the world, the truth of these assertions will not be questioned; posterity, at least, will do justice to them.

This unexceptionable course could not avail against the injustice and violence of the belligerent powers. In their rage against each other, or impelled by more direct motives, principles of retaliation have been introduced, equally contrary to universal reason and acknowledged law. How long their arbitrary edicts will be continued, in spite of the demonstrations that not even a pretext for them has been given by the United States, and of the fair and liberal attempt to induce a revocation of them, cannot be anticipated. Assuring myself, that, under every vicissitude, the determined spirit and united councils of the nation will be safeguards to its honor and its essential interests, I repair to the post assigned me with no other discouragement than what springs from my own inadequacy to its high duties. If I do not sink under the weight of this deep conviction, it is because I find some support in a consciousness of the purposes, and a confidence in the principles which I bring with me into this arduous service.

To cherish peace and friendly intercourse with all nations having correspondent dispositions; to maintain sincere neutrality towards belligerent nations; to prefer, in all cases, amicable discussion and reasonable accommodation of differences, to a decision of them by an appeal to arms; to exclude foreign intrigues and foreign partialities, so degrading to all countries, and so baneful to free ones; to foster a spirit of independence, too just to invade the rights of others, too proud to surrender our own, too liberal to indulge unworthy prejudices ourselves, and too elevated not to look down upon them in others; to hold the union of the States as the basis of their peace and happiness; to support the constitution, which is the cement of the Union, as well in its limitations as in its authorities; to respect the rights and authorities reserved to the States and to the people, as equally incorporated with, and essential to the success of, the general system;

to avoid the slightest interference with the rights of conscience or the functions of religion, so wisely exempted from civil jurisdiction; to preserve, in their full energy, the other salutary provisions in behalf of private and personal rights, and of the freedom of the press; to observe economy in public expenditures; to liberate the public resources by an honorable discharge of the public debts; to keep within the requisite limits a standing military force, always remembering that an armed and trained militia is the firmest bulwark of Republics; that without standing armies their liberty can never be in danger, nor with large ones safe; to promote, by authorized means, improvements friendly to agriculture, to manufactures, and to external as well as internal commerce; to favor, in like manner, the advancement of science and the diffusion of information, as the best aliment to true liberty; to carry on the benevolent plans which have been so meritoriously applied to the conversion of our aboriginal neighbors from the degradation and wretchedness of savage life, to a participation of the improvements of which the human mind and manners are susceptible in a civilized state; – as far as sentiments and intentions such as these can aid the fulfilment of my duty, they will be a resource which cannot fail me.

It is my good fortune, moreover, to have the path in which I am to tread lighted by examples of illustrious services, successfully rendered in the most trying difficulties, by those who have marched before me. Of those of my immediate predecessor it might least become me here to speak. I may, however, be pardoned for not suppressing the sympathy with which my heart is full, in the rich reward he enjoys in the benedictions of a beloved country, gratefully bestowed for exalted talents, zealously devoted, through a long career, to the advancement of its highest interest and happiness.

But the source to which I look for the aids which alone can supply my deficiencies, is in the well-tried intelligence and virtue of my fellow-citizens, and in the counsels of those representing them in the other departments associated in the care of the national interests. In these my confidence will, under every difficulty, be best placed, next to that which we have all been encouraged to feel in the guardianship and guidance of that Almighty Being whose power regulates the destiny of nations, whose blessings have been so conspicuously dispensed to this rising Republic, and to whom we are bound to address our devout gratitude for the past, as well as our fervent supplications and best hopes for the future.

After which, the oath prescribed by law was administered to the *President of the United States*, by the Chief Justice.

The President of the United States then retired, and the Senate repaired to their own chamber.

Ordered, That Messrs. Anderson and Bayard be a committee to wait on the President of the United States, and notify him that the Senate are ready to receive any communications that he may be pleased to make to them.

Monday, March 6

Francis Malbone, appointed a Senator by the Legislature of the State of Rhode Island, for six years, commencing on the 4th instant, attended, and produced his credentials, which were read.

The credentials of Richard Brent, appointed a Senator by the Legislature of the State of Virginia, for six years, commencing on the 4th instant, were read.

The oath required by law was administered to Messrs. Brent and Malbone, respectively.

On motion, by Mr. Robinson,

Resolved, That the Secretary of the Senate be authorized to pay, out of the contingent fund of this House, to George Thomas, Walter Reynolds, and Tobias Simpson, the sum of fifty dollars each, in addition to their annual compensation.

Mr. Anderson reported, from the committee, that they had waited on the President of the United States, who informed them that he should this day make a communication to the Senate.

Soon after, a communication was received from the President of the United States, submitting sundry nominations to office, which were mostly confirmed.

Tuesday, March 7

Adjournment

After the consideration of Executive business, Messrs. Bayard and Reed were appointed a committee to wait on the President of the United States, and notify him that, unless he may have any further communications to make to them, the Senate are ready to adjourn.

Mr. Bayard reported, from the committee, that they had waited upon the President of the United States, who informed them that he had no further communications to make to them. Whereupon,

The Senate adjourned without day.

TENTH CONGRESS. – SECOND SESSION.
PROCEEDINGS AND DEBATES
IN
THE HOUSE OF REPRESENTATIVES

Monday, November 7, 1808

This being the day appointed by law for the meeting of the present session, the following members of the House of Representatives appeared, and took their seats, to wit:

From New Hampshire– Daniel M. Durell, Francis Gardner, Jedediah K. Smith, and Clement Storer.

From Massachusetts– Ezekiel Bacon, Joseph Barker, Orchard Cook, Richard Cutts, Josiah Deane, William Ely, Isaiah L. Green, Daniel Ilsley, Edward St. Loe Livermore, Josiah Quincy, Ebenezer Seaver, William Stedman, Jabez Upham, and Joseph B. Varnum, (the Speaker.)

From Rhode Island– Isaac Wilbour.

From Connecticut– Epaphroditus Champion, Samuel W. Dana, John Davenport, jr., Jonathan O. Mosely, Timothy Pitkin, jr., Lewis B. Sturges, and Benjamin Tallmadge.

From Vermont– Martin Chittenden, James Elliot, and James Fisk.

From New York– John Blake, jr., John Harris, Reuben Humphreys, William Kirkpatrick, Gurdon S. Mumford, Samuel Riker, John Russell, Peter Swart, John Thompson, James I. Van Allen, Killian K. Van Rensselaer, and Daniel C. Verplanck.

From New Jersey– Adam Boyd, William Helms, John Lambert, Thomas Newbold, James Sloan, and Henry Southard.

From Pennsylvania– David Bard, Robert Brown, William Findlay, John Heister, William Hoge, William Milnor, Daniel Montgomery, jr., John Porter, John Pugh, John Rea, Matthias Richards, John Smilie, Samuel Smith, and Robert Whitehill.

From Maryland– Charles Goldsborough, William McCreery, John Montgomery, Nicholas R. Moore, and Archibald Van Horne.

From Virginia– Burwell Bassett, William A. Burwell, John Clopton, John Dawson, John W. Eppes, James M. Garnett, Peterson Goodwyn, Edwin Gray, David Holmes, John G. Jackson, Joseph Lewis, jr., John Love, John Morrow, Thomas Newton, John Smith, Abram Trigg, and Alexander Wilson.

From Kentucky– Joseph Desha, Benjamin Howard, and Richard M. Johnson.

From North Carolina– Willis Alston, jr., William Blackledge, Thomas Blount, John Culpeper, Nathaniel Macon, Lemuel Sawyer, and Richard Stanford.

From Tennessee– George W. Campbell, John Rhea, and Jesse Wharton.

From South Carolina– Lemuel J. Alston, William Butler, Joseph Calhoun, John Taylor, and David R. Williams.

From Georgia– William W. Bibb, and George M. Troup.

From Ohio– Jeremiah Morrow.

From the Mississippi Territory– George Poindexter, Delegate.

Two new members, to wit: Nathan Wilson, returned to serve in this House as a member for New York, in the room of David Thomas, who hath resigned his seat, and Thomas Gholson, jr., returned to serve as a member from Virginia, in the room of John Claiborne, deceased, appeared, produced their credentials, and took their seats in the House.

And a quorum, consisting of a majority of the whole number, being present, a message was received from the Senate, informing the House that a quorum of the Senate is assembled, and ready to proceed to business; 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 be pleased to make to them.

The oath or affirmation to support the Constitution of the United States was then administered to Mr. Nathan Wilson and Mr. Gholson, by Mr. Speaker, according to law.

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 the said message.

The House proceeded to consider the resolution of the Senate for the appointment of a joint committee of the two Houses to wait on the President of the United States and inform him that a quorum of the two Houses is assembled, and ready to receive any communication he may be pleased to make to them: Whereupon, the House agreed to the said resolution; and Mr. Macon, Mr. Quincy, and Mr. McCreery, were appointed the committee on their part.

Mr. Macon, from the joint committee appointed to wait on the President of the United States, and inform him that a quorum of the two Houses is assembled, reported that the committee had performed that service; and that the President signified to them he would make a communication, in writing, to this House, to-morrow at twelve o'clock, by way of Message.

Tuesday, November 8

Several other members, to wit: from Pennsylvania, Jacob Richards; from Virginia, Matthew Clay, and Walter Jones; and from South Carolina, Robert Marion, appeared, and took their seats in the House.

A new member, to wit, Samuel Shaw, returned to serve in this House as a member from the State of Vermont, in the room of James Witherell, who has resigned his seat, appeared, produced his credentials, was qualified, and took his seat in the House.

A message from the Senate informed the House that the Senate have resolved that two Chaplains, of different denominations, be appointed to Congress for the present session, who shall interchange weekly; to which they desire the concurrence of the House.

The House proceeded to consider the foregoing resolution of the Senate, and it was agreed to.

The Speaker laid before the House a letter from the Governor of the State Of Pennsylvania, enclosing a letter to him from Joseph Clay, the Representative for the district composed of the city and county of Philadelphia, and county of Delaware, in the said State, containing his resignation of a seat in this House; also a proclamation of the said Governor, and a certificate of the election of Benjamin Say, to serve as a member for the said district and State, in the room of the said Joseph Clay; which were read, and referred to the Committee of Elections.

Wednesday, November 9

Another member, to wit, Robert Jenkins, from Pennsylvania, appeared, and took his seat in the House.

The House proceeded in the reading of the documents accompanying the President's Message; which being concluded, on motion of Mr. Dawson, they were referred, together with the Message, to a Committee of the Whole on the state of the Union, and ordered to be printed.

On the question as to the number to be printed, it was moved by Mr. Fisk, and seconded by Mr. Dana, that ten thousand copies be printed. Negatived by a considerable majority.

Five thousand copies were then ordered to be printed.

The House was then cleared and the doors closed for the purpose of reading the confidential part of the President's Message.

Thursday, November 10

Several other members, to wit: from Virginia, Wilson Cary Nicholas and John Randolph; and from North Carolina, James Holland, appeared and took their seats in the House.

The House then proceeded, by ballot, to the appointment of a Chaplain to Congress, for the present session, on the part of the House; and upon examining the ballots, a majority of the votes of the whole House was found in favor of the Rev. Obadiah Brown.

Friday, November 11

Two other members, to wit: from Massachusetts, Samuel Taggart; and from Maryland, John Campbell, appeared, and took their seats in the House.

A new member, to wit, Richard S. Jackson, returned to serve in this House, as a member for the State of Rhode Island, in the room of Nehemiah Knight, deceased, appeared, produced his credentials, was qualified, and took his seat in the House.

Monday, November 14

Several other members, to wit: from New York, Josiah Masters; from Maryland, Philip B. Key; and from North Carolina, Thomas Kenan, appeared, and took their seats in the House.

Tuesday, November 15

Another member, to wit, James Kelly, from Pennsylvania, appeared, and took his seat in the House.

Wednesday, November 16

Another member, to wit, Roger Nelson, from Maryland, appeared, and took his seat in the House.

A new member, to wit, Benjamin Say, returned to serve in this House as a member from the State of Pennsylvania, in the room of Joseph Clay, who has resigned his seat, appeared, produced his credentials, was qualified, and took his seat in the House.

Miranda's Expedition

Mr. McCreery presented the petition of thirty-six American citizens, confined at Carthagena, in South America, under the sentence of slavery. The petition was read as follows:

> Vaults of St. Clara, Carthagena, September 16, 1808.
>
> *To the honorable the Congress of the United States of America, in Congress assembled*:
>
> The petition of thirty-six American citizens confined at Carthagena, South America, under sentence of slavery, humbly showeth:
>
> That we, your petitioners, were brought from New York in the armed ship Leander, Thomas Lewis, commander, on the 2d of February, 1806, together with a number of others, mostly inhabitants of that State and city, under the most specious engagements of their country; to establish which, they beg leave to state that Colonel William Smith, then Surveyor of the port of New York, William Armstrong, Daniel D. Durning, and John Fink, butcher, of the city of New York, declared they were authorized to enlist a number of men to go to New Orleans, to serve as guards to the United States mails, and a number of others as mechanics. Some backwardness on the part of your petitioners to engage being discovered by William Smith, he read passages from letters to prove his authority, and several paragraphs from newspapers to convince them of the validity of their engagements. William Armstrong and Daniel D. Durning were appointed to command them, and were to accompany them to the city of Washington, where they were to receive clothing and accoutrements, and thence to New Orleans. The ship Leander, owned by Samuel G. Ogden, and formerly in the St. Domingo trade, was procured for the conveyance of your petitioners to the city of Washington, for which purpose she was hauled down to the watering place, where your petitioners went on board her the 1st day of February, 1806, and the next day (the 2d) the ship put to sea. Shortly after, Miranda, under the name of Martin, and a number of persons hitherto unknown to your petitioners, appeared on board, in the character of his officers; which, for the first time, awakened strong suspicions in the breasts of your petitioners that they had been entrapped into the power of wicked and designing men, and that, too, when retreat was impracticable. From New York your petitioners were carried to Jacmel, in the island of St. Domingo, where they were exercised in military duty, under the most arbitrary stretch of power, by Miranda and his officers. At Jacmel several attempts to escape proved abortive, from the vigilance of our oppressors, they having procured guards to be stationed in all the passes leading from Jacmel to other parts of the island, where your petitioners might expect to receive aid and protection from their countrymen. At Jacmel two schooners were hired, on board of which your petitioners were sent,

under the care of a number of officers, whose wariness still remained unabated; and on the 27th March, 1806, the ship, accompanied by the two schooners, proceeded towards the coast of Terra Firma, where, after touching at the island of Aruba for refreshments, she arrived on the 28th of April, when two armed vessels hove in sight, which after some manœuvring the ship engaged but soon ran away, leaving the two schooners to be captured. They were carried into Porto Cabello, where your petitioners were proceeded against as pirates, a number of warlike implements being found on board, which were placed there without the knowledge of your petitioners. And on the 12th July following, the process against us closed at Caraccas, sentencing ten, whom they considered to be criminally engaged, to be hanged and beheaded, and the remainder (your petitioners) to eight and ten years' slavery on the public works at Omoa, Bocca Chica, and the island of Porto Rico. Your petitioners were all sent to this place, where those sent to Bocca Chica were put to work, chained two-and-two, and the residue, in double irons and close confinement, strongly guarded, waiting for an opportunity to be sent to their respective places. Upon several occasions your petitioners were told by William Armstrong, Thomas Lewis, and others, that they were sent out by the Government of the United States. To prove to the satisfaction of your honorable body the truth of the above statement, your petitioners beg you will examine Robert Laverty, John Stagg, John Ritter, Matthew Morgan, Richard Platt, Adam Ten Brook, and John Miller, of New York, who were under the same engagements with your petitioners. Francis White and Thomas McAllister, butchers in the Bear market, New York; Mr. Brinkerhoff, tavern keeper, near the Bear market; David Williams, John Garret, and a Mr. Kemper, weighmaster, whose son was executed at Porto Cabello, were present when all or most of your petitioners were engaged, and can prove beyond all doubt that your petitioners could have had no other idea than that of entering into the service of the United States. Captain Bomberry, of the ship Mary, of Baltimore; Captain Israel, of the brig Robert and Mary; Captain Waldron, of the schooner Victory; and Captain Abbot, of the brig Charleston Packet, all of Philadelphia, were eye-witnesses to the tyranny and oppression under which your petitioners labored while at Jacmel. When the crew of the Bee, one of the schooners which was chartered by the Leander, refused to go in her, a number of officers from the ship, with Lewis at their head, came on board the Bee, and, after beating and cutting the men with sticks and sabres in the most brutal manner, dragged them on board the Leander, put them in irons under a strong guard, and kept them there until the moment of sailing, when they were sent on board the Bee, with orders to keep near and to leeward of the ship. Another man, who had effected his escape from a French privateer, and found his way to Jacmel, with the hope of getting a passage home in some of his country vessels, was seized at the instance of Thomas Lewis, commander of the Leander, and captain under Miranda, thrown into prison, and compelled to go in the expedition, or to starve in jail.

Your petitioners are confident, that, when your honorable body becomes thoroughly acquainted with the circumstances of art and deception which betrayed them into the expedition, the destination of which they had no knowledge until it was too late to retreat, you will not only punish such of their betrayers as are within reach of your power, but will adopt proper measures to restore your unfortunate petitioners to liberty and their families. We beg leave to mention that Jeremiah Powell, who was an officer of high confidence in the expedition, was pardoned without hesitation by the Spanish monarch, on the application of his father. Your

petitioners have embraced many opportunities to convey to your honorable body the prayer of a petition, but, from the length of time elapsed since they sent off their last, and not hearing of any measures being adopted in their favor, they fear none ever arrived; and by the present opportunity several copies of this petition have been transmitted to gentlemen residing in different parts of the United States, with the hope that some of them may arrive safe.

Your petitioners cannot for a moment believe that the United States will suffer officers under her constitution to kidnap her citizens into expeditions and services fitted out and maintained by a foreign outlaw against powers with which she is at amity and peace, under the specious pretence of engaging them into the service of their country, without punishing the aggressors, and using every effort to regain her citizens. Such is the case of your unfortunate petitioners, who entreat you as children would a parent, to relieve them from total destruction, on the brink of which they have been thrown by the practise of frauds and villanies hitherto unheard of.

A short time since, a British ship of war arrived at this place, the commander of which, (Edward Kittoe, Esq.,) upon being applied to by nine of our companions, who declared themselves to be British-born subjects, and being made acquainted with the circumstances which led to our capture, immediately sent on a petition to the Viceroy of this Kingdom in behalf of us all, but particularly for such as are British subjects, whom we expect will eventually be liberated. Nothing but humanity and a strong desire to relieve distress could have induced Captain Kittoe to this step, who, we are confident, as much as ourselves, regrets its failure of success, and to whom we feel every way indebted, and shall ever recollect it with gratitude and thanks.

When your petitioners remonstrate against any harsh treatment of these people, they invariably ask, "Why don't your country liberate you? – it rests solely with them."

Your petitioners feel confident, from the justness of their claim to the interference and protection of the constituted authorities of their country, measures will be adopted to restore them to liberty; and having no doubt but your honorable body will afford them that protection which citizens have a right to claim from their country, your petitioners beg that your honorable body will convey them an answer, and your petitioners, as in duty bound, will ever pray, &c.

Robert Saunders, Benjamin Davis, Henry Sperry, Joseph Hickle, Ellery King, William Long, Daniel Newbury, Wm. Cartwright, Samuel Tozier, James Hyatt, Abram Head, Robert Stevenson, Samuel Price, Robert Reins, Hugh Smith, Benjamin Nicholson, Geo. Ferguson, Wm. Pride, Pompey Grant, David Heckle, Bennett B. Negus, John Moore, John M. Elliot, Henry Ingersoll, John Parcels, John Hayes, David Winton, Matthew Buchanan, Alexander Buchanan, Jas. W. Grant, John Edsall, Thomas Gill, Joseph Bennett, Phineas Raymond, Peter Nautly, Stephen Burtis.

Carthagena, August 12, 1808

On my arrival at this place, I was applied to in behalf of the unfortunate men captured under the orders of General Miranda, who are under sentence of transportation to the different public works at Omoa, Porto Rico, &c., among whom are several British subjects, (whose names are inserted below.) I am well aware of the enormity of their crime, as I understand they were taken without colors or papers; but, as a British officer, I consider it a duty to plead for those in distress, wherever they may be found; and I trust, from the known lenity of your Excellency's character, I shall not plead in vain. The men in question are originally of British descent, and are allied to my nation by many ties. They have no Consul – no Minister – to prefer the prayer of their petition to your Excellency, having been prevented by the war between our nations from making known their situation to the President of the United States. Suffer me, therefore to address your Excellency, and beg for their release, on a solemn promise that they will never be found again in arms on a similar occasion. As I am the hearer of welcome tidings to the inhabitants of the province under your Excellency's command, make me also the hearer of them to the unhappy sufferers now confined in Carthagena. It is true, I am unauthorized to make this request in the name of the British Government for the men in general, but I am convinced the step will be approved; and if your Excellency will lend a favorable ear to my petition the circumstance will not pass unnoticed on their part; at all events, your Excellency will have the prayer of many individuals for your eternal happiness, and among them will be found (not the least fervent) those of your Excellency's most humble servant,
EDWARD KITTOE,
Com. H. B. M. ship Sabina.

P. S. – If my request for the liberation of all General Miranda's men is by your Excellency deemed unreasonable or improper, I beg to confine it particularly to such as are British subjects: that is an indispensable duty I owe to them and my country.

Names of British subjects under sentence of transportation at Carthagena

John Moore, Peter Nautly, John Hayes, Thomas Gill, Joseph Bennett, James Grant, Samuel Tozier, Robert Stevenson, and Hugh Smith, (a boy.)

Territorial Governments

ORDINANCE OF 1787

Mr. Poindexter, from the committee appointed on the subject, reported a bill concerning the power of the Territorial Governments. [The object of it is to take away from Governors of the Territories the power of proroguing or dissolving their Legislatures.]

The bill was twice read; and

Mr. Poindexter observed, that as the bill must stand or fall on its principle, and could not want amendment, he should wish to dispense with the usual course of reference to a Committee of the Whole, and that it should be engrossed for a third reading.

Mr. Troup hoped the House would not be precipitated unadvisedly into a decision of a question of this kind; that they would not break in upon a system which had served them so well without maturely deliberating upon it. The ordinance for the government of the Territories he considered as constitutional law, and it should be viewed and treated with as much delicacy as the constitution of the General Government itself. It had served them well, it had nurtured the Territories from infancy to maturity, and he hoped the house would not innovate on the system, but for the most substantial reasons. He therefore wished this bill to take the course of all other business, and go to a Committee of the Whole.

Mr. Poindexter said it was not his object to exclude deliberation by his motion; as the day for its third reading might be fixed a fortnight hence, if the gentleman from Georgia wished it. He knew the difficulty of getting up such bills when committed to a Committee of the Whole; he also knew that in a few days the House would be engaged in great national concerns, which would occupy their entire attention to the exclusion of other business of minor importance. The gentlemen seem to think (said Mr. P.) that to leave to the Governors of Territories of the United States powers which are fitted but for the Sovereigns of Europe, is highly decorous; whilst I think they should be spurned from the statute book. The gentleman is mistaken when he says that we should view the ordinances in the same light as the constitution; they are mere statutes. Placed by the constitution under the particular care of Congress as the Territories are, the ordinances enacted for their government are mere statutes, subject to the revision of Congress, as other laws are.

Mr. Pitkin said the ordinances for the government of the Territories had been framed with great deliberation, and should always be considered as a compact between the General Government and its Territories. Whether an alteration could or could not be made without their consent, he would not undertake to say. He thought therefore in this case the usual rule should not be violated, for it was well known that no amendment could be received on the third reading of a bill.

Mr. Troup said the gentleman from the Mississippi Territory had totally mistaken his object. It was not procrastination that he wanted, but a mature consideration of the question, whether on this day or on this day fortnight. When he had considered the ordinance as a compact equally sacred with the constitution of the United States, and as unalterable without the consent of the parties to it, it was then that he considered this a question of such great and signal importance that he wished time for deliberation. And when he said this, he expressed the opinion of a man than whom no man in the country was more deeply read in its constitution – St. George Tucker – who had described it as a compact unalterable, but with the consent of both parties. The gentleman would take away from the Territorial Governors the power to prorogue and dissolve the Assemblies. What would then be the state of the Territorial Legislatures? They would (said Mr. T.) be as completely independent of the General Government as the General Government is, I hope, of Great Britain at this moment. Retain the qualified veto, and take away the power to prorogue and dissolve, and what will be the consequence? The moment a misunderstanding takes place between the Legislature and Executive, legislation is at an end; and where legislation ends, revolution begins, and there is an end of government.

Mr. Poindexter said, at the suggestion of several gentlemen, he should consent to a reference of the bill to a committee, as he did not wish now to hasten the discussion. But the gentleman was mistaken if he supposed that taking away the power to prorogue, would deprive the Governors of their veto on laws. The Governors had an unqualified veto on the acts of the Legislature. The gentleman said, (observed Mr. P.,) that take away the power of prorogation, and if a misunderstanding arise between the Governor and the Legislature, there is an end of legislation. That is now the fact. If there be any misunderstanding between them, the Governor sends the

Legislature home; and I agree with the gentleman from Georgia, "where legislation ends, revolution begins." In this situation, I wish to take some power from the Governor and place it in the people, which would render the Government more congenial to the spirit of the constitution and of the people of the United States. But I waive discussion and consent to reference.

The bill was made the order of the day for to-morrow.

Thursday, November 17

Another member, to wit, Dennis Smelt, from Georgia, appeared, and took his seat in the House.

Foreign Relations

Mr. Macon said, already had many resolutions been submitted to the consideration of the House on the subject of our foreign relations, and the embargo; some for a total and some for a partial repeal of it. As none of the motions had met his entire approbation, and as he considered this as one of the most important questions that could come before the House, he wished to submit to the House two or three propositions; which he wished to take a course different from that which had been given to the others on the same subject.

I have been astonished (said Mr. M.) to see so many resolutions on the subject of the embargo, and none contemplating its entire continuance. Is the American nation ready to bow the neck? Are we ready to submit to be taxed by Great Britain and France, as if we were their colonies? Where is that spirit which for this reason separated us from the nations of Europe? Where is that spirit which enforced a simple resolution of the old Congress, not then binding upon the people, as a law from Heaven? Is it extinct? Is it lost to this nation? Has the love of gain superseded every other motive in the breasts of Americans? Shall the majority govern, or shall a few wicked and abandoned men drive this nation from the ground it has taken? Is it come to this, that a law constitutionally enacted, even after a formal decision in favor of its constitutionality, cannot be enforced? Shall the nation give way to an opposition of a few, and those the most profligate part of the community? I think the stand we took last year was a proper one; and I am for taking every measure for enabling the nation to maintain it. Just as our measure is beginning to operate, just as provisions are becoming scarce in the West Indies and elsewhere, notwithstanding the evasions of our law, we are called upon to repeal it. I should not have made this motion at this time, had it not been for the petition just presented. When I stand here, sir, charged by a part of the community with being one of "the enemies of the people," notwithstanding I am willing to commit the petition, treating it with that respect which I conceive to be due from us to the prayer of any portion of the people, I wish my sentiments on this subject to be seen.

A proclamation has been issued by one of the belligerents since the passage of our embargo law, sir. Look at it. What says it? Clearance or no clearance, we will receive any neutral vessel into our ports; and, in speaking of neutrals, recollect that there is no nation in the civilized world that has a claim to the title, except ourselves. This proclamation then tells our citizens, "Evade the laws of your country, and we will receive and protect you." This is the plain English of it.

If the mad powers of Europe had entered into compact to injure us as much as they could, they could not have taken a more direct course to it. I consider them both alike, and the measures I would take would place them both on the same footing. I have made my resolutions as general as possible, to give all latitude to the committee.

Mr. M. then read his resolutions as follows:

> "*Resolved*, That the committee appointed on that part of the President's Message which relates to our foreign relations, be instructed to inquire into the expediency of excluding by law from the ports, harbors, and waters of the United States, all armed ships and vessels belonging to any of the belligerent powers having in force orders or decrees violating the lawful commerce of the United States as a nation.

"*Resolved*, That the same committee be instructed to inquire into the expediency of prohibiting by law the admission into the ports, harbors, and waters of the United States, any ship or vessel belonging to or coming from any place in the possession of any of the above-mentioned powers, and also the importation of any goods, wares, and merchandise, the growth, produce and manufacture of the dominions of any of the said powers.

"*Resolved*, That the same committee be instructed to inquire into the expediency of amending the act laying an embargo, and the several acts supplementary and additional thereto."

On the subject of the first of these resolutions (said Mr. M.) it might be proper to interdict the entrance of all armed vessels, although I have confined the interdiction to the belligerents. A certain time might be fixed on which the second should go into operation.

I have thought proper, sir, to bring forward all these resolutions together to show my own opinion on what ought to be done. It is time for those who think the embargo a lawful and proper measure, to come forward and declare it. No other person having as yet thought proper to do it, I have now done it. I believe the embargo was right; that it was right to pass laws to enforce it; and believing this, I feel no hesitation in avowing it. Time has been when the impressment of our seamen was cried out against by a large majority of Congress. Now the cry is, that we will not let them go out and be taken. For if they go out they must be taken. Neither of the two great powers of Europe have shown the least disposition to relax their measures; neither I hope shall we. I believe we have but three alternatives —*war*, *embargo*, or *submission*. The last I discard; this nation never would submit; nor are there many people in it that would. That is out of the question; then, the only question is, whether in the present state of the world, the embargo or war is the best for us? Arm your merchantmen, as has been proposed, send them out, and you have war directly? If we are to have war, I should rather have it openly, and let the nation know that we mean it. I am for the embargo yet. I am told flour is from thirty to fifty dollars a barrel in the West Indies; I am also told that wheat is fourteen shillings sterling a bushel in England. This must have an effect, if adhered to, through Spain and Portugal. France, if she carries her armies into that country, cannot support them. Nor can Spain support her own armies, and at the same time those Great Britain sends there; for where war is waged, almost all agriculture is destroyed; and it only requires firmness in us to force them both by this measure to acknowledge our rights. If I am mistaken in my opinion, I wish that measure to be adopted which may best maintain our rights and independence.

It is not the embargo which causes the pressure on the people. No, sir, it is the orders and decrees of England and France. Take a license from England, and you may trade, but on no other terms. Let an officer of the British fleet visit your vessel, and France will condemn it. These are the things which destroy commerce. The country in which I live feels the measure as much as any; there are agriculturists, and their crops remain unsold; and if they will do without the principal, and resist imposition by withholding their produce, those who make a profit by the freight of our produce, may afford to lose that profit. Can any man tell what would be the consequence of war, in these times? In common war some regard is had to the laws of nations by belligerents, and they fight each other. In the present war the belligerents disregard the laws of nations, and fight every one but one another.

Mr. Quincy said he wished the last resolution to be separated from the first, as the House would be committed by its adoption. Not that he wished to avoid a discussion of that subject, for he wished for nothing so much as that the House would permit them to go into a discussion of the subject in Committee of the Whole. [Mr. Macon consented that the last resolution should lie on the table.] Mr. Q. said he wished to press a discussion on the subject of the embargo; for such was the state of public opinion in the Northern part of the Union, that but one general sentiment prevailed, that the embargo would be immediately raised. Instead of postponing the subject from day to day,

he only wished it to come before the House that gentlemen might understand one other, and put an end to the doubts that now existed.

The first and second resolutions offered by Mr. Macon were agreed to without a division. The third was ordered to lie on the table – yeas 78.

Friday, November 18

Territorial Governments. – Ordinance of 1787

On motion of Mr. Poindexter, the House resolved itself into a Committee of the Whole, on the bill concerning Territorial Governments.

The bill having been read —

Mr. Bibb said, that if the House were now called upon for the first time to pass an ordinance for the government of the Territories of the United States, he should attach very little importance to the decision of the present question. But he considered it not now an abstract question of expediency, but as one of great moment, from the circumstances with which it was connected. He denied the right of the House to pass the bill; and if they had not the right, it was surely unnecessary to argue the question on the ground of policy. It would be recollected that the Mississippi Territory was formerly the property of the State of Georgia, and ceded by that State to the United States on certain conditions, *one of which was that the ordinance for the government of the Territory Northwest of the Ohio should be the basis of the government of the Mississippi Territory*.[2] If this, said he, be one of the conditions of a compact between the United States and Georgia, surely the United States have no right to infringe it without the consent of Georgia; and I, as one of her Representatives, formally protest against the passage of this bill. It may be said that Georgia is very little interested in the abstract question, whether the Governor should or should not have the

[2] This ordinance of the Congress of the confederation, which became the basis of all the Territorial governments, was sanctioned by the Congress of the Union at its first session, with certain provisions added to it in order to give it full effect under the constitution. The following are the terms of this enactment: —"Whereas that the ordinance of the United States in Congress assembled, for the government of the Territory northwest of the river Ohio may continue to have full effect, it is requisite that certain provisions should be made, so as to adapt the same to the present Constitution of the United States. Therefore, Be it enacted, &c., That in all cases in which, by the said ordinance, any information is to be given, or communication made by the Governor of the said territory to the United States in Congress assembled, or to any of their officers, it shall be the duty of the said Governor to give such information, and to make such communication to the President of the United States; and the President shall nominate, and by and with the consent of the Senate, shall appoint all officers which by the said ordinance were to have been appointed by the United States in Congress assembled, and all officers so appointed shall be commissioned by him; and in all cases where the United States in Congress assembled, might, by the said ordinance, revoke any commission or remove from any office, the President is hereby declared to have the same power of revocation and removal. Sec. 2. – And be it further enacted, That in case of the death, removal, resignation, or necessary absence of the Governor of the said Territory, the secretary thereof shall be, and he is hereby, authorized and required to execute all the powers, and perform all the duties of the Governor, during the vacancy occasioned by the removal, resignation, or necessary absence of said Governor." This act of Congress, passed to give full effect to this ordinance by adapting its working to the new Federal Constitution, was among the earliest acts of the Federal Congress, being number eight in the list of acts passed at the first session of the first Congress; and classes with the acts necessary to the working of the new government. As such it was modified; and as such preserved and applied to successive Territories, as governments for them were given. That ordinance is, in fact, the basis of all the Territorial governments, and is extended to each of them by name, with such modifications as each one required; and its benefits secured in their deeds of territorial cession by Georgia and North Carolina. Thus, the fifth clause in the first article of the Georgia deed of cession, dated April 24th, 1802, stipulates: "That the Territory thus ceded shall form a State, and be admitted as such into the Union, as soon as it shall contain 60,000 free inhabitants, or at an earlier period, if Congress shall think it expedient, on the same conditions and restrictions, with the same privileges, and in the same manner, as is provided in the ordinance of Congress of the 13th day of July, 1787, for the government of the Western Territory of the United States; which ordinance shall, in all its parts, extend to the Mississippi Territory contained in the present act of cession, that article only excepted which forbids slavery." The deed of cession from North Carolina, for the Territory since forming the State of Tennessee, and dated December – , 1789, is equally express in claiming the benefits of this ordinance; so that, made before the constitution, it has been equally sanctioned by Congress and by States since. Virginia sanctioned it immediately after its enactment, and before the commencement of the present Federal Government, to wit, on the 30th day of December, 1788. The ordinance being thus anterior to the constitution, was not formed under it, but under the authority of owners – sovereign owners – exercising the right of taking care of their own property, subject only to the conditions and limitations which accompanied its acquisition. And thus the Territories have been constantly governed independently of the constitution, and incompatibly with it, and by a statute made before it, and merely extended as a pre-existing law to each Territory as it came into existence.

power of prorogation; but, if a right exists to alter one part of the ordinance without the consent of Georgia, it certainly implies a power to alter it in every part.

Mr. Poindexter said he would state the reasons for which he had introduced the bill, and which would, he hoped, insure it the sanction of the committee. I will, in the first place, said Mr. P., advert to that part of the ordinance which is proposed to be amended by the bill under consideration. In the ordinance for the government of the Northwestern Territory will be found this article: "The Governor shall have power to prorogue and dissolve the General Assembly, when, in his opinion, it shall be expedient." The bill proposes to take away this power, as being arbitrary and oppressive in the extreme, and incompatible with the Constitution of the United States. This ordinance was passed previous to the adoption of the Federal Constitution, and if it had been the subject of consideration subsequent to its adoption, this provision had never been inserted, giving to Governors of Territories a power paramount to any power possessed by the President of the United States. Take away this power and a Governor will still have left the power of negativing all acts, so that none can pass without his assent; and, being the agent of the General Government, he would give consent to no law incompatible with the interests of the United States.

It has been said that the ordinance cannot be altered without the common consent of the parties to it, and that the State of Georgia must be called upon to give its assent before the Congress can alter it. There are two parts of this ordinance; the first contains the form of government, and the second several articles of compact which are declared unalterable but with common consent. After reciting the form of government, the ordinance says:

> "The following articles shall be considered as articles of compact between the original States and the people of the States in the said Territory, and forever remain unalterable, unless by common consent, to wit."

[Here follow six articles.] The ordinance declares that which follows the declaration to be unalterable, but by common consent; it follows of consequence that that which precedes the declaration is alterable. Independent of this reasoning, which cannot be refuted, at every session since we have been a Territory, there have been laws passed altering the ordinance in some shape or other. For example, the ordinance requires two judges to hold a court; and, in a variety of instances, Congress has legislated with respect to the form of government of the Territory. I had supposed that the articles of agreement between the United States and Georgia had become obsolete, with respect to the imagined necessity of the consent of Georgia to legislation on the subject of the Territory. It was urged at the last session with all the eloquence which the gentlemen from Georgia are in so great a degree possessed, and disregarded; for it was decided by both Houses that the United States had a right to rule the Territory without the consent of Georgia.

The Constitution of the United States says that Congress shall "have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." Can an agreement arising from the exercise of this power, supersede the right of exercising the power expressly delegated by the constitution itself? Certainly not.

On the ground of policy I presume that there is no gentleman who will contend that the power of which I wish to deprive the Governors, ought to be retained. The gentleman from Georgia himself says, that if he were about to frame an original ordinance, he would not think of such a power. As the opinion of Judge Tucker has been referred to on one subject, I will refer to it on the subject of prerogative. Let it be recollected, that the power to prorogue and dissolve is one of the highest prerogatives of the King of England: that it crept into the governments of his colonies, and thence into this ordinance, previous to the adoption of the constitution. It now remains for the United States to say, whether they will copy after Great Britain, and because it is a high prerogative, give the Governors of the Territories of the United States the same powers as she gives to her Territorial Governors. I trust it will be expunged.

> "The title 'prerogative,' it is presumed, was annihilated in America with the Kingly Government." "This definition (of prerogative) is enough to make a citizen of the United States shudder at the recollection that he was born under a government in which such doctrines were received as catholic," &c.

This is the opinion of Judge Tucker. Is not this sufficient to induce us to take away from Governors this prerogative? Is not this feature modelled after the feature in the Government of England? Certainly; and that it is transferred from her Colonial Government, I can show by the present ordinance for the government of Canada, [to which Mr. P. referred.] It is the same principle, and we have copied it.

I will not object to retain this power, if any gentleman can show any advantage to be gained by it. I will suppose an extreme case; that any of the Territories designed to commit treason, and the Legislature were to pass an act giving it their sanction; (and they have shown less treasonable disposition than some of the elder States, if we may judge from occurrences of a few years past) – could not the Governor put his negative on this law? There could be no such law without his consent. It is therefore entirely unnecessary, in any possible case, to give the Governor the arbitrary power of dissolving the Legislature.

There is a special reason which has operated upon my mind as forcibly as the general reason in favor of the bill on the table. In the Territory which I have the honor to represent, we have been nearly twelve months without any Legislature. The Governor thought proper to dissolve the Assembly without any reason given, for the ordinance does not bind him to assign reasons for his acts. Within a few days, a new Council has been chosen, which may again be dissolved as soon as it meets, and the Territory again left without a Legislature, and no reason assigned for the procedure. Is it possible that this Government will sanction such arbitrary practices? If it does, it will be the first case since the Revolution in which such a procedure has been sanctioned. I beg leave to refer gentlemen to the glorious year 1776. I beg them to revert to that instrument, in which all the sins of our political father, George III., were delineated, and they will find that one of the charges against him was that he permitted his Governors to dissolve the Legislatures from time to time. Are we prepared to ingraft these arbitrary principles into our constitution, and cherish them when practised in so arbitrary a manner? Instead of this ordinance being passed with deliberation, it must have passed originally *sub silentio*, and been adopted for all the new Territories without any discussion at all; for, if the principle had been investigated, it would never have been enacted into a law. In the Declaration of Independence it is stated that "he (George III.) has dissolved Representative Houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people." Here we see that, at that day, we complained of the arbitrary exercise of power, and I hope that, at this day, we shall give it a death-blow. If any gentleman wishes to retain it, let him show a single possible case in which it can properly be exercised – never, but to gratify the ambition or caprice of an individual. The people elect Representatives and send them to legislate; if they do not please the Governor, he can say, "gentlemen, go to your homes – I dissolve you." Can there be any necessity for this? But I will not detain the House longer, except to express a hope that the committee will not rise, unless it be to report the bill.

Mr. Troup said he would state, in as few words as he could, his objections to the passage of the bill. It was only the day before yesterday that this bill had been introduced into the House, proposing to alter one part of the ordinance. To-day, a petition came from another territory to alter another part of it. Before they adjourned, it was ten thousand to one that not a remnant of the ordinance would be left, with their good will.

I have before stated it as my opinion, said he, that the articles of the ordinance are a compact between the people of the States and of the territories, unalterable but with the consent of both parties. With the permission of the House, I will read the opinion of Judge Tucker on this subject:

> "Congress, under the former confederation, passed an ordinance July 13, 1787, for the government of the territory of the United States northwest of the Ohio, which contained, among other things, six articles, which were to be considered as articles of compact between the original States and the people and States of said territory, and to remain unalterable, except by common consent. These articles appear to have been confirmed by the sixth article of the constitution, which declares, that all debts contracted and engagements entered into, before the adoption of the constitution, shall be as valid against the United States under the constitution as under the Confederation."

In this case there are not only two but three parties to the articles – the United States, the State of Georgia, and the people of the Territories. You will recollect, as my colleague properly stated to you, that the right of soil and jurisdiction of this territory was originally in the people of Georgia. Of course Georgia had power to prescribe for the territory what form of government she pleased, provided it was republican. By the articles of cession, the right of soil and jurisdiction was ceded to the people of the United States, *on the express condition that the articles of the ordinance should form the government of the Mississippi Territory, and that they should not be governed otherwise*. The inference inevitably is, that the State of Georgia would not have ceded but upon the express condition; and this inference is the more inevitable, inasmuch as, in this clause, Georgia has made an express exception to a particular article in the ordinance;[3] from which, I say that Georgia intended that no other alteration should be made.

What was the policy of the ordinance, and what the object of its framers? Why, assuredly, to render the governments of the Territories dependent on the Government of the United States. And how was it to be effected? By making the Territorial Legislature in a great degree dependent on the Governor, and him absolutely dependent on the Federal Executive. The moment we make the Legislature of a Territory independent of its Executive, we make it independent of the Federal Government.

And again, as my colleague has correctly told you, if you have a right to repeal one part of the ordinance, you have a right to repeal another part, and so overturn the whole system at a blow. If so, what will be the effect on the articles of cession and agreement between you and Georgia? I will tell you. By the articles of cession you reserve to yourself the right of disposing of the territory; you also agree to pay Georgia one million two hundred and fifty thousand dollars out of the product of the first sales of the land. Suppose you transferred to the independent Legislature of the Mississippi Territory the right to dispose of this Territory, what security has Georgia for the payment of her one million two hundred and fifty thousand dollars? Moreover, I feel every disposition to treat with respect the people of the Mississippi Territory, and particularly as I perceive that they approve of that course of our Government, in which I most heartily concur; yet I must say that a large majority of the people have a landed interest distinct from that of the Government of the United States. Take away from the Governor his power to prorogue and dissolve, leave him the veto, and there will soon be collision. The Legislature passes an act; the Governor puts his veto on it. The Legislature stands out, and the Governor will not yield, and eventually you may, perhaps, have to decide the question of territorial property by the sword. Recollect, that upward of six thousand people have gone over in the present year, with every apparent intention to force a settlement against your interest and that of Georgia. I am very glad that the military have received orders to disperse them. I trust that they will be dispersed, and that every man who stands forth in resistance will be put to the sword.

But the gentleman from Mississippi Territory is certainly mistaken as to one point. He seems to consider the Constitution of the United States as giving to the people of the Territories the same

[3] The 6th, being the Anti-slavery article.

rights as the people of the States. *It is a mistaken idea, neither warranted by the letter or spirit of the constitution.* For although the constitution has declared that the people of one State are entitled to all the rights and privileges of another, yet it has not declared that the people of the Territories have the same rights as the people of the States. In another part of the constitution it is, indeed, expressly declared that Congress shall make all laws for the disposal of the Territories; but there is a salvo, that all acts done and contracts made previous to the adoption of the constitution, shall be as binding as if done afterward. The articles of the ordinance were enacted previously, and are consequently binding under the constitution. It cannot be controverted, that they were wisely adopted, and have been salutary in their operation. They were framed by the Congress of '87, composed of men whose integrity was incorruptible, and judgment almost infallible. These articles, from that time to this, have remained unaltered, and carried the Territories through difficulties, almost insuperable, to prosperity. And now, for the first or second time, an alteration is proposed, the consequence of which cannot be foreseen, without any evidence that it is either necessary or expedient.

The population of every new country must necessarily be composed of a heterogeneous mixture of various tempers, characters, and interests. In a population thus composed, it would be highly ridiculous to expect that love of order and obedience to law would always predominate. Therefore the old Congress wisely reserved to itself the right to control them; to give the Governor power, when a Legislature became disorderly, to dissolve them; and for the exercise of this power he is accountable to the General Government.

The gentleman from Mississippi wishes us not to treat the Territories as children, whose wild extravagances may require correcting by the indulgent hand of their parents, but as the equals of the States, without any other reason than that which he states to be the situation of the people of his Territory. They will next wish us to admit them into the Union before their population will authorize it; tell us that that Territory does not grow fast enough, and we must demolish the system for their convenience.

Mr. T. adverted to the representation made by Mr. Poindexter, of the state of things now existing in the Mississippi Territory. If such were the situation of the Territory, and Mr. T. said he sincerely regretted it, he could put the gentleman in a way of settling the dispute in a regular and constitutional way, and which would be the most prudent and advisable. Certainly, in this dispute, one of the parties must be right and the other wrong. They had nothing to do but prefer their complaints before the proper authority, and, if they were there substantiated, they would obtain redress of their wrongs. If, on the contrary, the people were wrong and the Governor right, the wisdom of this part of the ordinance would be proved beyond question.

Mr. Poindexter observed that the gentleman from Georgia had set out with telling the House that if the Legislature were made independent of the Governor, they could pass any law they pleased respecting land titles. The gentleman could not have looked at the ordinance, for there was an express provision that the Legislature should "never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil," &c. Independent of this, it is control sufficient if the Governor have a veto on the laws. The gentleman has told you, said Mr. P., that these articles are unalterable but with common consent. When up before, I read that part which is unalterable. It is the articles of ordinance and not the form of government; and to this Judge Tucker refers when he speaks of it. The gentleman has said, that the situation of the people would not be bettered by taking away the power, if the veto were left. In my opinion it would be ameliorated. Let the Governor retain his veto, but let them remain in session, and pass laws, that the General Government may see whether such laws are worthy of rejection or of approbation. Now, if the Governor discovers them about to pass a law or do an act he does not like, he sends them home. Lop off a little of this Executive power, and let the Legislature pass laws which he may negative, and the General Government will have an opportunity of seeing that the Governor will not consent to proper laws. Trust your

Executive and distrust the people, and you sap the foundation of the Government. Whatever leads to the conclusion that the people are always wrong and the Executive right, strikes at the root of republican institutions.

The gentleman has spoken of the wildness and extravagance of the people of the Mississippi Territory. Does he recollect the invasion of the Spaniards two years ago? That, at a few days' notice, at the requisition of the Commander-in-chief, a detachment of two hundred and fifty militia were sixty miles on their march? When an arch traitor from the East designed to sever the Union, the people of the Territory, without call, assembled near the city of Natchez, and arrested the traitor. These proceedings cannot be exceeded even by the spirit or prudence of the State of Georgia. I hope the indignation of this House will be displayed at these insinuations against the motives of people who have manifested the greatest patriotism. In respect to the late measures of the General Government, no people feel them more severely than the people of Mississippi, and no people better support them. There may be symptoms of wildness and extravagance, but they show a submission to the laws and measures of the Union.

The gentleman talks of tender parents. If he considers the State of Georgia as one of our tender parents, I protest against it. Although she be one of our parents, there has been no proposition ever made on this floor, for the good of the Territory, which has not met the opposition of that State. But these are subjects on which I will not dwell.

The gentleman has stated that a number of people have gone over to the Mississippi Territory to settle lands, against the express provisions of the law. That, under the pretext of a purchase from an Indian, named Double Head, people have gone over to settle lands, is true; but from where? From Georgia. They are citizens of Georgia; people nurtured by this tender parent into a state of manhood, and unwilling to participate longer in the tender cares of the State of Georgia. They have been, very properly, ordered to be driven off by military force, because they have infringed a law of the United States. But these things do not touch the present question. I now propose to take away a power which has been, by mistake, incorporated into the constitution of a free people.

Mr. Bib said that the State of Georgia had never undertaken to legislate for the Mississippi Territory; but there was a compact existing between the United States and Georgia, and he called upon the United States to adhere to it. They dared not violate it, except they could violate the most solemn compact – the constitution.

Mr. Troup observed that it had been said this power of the Governor was a badge of slavery copied from the British Constitution. That in many things they had been copied too far, he agreed; but as to this prerogative, it was no such badge of slavery, and was found not only in the articles of the ordinance, but in the constitutions of various States, qualified in a greater or less degree. Mr. T. quoted the constitutions of New York and Massachusetts, both which States had been considered republican. Massachusetts, to be sure, was a little wavering now, but he hoped she had not quite gone over to the enemy yet. These constitutions gave a qualified prerogative to the Governor of the State.

The committee now rose – 58 to 36.

Mr. Troup moved that the further consideration of the bill be postponed indefinitely – [equivalent to rejection.]

Mr. Poindexter calling for the yeas and nays on the motion, it was decided – yeas 57, nays 52, as follows:

> Yeas. – Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, William W. Bibb, William Blackledge, John Blake, junior, Adam Boyd, Robert Brown, Joseph Calhoun, John Campbell, Martin Chittenden, Samuel W. Dana, John Davenport, jun., William Ely, William Findlay, Francis Gardner, Charles Goldsborough, Edwin Gray, John Heister, William Hoge, Richard S. Jackson, Robert Jenkins, Walter Jones, James Kelly, William Kirkpatrick, John Lambert,

Joseph Lewis, jun., Robert Marion, William McCreery, William Milnor, Nicholas R. Moore, Jonathan O. Mosely, Gurdon S. Mumford, Wilson C. Nicholas, Timothy Pitkin, junior, John Porter, Josiah Quincy, John Randolph, Matthias Richards, Samuel Riker, John Russell, Dennis Smelt, Henry Southard, William Stedman, Lewis B. Sturges, Peter Swart, Samuel Taggart, Benjamin Tallmadge, John Taylor, George M. Troup, Jabez Upham, James I. Van Allen, Daniel C. Verplanck, Robert Whitehill, David R. Williams, and Nathan Wilson.

Nays. – Joseph Barker, Burwell Bassett, William A. Burwell, William Butler, Matthew Clay, John Clopton, John Culpeper, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, James Elliot, John W. Eppes, James Fisk, Meshack Franklin, Thomas Gholson, jun., Peterson Goodwyn, Isaiah L. Green, John Harris, William Helms, James Holland, David Holmes, Benjamin Howard, Daniel Isley, Richard M. Johnson, Nathaniel Macon, Daniel Montgomery, junior, John Montgomery, Jeremiah Morrow, John Morrow, Roger Nelson, Thomas Newbold, Thomas Newton, John Pugh, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Benjamin Say, Ebenezer Seaver, Samuel Shaw, James Sloan, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Richard Stanford, Clement Storer, John Thompson, Archibald Van Home, Jesse Wharton, Isaac Wilbour, and Alexander Wilson.

So the bill was postponed indefinitely.

Monday, November 21

Another member, to wit, John Boyle, from Kentucky, appeared, and took his seat in the House.

Naturalized British Subjects

Mr. Howard presented a petition of sundry inhabitants of the State of Kentucky, stating that the King of Great Britain having, by his proclamation of the sixteenth of October, one thousand eight hundred and seven, claimed the allegiance of all persons who may have been born in his dominions, and were not inhabitants of the United States of America at the period of their Revolution, and disregarding the laws of naturalization in other countries, hath authorized the impressment into his service of his pretended subjects, and treated as traitors such as may have taken up arms against him in the service of their adopted country; the petitioners being, at the present time, precluded from the privilege of following commercial pursuits on the high seas in safety, therefore pray that such measures be adopted by Congress as may effectually resist the unjust assumption of power claimed and exercised by a foreign nation; and pledging themselves to support with their lives and fortunes whatever steps may be taken, or acts passed, by the General Government, for the welfare of the Union. – Referred to Mr. Howard, Mr. John Morrow, and Mr. Harris, to examine the matter thereof, and report their opinion thereupon to the House.

Miranda's Expedition

Mr. Love, from the committee to whom was referred, on the sixteenth instant, the petition of thirty-six citizens of the United States now confined at Carthagena, in South America, under sentence of slavery, made a report thereon; which was read, and ordered to be referred to a Committee of the whole House to-morrow.

The report is as follows:

> That it appears, from the statement of the petitioners, that, in February, 1806, they sailed from New York on board the Leander, a ship owned by Samuel G. Ogden, the command of which was, after getting to sea, assumed by General Miranda.
>
> That, from New York, the said ship sailed to Jacmel, where the said Miranda procured two schooners, on board which the petitioners were placed, which, together with the Leander, sailed, under the command of Miranda, about the last of March, in the same year, for the northern parts of South America, and arrived on the coast of Terra Firma in the latter part of April following.
>
> That, upon their arrival on the said coast, the two schooners, on board which the petitioners were embarked, were captured by two Spanish armed vessels; the ship Leander, with Miranda on board, having made her escape.
>
> That the petitioners, together with ten others, were convicted by a Spanish tribunal, at Porto Cabello, of the crime of piracy, from the circumstances of suspicion which attached to their situation, and not from any act of that kind committed on the high seas; that the ten others above mentioned were sentenced to death, and the petitioners some to eight, others to ten years' slavery, which they now are suffering; some chained together, others closely confined under heavy irons and a guard, destined to other places and to similar punishment.

The petitioners state that they were entrapped into the service of the said Miranda, on the said expedition, by assurances made at the time of their engagements, that they were to be employed in the service of the United States, and under the authority of the Government. For the truth of their statement, and a confirmation of the charges they make against certain persons of having thus deceived and betrayed them into an involuntary co-operation in the design of fitting out an armament against a nation in amity with the United States, they refer to the testimony of several persons, said to be inhabitants of the city of New York, and to have had proposals made to them similar to those by which the petitioners were induced to engage on board the Leander.

The petitioners also state that no opportunity was offered them of escaping from the service of the said Miranda and his associates; that they were restrained under the most rigorous discipline, and at Jacmel, the only place where an opportunity of escape might have been probable, they were strictly guarded to prevent it. For the truth of this they refer to certain captains of vessels then at Jacmel belonging to the ports of Philadelphia and Baltimore.

The committee further report that the foregoing statements of the petitioners are unaccompanied by any competent testimony in support of them, and, at the same time, are uncontradicted by any opposing circumstances; they are of opinion that a very strong probability of the petitioners not having been guilty of the crime of wilfully engaging in the unlawful expedition of Miranda attends their application: first, because the petitioners have made a detailed statement of facts relative to the deception practised on them, referring to such species of evidence as to render their contradiction easy, if not founded in truth, and thus lessen their claim on their country, and diminish their hopes of liberation: second, because it is presumed they were proven to the Spanish tribunal before which they were convicted to have been offenders in a secondary degree, those who were proven to have been more heinously guilty having been sentenced to suffer death.

The committee, however, are of opinion that, should the petitioners have been guilty of a crime against the United States by a voluntary or otherwise culpable infraction of its laws, the dictates of humanity no less than the principles of justice, ought to influence the Legislature of the United States to adopt the proper means of restoring them to their country, in order that they may expiate the offence by a punishment suited to but not transcending the magnitude of their crime.

The committee, therefore, beg leave to submit the following resolution for the consideration of the House.

Resolved, That the President of the United States be requested to adopt the most immediate and efficacious means in his power to obtain from the Viceroy of Grenada, in South America, or other proper authority, the liberation of thirty-six American citizens, condemned on a charge of piracy, and now held in slavery in the vaults of St. Clara, in Carthagena, and that the sum of – dollars be appropriated for that purpose.

Tuesday, November 22

Two other members, to wit: from New York, Philip Van Cortlandt, and from South Carolina, Richard Wynn, appeared, and took their seats in the House.

Additional Revenue Cutters

Mr. Newton called for the order of the day on the bill authorizing the President to employ twelve additional revenue cutters.

The House having resolved itself into a Committee of the Whole,

Mr. Newton rose to state that the Committee of Commerce and Manufactures had understood, from the proper authorities, there was a necessity for the proper execution of the revenue laws, that the force under the direction of the Treasury Department should be considerably increased.

Mr. Dana inquired whether any written information touching the necessity there might be for twelve revenue cutters had been received by the committee – any letter from the Secretary of the Treasury? He thought it was necessary, if so, that it should be submitted to the House.

Mr. Newton replied that there had been no written communication from the proper Department to the committee. They had not thought it essential, having also understood that the Secretary of the Treasury was particularly occupied. However, he had taken the shortest method, by waiting upon the Secretary himself, and had received the information before alluded to. He had understood that the probable expense of each cutter would be about $10,000, or $120,000 for the whole, each cutter to carry about twenty men.

Mr. Quincy thought that the correct mode of proceeding would require other than mere verbal information. Respect for themselves should induce gentlemen not to act without official communication upon the subject. They could not, upon any other conditions, agree to so great an augmentation of the force under the direction of the Treasury Department. There had, heretofore, been but ten cutters employed. There were never more than ten when commerce was at its height and the revenue flourishing. But now, the House was called upon to vote twelve additional cutters, when we are without revenue, without commerce, and there is no information of an official nature before the House upon which it might act.

Mr. Newton could not see that it was of any consequence to the House, whether there had been a written communication to it upon the subject, so that the information came through the proper organ, from the proper authority. It was necessary, in times of difficulty like the present, to act with spirit and promptitude. The laws should be executed with the greatest strictness; and it was always wise to take time by the forelock.

Mr. Blackledge said that the expense of building the cutters would be defrayed by the detection of goods attempted to be smuggled. There had already been many condemnations. They were taking place every day. And it was to support the laws that these cutters had been called for.

On the motion of Mr. Newton, that the committee rise and report the bill, it was carried – yeas 47, nays 46.

Thursday, November 24

Another member, to wit, Barent Gardenier, from New York, appeared, and took his seat in the House.

Monday, November 28

Another member, to wit, Matthew Lyon, from Kentucky, appeared, and took his seat in the House.

Foreign Relations

On the motion of Mr. Campbell, the House resolved itself into a Committee of the Whole, on the report of the committee on the subject of our foreign relations.

The first resolution, in the following words, having been read:

> *Resolved*, That the United States cannot, without a sacrifice of their rights, honor, and independence, submit to the late edicts of Great Britain and France:

Mr. Campbell opened the debate. He said that ill health had hitherto prevented and might hereafter prevent him from giving that attention to the subject which the all-important crisis would seem to require; it was, however, his duty to bring the subject before the House. The committee having in their report presented to the House the view in which they had considered the subject referred to them, and the reasons generally which induced them to present these resolutions to the House, he said it was not his intention at this time to enter into a discussion of their merits. Those reasons had been deemed sufficient by the committee to justify them in presenting these resolutions to the House; and as the objections to this, if any there were, could not be foreseen, he would not attempt to anticipate them. According to the view which he himself had taken of the first resolution, it could require no discussion, it was too clear to require demonstration, and too self-evident to need proof of its propriety. It might indeed seem to require an apology from the committee for presenting a proposition which every American must long since have determined for himself. When the question had been first presented to his consideration, it had appeared to him that it was totally superfluous, and to be doing little more than announcing to the world that the United States were still independent; but on further consideration, it had been deemed by the select committee of some importance that in the present critical situation of the United States, they should fix on some point at which all would meet. After a perusal of the documents laid before the House at the opening of the session, Mr. C. said it had been supposed that no one would hesitate in declaring his indignation at the flagrant violations and encroachments on our rights by the belligerent powers, while it had been supposed that some difference of opinion might exist as to the mode of resistance. After it was once determined that they would not submit, that they would repel aggression, it had been supposed that they might, with greater probability of unanimity, discuss the course proper to be pursued. With a view to this the committee had presented this resolution to the House. It was expected that all would unite in it and prove to the world that the Representatives of every portion of the American people were determined to maintain their rights, for the belligerent powers really seemed to suppose that the American people had forgotten them, and had therefore assumed the right of prescribing the course of conduct which we should pursue. To submit to regulations of foreign powers, which limited the conduct of the American people, and prescribed the rules by which they were to be governed, which pointed out the very ports to which they should or should not go, which fixed the tribute or tax which they should pay, would be not only to abandon their dignity and honor, but to surrender, shamefully surrender our independence. Mr. C. said he would not take up the time of the committee in showing that the Orders of Council of Great Britain and the Decrees of France, were, on the part of those nations, an assumption of power to give laws to this country, in direct violation of our neutral rights, and an encroachment on our sovereignty. This would require no argument. The real question is, said he, shall we govern ourselves or be controlled

by the will of others; shall we become tributary or not, shall we submit or be independent? And to the committee he cheerfully left the decision of this question.

Mr. Mumford next addressed the Committee of the Whole. He observed, that although he had the honor of being one of the Committee of Foreign Relations, who framed the report under consideration, he dissented from that report in some respects. We had now arrived at a momentous crisis in the affairs of our country, and he hoped the House would deliberate with that firmness and moderation which became the Representatives of the free and independent people they had the honor to represent on this all interesting concern. However they might differ on smaller points of minor importance, yet when the best interest of the country was at stake, he hoped they would unite in some mode to secure our rights and promote the interests of the United States. The proposition which he had the honor to move a few days ago, was consonant in some degree to the instructions offered by our Ministers to Great Britain and France, offering to remove the embargo in relation to either that should rescind their obnoxious decrees. Neither of them having receded, Mr. M. said he would continue the embargo in relation to them both. Nay, further, he would inflict the severest penalties on any one who should receive a license or voluntarily pay tribute to either of them. He considered them both alike. He wished to see the country placed in a complete posture of defence; but he could not see any good reason why we should not trade with those nations who were willing to receive us on friendly terms, and to trade with us on the principles of reciprocity and mutual interests. This would not compromit the honor of the nation. Even admitting that it might possibly lead to war, which he doubted, he was convinced that the citizens of this country would rise *en masse* in support of that commerce which neither France nor England had any right to interdict. He did presume, with all the zeal of some gentlemen for irritating measures, it was not seriously contemplated to declare war against all mankind; he was for having at least a few friends in case of need. What was our situation now? The President of the United States had told them, after speaking of France and England, that "our relations with the other powers of Europe had undergone no material change since the last session." This being the case, our commerce was open with them all except France and Great Britain and their dependencies.

Mr. Quincy. – Mr. Chairman, I am not, in general, a friend to abstract legislation. Ostentatious declaration of general principles is so often the resort of weakness and of ignorance, it is so frequently the subterfuge of men who are willing to amuse, or who mean to delude the people, that it is with great reluctance I yield to such a course my sanction.

If, however, a formal denunciation of a determination to perform one of the most common and undeniable of national duties, be deemed by a majority of this House essential to their character, or to the attainment of public confidence, I am willing to admit that the one now offered is as unexceptionable as any it would be likely to propose.

In this view, however, I lay wholly out of sight the report of the committee by which it is accompanied and introduced. The course advocated in that report is, in my opinion, loathsome; the spirit it breathes disgraceful; the temper it is likely to inspire neither calculated to regain the rights we have lost, nor to preserve those which remain to us. It is an established maxim, that in adopting a resolution offered by a committee in this House, no member is pledged to support the reasoning, or made sponsor for the facts which they have seen fit to insert in it. I exercise, therefore, a common right, when I subscribe to the resolution, not on the principles of the committee, but on those which obviously result from its terms, and are the plain meaning of its expressions.

I agree to this resolution, because, in my apprehension, it offers a solemn pledge to this nation – a pledge not to be mistaken, and not to be evaded – that the present system of public measures shall be totally abandoned. Adopt it, and there is an end of the policy of deserting our rights, under pretence of maintaining them. Adopt it, and we can no longer yield, at the beck of haughty belligerents, the right of navigating the ocean, that choice inheritance bequeathed to us by

our fathers. Adopt it, and there is a termination of that base and abject submission, by which this country has for these eleven months been disgraced, and brought to the brink of ruin.

That the natural import and necessary implication of the terms of this resolution are such as I have suggested, will be apparent from a very transient consideration. What do its terms necessarily include? They contain an assertion and a pledge. The assertion is, that the edicts of Great Britain and France are contrary to our rights, honor, and independence. The pledge is, that we will not submit to them.

Concerning the assertion contained in this resolution I would say nothing, were it not that I fear those who have so long been in the habit of looking at the orders and decrees of foreign powers as the measure of the rights of our own citizens, and been accustomed, in direct subserviency to them, of prohibiting commerce altogether, might apprehend that there was some lurking danger in such an assertion. They may be assured there can be nothing more harmless. Neither Great Britain nor France ever pretended that those edicts were consistent with American rights; on the contrary, both these nations ground those edicts on the principle of imperious necessity, which admits the injustice done at the very instant of executing the act of oppression. No gentleman need to have any difficulty in screwing his courage up to this assertion. Neither of the belligerents will contradict it. Mr. Turreau and Mr. Erskine will both of them countersign the declaration to-morrow.

With respect to the pledge contained in this resolution, understood according to its true import, it is a glorious one. It opens new prospects. It promises a change in the disposition of this House. It is a solemn assurance to the nation that it will no longer submit to these edicts. It remains for us, therefore, to consider what submission is, and what the pledge not to submit implies.

One man submits to the order, decree, or edict of another, when he does that thing which such order, decree, or edict commands; or when he omits to do that thing which such order, decree, or edict prohibits. This, then, is submission. It is to take the will of another as the measure of our rights. It is to yield to his power – to go where he directs, or to refrain from going where he forbids us.

If this be submission, then the pledge not to submit implies the reverse of all this. It is a solemn declaration that we will not do that thing which such order, decree, or edict commands, or that we will do what it prohibits. This, then, is freedom. This is honor. This is independence. It consists in taking the nature of things, and not the will of another, as the measure of our rights. What God and Nature has offered us we will enjoy, in despite of the commands, regardless of the menaces of iniquitous power.

Let us apply these correct and undeniable principles to the edicts of Great Britain and France, and the consequent abandonment of the ocean by the American Government. The decrees of France prohibit us from trading with Great Britain. The orders of Great Britain prohibit us from trading with France. And what do we? Why, in direct subserviency to the edicts of each, we prohibit our citizens from trading with either. We do more; as if unqualified submission was not humiliating enough, we descend to an act of supererogation in servility; we abandon trade altogether; we not only refrain from that particular trade which their respective edicts prescribe, but, lest the ingenuity of our merchants should enable them to evade their operations, to make submission doubly sure, the American Government virtually re-enact the edicts of the belligerents, and abandon all the trade which, notwithstanding the practical effects of their edicts, remain to us. The same conclusion will result, if we consider our embargo in relation to the objects of this belligerent policy. France, by her edicts, would compress Great Britain by destroying her commerce and cutting off her supplies. All the continent of Europe, in the hand of Bonaparte, is made subservient to this policy. The embargo law of the United States, in its operation, is a union with this continental coalition against British commerce, at the very moment most auspicious to its success. Can any thing be more in direct subserviency to the views of the French Emperor? If we consider the orders of Great Britain, the result will be the same. I proceed at present on the supposition of a perfect impartiality in our Administration towards both belligerents, so far as relates to the embargo law. Great Britain had two

objects in issuing her orders. First, to excite discontent in the people of the continent, by depriving them of their accustomed colonial supplies. Second, to secure to herself that commerce of which she deprived neutrals. Our embargo co-operates with the British views in both respects. By our dereliction of the ocean, the continent is much more deprived of the advantages of commerce than it would be possible for the British navy to effect, and by removing our competition, all the commerce of the continent which can be forced is wholly left to be reaped by Great Britain. The language of each sovereign is in direct conformity to these ideas. Napoleon tells the American Minister, virtually, that we are very good Americans; that, although he will not allow the property he has in his hands to escape him, nor desist from burning and capturing our vessels on every occasion, yet that he is, thus far, satisfied with our co-operation. And what is the language of George the Third, when our Minister presents to his consideration the embargo laws? Is it *Le Roi s'avisera*? The King will reflect upon them. No; it is the pure language of royal approbation, *Le Roi le veut*. The King wills it. Were you colonies he could expect no more. His subjects as inevitably get that commerce which you abandon as the water will certainly run into the only channel which remains after all the others are obstructed. In whatever point of view we consider these embargo laws in relation to these edicts and decrees, we shall find them co-operating with each belligerent in its policy. In this way, I grant, our conduct may be impartial; but what has become of our American rights to navigate the ocean? They are abandoned, in strict conformity to the decrees of both belligerents. This resolution declares that we shall no longer submit to such degrading humiliations. Little as I relish, I will take it, as the harbinger of a new day – the pledge of a new system of measures.

Wednesday, November 30

Foreign Relations

Mr. Richard M. Johnson. – I am more than astonished to see this House inundated by every mail with publications, from the East, declaring that we have no cause of complaint against Great Britain; that we should rescind the proclamation of interdict against British armed vessels; that we should repeal the non-importation law; that the embargo should be taken off as to Great Britain; that we should go to war with France; that punctilio prevents a settlement of our differences with Great Britain; inviting the people to violate and disregard the embargo, to put the laws and the constitution at defiance, and rise in rebellion.

These considerations induced me to examine this matter, and to prove to every honest American, what we all believe in this place, that the object of one power, is to destroy our neutrality and involve us in the convulsing wars of Europe; and the object of the other, a monopoly of our commerce, and the destruction of our freedom and independence. Let evidence as conclusive as holy writ put the enemies of this insulted country to shame. We are informed by our Minister in London, (Mr. Monroe,) in a communication dated August, 1807, that a war party of powerful combination and influence existed in Great Britain, who wanted to extend their ravages to this country; that we could not make calculations upon the justice of Great Britain; that in her many assumptions of power and principle she would yield but from the absolute necessity. Who is this war party? The British navy, to whom we have opened our ports, and extended all the hospitalities of a generous nation; while in the enjoyment of which that very navy waged war against our unoffending citizens. The ship owners, the East and West India merchants, and what cause have they for war? The enterprising citizens of the United States have been their rivals and superiors in a lawful and profitable commerce; and, lastly, political characters of high consideration. These compose this war party. In January, 1804, in an official communication of Mr. Madison, Mr. Monroe is charged with the suppression of impressment as his primary object; 2d, the definition of blockade; 3d, the reduction of the list of contraband; 4th, the enlargement of our trade with hostile colonies. The negotiation opens, and what is done? With industry and exertion our Minister was unable to bring the British Cabinet to any amicable arrangement. Lords Hawkesbury, Harrowby, Mulgrave, and Mr. Fox, succeeded each other, and every attempt to negotiate was in vain. Each of them brings expressions of good will and good disposition towards the United States, and a wish for amicable arrangement. But these professions and dispositions evaporate in invitations to the country and the city – in promises and procrastinations. To-day we are amused with a conversation at the foreign office, which animates with a lively hope – to-morrow hope is swallowed up in despair – and the third day announces some new injury. Affairs on the continent now call the attention of the British Ministry, and with every disposition of good will there must be a pause. In this amicable pause business required that our Minister should go to Old Spain; but upon his return to England, what astonishment seized his mind at the sad spectacle the changing scenes presented. Under the old rule of '56, and other interpolations upon public law, our merchant vessels are swept from the bosom of the ocean without notice, by British cruisers, and carried into British ports for condemnation. But why this change? A coalition had been formed in the North against France. British gold effected it. Russia and Austria had combined against France, and here the hopes of England rested.

But we all know her hopes were blasted. This is the reason why the blow was aimed, and your commerce sacrificed. The remonstrances of our Minister could not keep pace with new aggressions. This temporizing policy of England, and the destruction of our commerce, buried party spirit in America for the moment, and produced an indignant protest against her conduct from the great

commercial cities in the Union, in which their lives and their property were pledged to support the Government in measures of just retaliation. And on this occasion the merchants of Boston requested the President to send a special Envoy to England, to give a greater solemnity to our claims of indemnity and future security. The cause of the merchants became a common cause, and the non-importation law was enacted, and Mr. Pinkney sent as a special Minister, agreeably to request. Let the commercial interest cease to complain. It is for them principally that we now suffer. These deeply-inflicted wounds upon the commerce of America, ingulfed for a moment the consideration of the primary object of Mr. Monroe's mission – the impressment of seamen – and it would seem, that when our Minister pressed one great subject of complaint, some greater outrage was committed to draw our attention from the former injury. Thus the unavailing exertions of our Minister for upwards of two years at the Court of St. James, eventuated in an extraordinary mission, and the non-importation law; a measure of retaliation, and which rendered us less dependent upon a foreign Government for such articles as can be manufactured at home. To bring further evidence of British hostility, let us attend a little to the Administration of Mr. Fox. He came into office about the 1st of February. On the 31st of May, information was received in London of the extra mission of Mr. Pinkney. Mr. Monroe, therefore, had an opportunity of about four months with Mr. Fox to settle our differences, without any interruption, not even the ideal one which has been suggested, as giving a temporary stay to the negotiation, viz: the waiting the arrival of Mr. Pinkney. The United States had a right to expect something like justice from this able Minister, because he entertained a sincere desire to conciliate the friendship of this nation by acts of justice. But in this just expectation we were disappointed. The hostility of other members of the Cabinet with whom he was associated, was the real cause of difficulty, joined perhaps with his sudden indisposition and death. Mr. Fox acknowledged our right to the colonial trade; he promised to stop the capture and condemnation of our merchant vessels; but when pressed to answer our complaints in writing, he promised, but broke that promise, and ultimately refused to give any orders with respect to the capture and condemnation of our vessels. Thus the golden apple was presented to our grasp, and then snatched forever from our sight.

Now let the committee attend to the chapter of negotiation, which produced the rejected treaty. First, the subject of blockade is proposed, and a definition demanded. We denied the doctrine of paper breastworks, spurious and illegitimate blockades, to be executed in every sea by the British Navy, of which our neutral rights were the victims. Such as the blockade of the coast of Europe from the Elbe to Brest, of the Elbe, the Weiser and Ems. The whole coast of Old Spain, of the Dardanelles, and Smyrna, and of Curaçoa. Upon this subject, Great Britain would yield nothing.

2. No duty can be laid upon American exports, but Great Britain imposes a duty of four per cent. upon her exports to the United States, under the name of a convoy duty; by which duty the citizens of the United States pay to Great Britain an annual amount of $1,300,000; but upon this unfriendly discrimination she will yield nothing.

3. Upon the search of merchant vessels she would yield nothing.

4. Upon the colonial trade she imposed new restrictions. She would yield nothing; a trade which produced the United States revenue to the amount of $1,300,000 per annum; and furnished exports from the United States of $50,000,000 annually.

5. Upon the West India trade she would yield nothing, and upon the East India trade she imposed new restrictions.

6. Upon the impressment of seamen, the subject was too delicate; she was fighting for her existence; she would yield nothing.

7. Upon the mutual navigation of the St. Lawrence, so important to the Northern States, they would yield nothing; but would demand a monopoly of the fur trade, and influence over the Indians within our own limits. Thus ended the chapter of negotiation.

I turn with indignation from this to a new species of injury, involving the events connected with and preceding the President's proclamation interdicting the armed vessels of Great Britain from our waters. I allude to the conduct of the officers of the British navy, and the evident connivance of the British Government. I will only mention three prominent cases:

1st. The Cambrian, and other British cruisers, commanded by Captain Bradley, who entered the port of New York, and in defiance of the Government arrested a merchant vessel, and impressed into the ships of war a number of seamen and passengers, refused to surrender them upon demand, and resisted the officers, served with regular process of law for the purpose of arresting the offenders.

2d. The case of the Leander, Capt. Whitby, with other British armed vessels, hovering about New York, vexing the trade of that port, arresting a coasting vessel of the United States by firing a cannon, which entered the vessel and killed John Pierce. The murder of Pierce, a fact so notorious, could not be proved in a sham trial in England, though the most unexceptionable characters are sent as witnesses from the United States; and not even an explanation is made to satisfy this country for the murder of a citizen. Call upon the citizens of New York, who saw the body of their slaughtered countryman; ask the mourning relatives of the murdered Pierce, whether he was slain or not! But from this tragic scene we must turn to one of a deeper hue.

3d. The attack upon the Chesapeake. This vessel had just left the shores of Virginia, leaving the British ship of war, the Leopard, enjoying the hospitalities of our laws. The Chesapeake was bound to the Mediterranean in defence of our rights. One hundred and seventy American tars were on board, who had undertaken this honorable enterprise. Unsuspicious of harm, while their rough cheeks were bedewed with tears in parting from their friends and country, their powder-horns empty, rods mislaid, wads too large, guns not primed – all was confusion. In this unhappy moment the messenger of death comes. The unfortunate Barron refuses to permit his men to be mustered by any but an American officer. His Government had given the command. This is the provocation. The vessel is attacked, and, without resistance, eight are wounded, three are killed, and four taken and carried into British service, one of whom has been hung as a malefactor in Nova Scotia. It has been said that the Goddess of Liberty was born of the ocean. At this solemn crisis, when the blood of these American seamen mingled with the waves, then this sea nymph arose indignant from the angry billows, and, like a redeeming spirit, kindled in every bosom indignation and resentment. A nation of patriots have expressed their resentment, and the sound has reached the utmost bounds of the habitable world. Let a reasoning world judge whether the President's proclamation was too strong for this state of things, and whether it should be rescinded without atonement.

Do the wrongs of this nation end with this outrage? No. Clouds thicken upon us; our wrongs are still increased; during the sensibility of this nation, and without atonement for the attack upon the Chesapeake, on the 16th October, 1807, a proclamation issues from the British Cabinet respecting seafaring persons, enlarging the principles of former encroachments upon the practice of impressment. This proclamation makes it the indispensable duty of her naval officers to enter the unarmed merchant vessels of the United States, and impress as many of the crew as a petty and interested naval officer may without trial point out as British subjects. The pretension is not confined to the search after deserters, but extended to masters, carpenters, and naturalized citizens of the United States – thus extending their municipal laws to our merchant vessels and this country, and denying us the right of making laws upon the subject of naturalization. The partners of British and Scotch merchants can cover their property and their merchandise from other nations under the neutral flag of the United States to Leghorn, Amsterdam, Hamburg, &c. But the patriotic Irishman or Englishman who has sought this protecting asylum of liberty, are not secured by our flag from the ruthless fangs of a British press-gang. And at this very moment our native citizens and adopted brethren, to a considerable number, are doomed to the most intolerable thraldom in the British navy by this degrading practice. There the freedom of our citizens depends upon the

mercy of naval officers of Great Britain; and, upon this subject, every proposition for arrangement is trampled down by these unjust pretensions. Information was just received of the execution of the Berlin Decree, when the papers from every quarter announced the existence of the British Orders in Council, making a sweeping dash at our rightful commerce. Something must be done. The events which been have retraced, all pressed upon us. The treatment of our Minister, and his unavailing exertions; the result of the negotiation which gave birth to the rejected treaty; the memorials of the merchants; the outrageous conduct of the British naval officers upon our seaboard; the connivance at their conduct by the British Government; the proclamation of October 16, 1807; the execution of the Berlin Decree, and the Orders in Council. These considerations required the arm of Government, and at this inauspicious period, when the clouds which had so long threatened and darkened our political horizon gathered to a thick and horrible tempest, which now seemed about to burst upon our devoted nation, the embargo snatched our property from the storm, and deprived the thunderbolt of its real calamities. The effects of this measure at home and abroad, notwithstanding its inconveniences, will best attest the wisdom of the measure, which will be increased in its efficacy by a total non-importation law. As a measure of coercion upon other nations, I not only have the strongest hopes, but also a rational confidence in it, founded upon the most conclusive evidence. The misrepresentations in this country, the violations of the embargo, and the hope of changing the parties in the United States, or of producing a separation of the States; these miscalculations have destroyed entirely the efficacy of this measure, and been a main cause why Great Britain has not relaxed in her injustice towards America. And if we can rigidly enforce this system, my confidence is undiminished, my faith strong, that the United States will have reasonable terms offered to them. Yet the violators of your laws have been the great cause why the present state of things has been protracted. They are as infamous as the cowboys in the Revolution, who embodied themselves to feed our enemies with the only cow of a weeping widow, or a poor soldier who was fighting for his country. The commerce of the United States with the West Indies, the Continent of Europe, and Great Britain, will present to this committee the evidence upon which this faith is bottomed. The United States have furnished the West Indies with the essentials of existence, and also have afforded a market for the colonial produce of those islands. In fact, they cannot live without provisions from the United States in the present state of the world. These islands have been reduced to wretchedness and want already, notwithstanding the violations of the embargo, and flour, we learn, has been as high as $20, $30, $40, $50, and $60 per barrel. The vast importance of these possessions alone, to the mother country, might have been sufficient to have produced a settlement of our differences, if other considerations had not prevented. Attend to the trade with England and the continent previous to the Orders in Council. The annual exports of British manufactures to the United States amount to twelve million pounds sterling. In exchange for these manufactured articles, Great Britain receives to the amount of four million pounds sterling in tobacco, cotton, wheat, and the substantials of life. The eight millions which remain due must be paid in money or bills. To raise this money, the American merchants carry to the Continent of Europe produce of the United States to the amount of this eight millions, which is sold, and the amount remitted to the merchants in London to pay the debts of our merchants. This trade is now destroyed by the Orders in Council, and not the embargo – for this very measure has saved our vessels from capture, our merchandise from condemnation, and our seamen from impressment.

Thursday, December 1

Another member, to wit, Thomas Moore, from South Carolina, appeared, and took his seat in the House.

Jesse B. Thomas, the delegate from the Indiana Territory, returned to serve in the room of Benjamin Parke, who hath resigned his seat, appeared, was qualified, and took his seat in the House.

Tuesday, December 6

Foreign Relations

The report of the Committee on Foreign Relations being again before the House, and the question still on the first resolution —

Mr. Gholson said: Mr. Speaker, were I to yield to my embarrassment on the present occasion, I should not trespass on your indulgence. But when I reflect upon the great national importance of the question now before the House, and upon the high responsibility which its decision must attach to me as one of the Representatives of the people; I am impelled, from considerations of duty, to assign to you the reasons by which I am influenced.

It has been said, sir, with great truth, that the present is an extraordinary crisis. It seems indeed to have been reserved for the age in which we live, to witness a combination of political events unparalleled in the annals of time. Almost the whole civilized world has been within a few years convulsed by wars, battles, and conquests. Kingdoms and empires have been revolutionized; and we behold a vast continent assuming a new aspect under a new dynasty. Those laws which from time immemorial have prescribed and limited the conduct of nations, are now contemptuously prostrated, innocent neutrality is banished from the ocean, and we hear a grim tyrant asserting himself the sovereign of the seas. Thus the most essential part of the globe is attempted to be partitioned between two domineering rival belligerents. Sir, it would have been a subject of the sincerest felicitation if our happy country could have been exempt from this universal concussion. But we are fated to share evils in the production of which we have had no participation. In inquiring, Mr. Speaker, into the causes of these evils and the policy by which we are to be extricated from them, I am conscious of two things – of my utter incompetency to the elucidation of so great a subject, and of the unavoidable necessity of touching upon ground already occupied by gentlemen who have preceded me in this debate.

When, sir, I recur to the resolutions reported by the Committee of Exterior Relations, I find one which proposes resistance to the edicts of Great Britain and France; and another which recommends a system of non-intercourse between the United States and those countries.

In hearing the first resolution treated as an abstract proposition, my astonishment has been not a little excited. I have always understood an abstract proposition to be the assertion of some general principle without any specific application. Here is a distinct position, with a direct reference to particular orders and decrees. The resolution therefore is itself specific and appropriate, to use the apt terms of the gentleman from Connecticut (Mr. Dana). But before we can determine upon the propriety or impropriety of the resolutions, to me it appears indispensable that we should examine attentively and minutely, not only the situation of this country in relation to France and Britain, but also the injuries and aggressions they have committed upon our neutral rights.

In doing this I regret extremely that I shall wound the delicate taste and exquisite sensibility of my learned colleague (Mr. Randolph), who addressed you yesterday. I shall take no pleasure in the retrospection which seems so much to disgust that gentleman; but I do not know how else to find justification for the measures we, I trust, shall pursue, and to expose the profligacy of our enemies. The regular discussion of the first resolution would seem naturally to lead us to a review of the edicts of Great Britain and France. When we say we will not submit to their edicts; it cannot be amiss, although I acknowledge, sir, the undertaking is an unpleasant one, to inquire into the nature and extent of those edicts; I therefore will endeavor, within as narrow limits as possible, to exhibit to the view of the indignant American, the various wanton aggressions which have been committed by both these powers upon his commercial rights. And, sir, whenever we look for the chief source

of our difficulties, we must turn towards Great Britain. Then let us examine the principal items in her account.

On 8th June, 1793, the British Government issued an Order of Council to stop and detain for condemnation, vessels laden with corn, flour, or meal, and bound to France, whose people were then almost in the act of starving, and of course we were deprived of an excellent market for those articles.

On 6th November, 1793, an order issued to stop and detain ships laden with the produce of, or carrying provisions to, the colonies of France.

On 21st March, 1799, she issued a proclamation declaring the United Provinces in a state of blockade, and thereby excluding neutral commerce without any actual investment.

On 16th May, 1806, a proclamation declaring the blockade of the coast from the Elbe to Brest, inclusive.

On 7th January, 1807, an order prohibiting neutral vessels from trading from one port to another of the enemy or his allies.

On 11th May, 1807, a proclamation declaring the blockade of the coast between the Elbe, Weser, and Ems.

On 11th May, 1807, a proclamation declaring the blockade of the Dardanelles and Smyrna.

In October, 1807, a proclamation, ordering British officers to impress from American vessels all such of their crews as might be taken *or mistaken* for British subjects.

On 11th November, 1807, Orders in Council were issued interdicting all neutral commerce to any port of Europe from which the British flag was excluded; directing that neutrals should trade to such ports only, under British license and with British clearances – that all ships destined before the issuing of the orders to any of the said ports, should go into a British port, and that all vessels having "certificates of origin" should be lawful prize.

On 11th November, 1807, an Order in Council was issued, declaring void the legal transfer of vessels from the enemies of Britain, to neutrals or others.

In 1808, various acts of Parliament have been passed, carrying the orders of the 11th of November, 1807, into execution. They impose a specific tax on a variety of articles of American merchandise allowed to be re-exported to the continent of Europe, for example, on tobacco, 12*s.* 6*d.* sterling per cwt.; on indigo, 2*s.* per lb.; pork, 17*s.* 6*d.* per cwt.; cotton, 9*d.* per lb.; and on all other articles not enumerated in the act, a duty of forty per cent. is exacted on re-exportation.

On 8th January, 1808, a proclamation issued declaring the blockade of Carthagena, Cadiz, and St. Lucar, and all the ports between the first and last of these places.

In the Autumn of 1808, in order that plunder might commence from the very moment of the expected repeal of the embargo, the French West India islands were declared in a state of blockade.

I will forbear, sir, at this time from commenting on the habitual impressment of American citizens, by Great Britain; the illegal condemnation of American vessels under what they call the rule of 1756; the spurious blockades of British commanders, and the consequent spoliations on our commerce. Nor will I detain the House by relating the story of Captain Bradley, commander of the Cambrian, who in the face of the city of New York, and in contempt of the civil authority of the United States, dragged your citizens into slavish captivity. The case too of the British ship Leander may remain untold – the enormity of that transaction is written in indelible characters, with the blood of our countrymen. The invitation of the British Ministry to your merchants to violate the embargo, and the burning of a friendly ship of war (the Impetueux) in your own waters, are circumstances too light to be noticed. I feel no disposition, either, to portray the affair of the Chesapeake. The ghosts of the murdered are yet unavenged for that horrid and perfidious deed!

I will now advert, sir, to the principal injuries committed by France on the neutral commerce of the United States. They consist in the execution of three decrees, to wit:

The Berlin decree of the 21st November, 1806, declaring the British islands in a state of blockade, and that no vessel having been at or coming directly from England or her colonies, shall enter at a French port.

The Milan decree of the 17th December, 1807, declaring lawful prize every vessel that has suffered the visit of an English vessel, submitted to an English voyage, or paid duty to the English Government; and also, every vessel coming from the ports of England and her colonies.

The Bayonne decree of April, 1808, which subjects, as it is said, and I believe not doubted, all American vessels found upon the high seas since the embargo, to capture and confiscation.

Here, Mr. Speaker, I will end the black catalogue of iniquitous outrages and restrictions upon neutral commerce – restrictions which are acknowledged to depend for their support upon no other ground than that of retaliation. Whilst I protest against the principle of retaliating upon an enemy through the medium of a friend, yet these orders and decrees have no claim even to that principle. Because France and Britain both agree that the right of retaliation does not accrue before the neutral has acquiesced in the aggressions of the enemy. We have never acquiesced in the aggressions of either, and therefore, upon their own reasoning, ought not to be liable to the operation of the principle for which they unjustly contend. But, sir, can we quit this subject without looking more particularly at the consequences which result from this series of injuries?

In reviewing the conduct of Great Britain towards this country, we perceive a continuation of encroachments, designed only for the utter destruction of our commerce. This disposition is manifest in every order and proclamation she has issued since the year 1793. If this were not her object, why such a continued system of illegitimate blockades? Why so many vexatious restrictions upon neutral trade, tending to destroy competition on our part in the continental markets? I might trace the scheme a little further back, and ask, whence the outrages? the orders of June and November, 1793, which produced Jay's treaty? A treaty which I am sorry to say, did not guarantee to us mutual and reciprocal rights, and which was no sooner ratified than violated by British perfidy. But, sir, I will not speak of trivial matters, like these; they are of no consequence when we reflect upon other topics. The pretended blockade of almost every port upon the Baltic; the blockade of the eastern and southern coasts of the North Sea, unaccompanied by any naval force; the nominal investment of the ports on the south of the British channel, and on the European coast of the Mediterranean sea; the occlusion of the Black Sea, by the blockade of the Dardanelles and Smyrna, and in fine the blockade of all the places from the Straits of Gibraltar to the Arctic Ocean, are acts which, notwithstanding their unexampled enormity in themselves, sink into perfect insignificance, when we consider the base attempts meditated by the orders of November, 1807, and the consequent statutes of Parliament, to reduce this country again to a state of colonial slavery! Sir, at the very thought of these infamous orders and acts of the British Government, I feel emotions of indignation and contempt, to repress which would be dishonorable. What, sir? American vessels to be arrested in a lawful commerce, upon "the highway of nations;" to be forcibly carried into British ports, and there either condemned, or else compelled before they can prosecute their voyage to take British clearances and pay a British tax! And if the owner of the cargo shall be unable to pay the amount of tax, he has the consolation left him of seeing his property burnt! Sooner would I see every vessel and every atom of our surplus produce make one general conflagration in our own country. For what purpose was the Revolution, in which the blood and treasure of our ancestors were the price of independence, if we are now to be taxed by Britain? The highest authority in the Union cannot constitutionally tax the exports, which are in part the products of the labor of the American people; yet the British Government has presumptuously undertaken to do it. I, sir, for one must protest against any thing like submission to this conduct. But let us see what we should get by submission. So far from gaining, it will be easy to demonstrate, that if we were to submit, we should be only remunerated with disgrace and ruin.

Wednesday, December 7

Mr. Say presented memorials from sundry late officers in the Pennsylvania line of the Revolutionary army, stating that, from the peculiar circumstances of the memorialists, they have been compelled to dispose of the certificates of pay and commutation granted them for military services rendered to the United States; and praying such relief in the premises as to the wisdom and justice of Congress shall seem meet.

Mr. Wharton presented a petition from sundry late officers of the Massachusetts, Pennsylvania, Maryland, Virginia, and North Carolina lines of the said Revolutionary arm, to the like effect.

The said memorials and petition were read, and ordered to lie on the table.

Mr. Durell moved that the House do come to the following resolution:

> *Resolved*, That it be the duty of the Clerk of this House to furnish the Representatives in Congress from each State in the Union, for the time being, and the Delegates from each of the Territories thereof, with one copy of every public document, including the laws and journals printed by order of the House, to be by them transmitted to the principal seminary of learning in each State and Territory, respectively.

The resolution was read, and, on motion of Mr. Bacon, ordered to lie on the table.

Foreign Relations

The House then resumed the consideration of the first member of the first resolution reported on Thursday last, from the Committee of the Whole, which was depending yesterday at the time of adjournment, in the words following, to wit:

> "*Resolved*, That the United States cannot, without a sacrifice of their rights, honor, and independence, submit to the late edicts of Great Britain."

Mr. G. W. Campbell concluded his observations of yesterday, as given entire in preceding pages.

Mr. Quincy. – Mr. Speaker, I offer myself to the view of this House with a very sensible embarrassment, in attempting to follow the honorable gentleman from Tennessee (Mr. Campbell) – a gentleman who holds so distinguished a station on this floor, through thy blessing, Mr. Speaker, on his talents and industry. I place myself with much reluctance in competition with this, our great political Æneas, an illustrious leader of antiquity, whom, in his present relations, and in his present objects, the gentleman from Tennessee not a little resembles; since, in order to evade the ruin impending over our cities – taking my honorable colleague (Mr. Bacon) by one hand, and the honorable gentleman from Maryland (Mr. Montgomery) by the other (little Iülus and wife Creusa) – he is posting away into the woods with Father Anchises and all the household gods.

When I had the honor of addressing this House a few days ago, I touched this famous report of our Committee of Foreign Relations perhaps a little too carelessly; perhaps I handled it a little too roughly, considering its tender age, and the manifest delicacy of its constitution. But, sir, I had no idea of affecting very exquisitely the sensibilities of any gentleman. I thought that this was a common report of one of our ordinary committees, which I had a right to canvass or to slight, to applaud or to censure, without raising any extraordinary concern, either here or elsewhere. But, from the general excitement which my inconsiderate treatment of this subject occasions, I fear that I have been mistaken. This can be no mortal fabric, Mr. Speaker. This must be that image which

fell down from Jupiter, present or future. Surely, nothing but a being of celestial origin would raise such a tumult in minds tempered like those which lead the destinies of this House. Sir, I thought that this report had been a common piece of wood —*inutile lignum*– just such a piece of wood as any day-laborer might have hewed out in an hour, had he health and a hatchet. But it seems that our honorable chairman of the Committee of Foreign Relations, *maluit esse Deum*. Well, sir, I have no objections. If the workmen will, a god it shall be. I only wish, that when gentlemen bring their sacred things upon this floor, that they would blow a trumpet before them, as the heathens do, on such occasions, to the end that all true believers may prepare themselves to adore and tremble, and that all unbelievers may turn aside, and not disturb their devotions.

I assure gentlemen that I meant to commit no sacrilege. I had no intention, sir, of canvassing very strictly this report. I supposed, that when it had been published and circulated, it had answered all the purposes of its authors, and I felt no disposition to interfere with them. But the House is my witness that I am compelled, by the clamor raised on all sides by the friends of the Administration, to descend to particulars, and to examine it somewhat minutely.

My honorable colleague (Mr. Bacon) was pleased the other day to assert: – Sir, in referring to his observations, on a former occasion, I beg the House not to imagine that I am about to follow him. No, sir; I will neither follow nor imitate him. I hang upon no man's skirts; I run barking at no man's heel. I canvass principles and measures solely with a view to the great interests of my country. The idea of personal victory is lost in the total absorption of sense and mind in the impending consequences. I say he was pleased to assert that I had dealt in general allegations against this report, without pointing out any particular objection. And the honorable chairman (Mr. Campbell) has reiterated the charge. Both have treated this alleged omission with no little asperity. Yet, sir, it is very remarkable, that, so far from dealing in general allegations, I explicitly stated my objections. The alternatives presented by the report – war or suspension of our rights, and the recommendation of the latter, rather than take the risk of the former, I expressly censured. I went further. I compared these alternatives with an extract from an address made by the first Continental Congress to the inhabitants of Great Britain, and attempted to show, by way of contrast, what I thought the disgraceful spirit of the report. Yet, these gentlemen complain that I dealt in general allegations. Before I close, sir, they will have, I hope, no reason to repeat such objections. I trust I shall be particular, to their content.

Before entering upon an examination of this report, it may be useful to recollect how it originated. By the third section of the second article of the constitution, it is declared that the President of the United States "shall, from time to time, give to Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient." It is, then, the duty of the President to recommend such measures as in his judgment Congress ought to adopt. A great crisis is impending over our country. It is a time of alarm, and peril, and distress. How has the President performed this constitutional duty? Why, after recapitulating, in a formal Message, our dangers and his trials, he expresses his confidence that we shall, "with an unerring regard to the essential rights and interests of the nation, weigh and compare the painful alternatives out of which a choice is to be made," and that "the alternative chosen will be maintained with fortitude and patriotism." In this way our Chief Magistrate performs his duty. A storm is approaching; the captain calls his choice hands upon deck; leaves the rudder swinging, and sets the crew to scuffle about *alternatives*! This Message, pregnant with nondescript alternatives, is received by this House. And what do we? Why, constitute a great Committee of Foreign Relations, and, lest they should not have their attention completely occupied by the pressing exigencies of those with France and Great Britain, they are endowed with the whole mass – British, Spanish, and French; Barbary Powers and Indian neighbors. And what does this committee do? Why, after seven days' solemn conclave, they present to this House an illustrious report, loaded with alternatives –

nothing but alternatives. The cold meat of the palace is hashed and served up to us, piping hot, from our committee room.

In considering this report, I shall pay no attention to either its beginning or its conclusion. The former consists of shavings from old documents, and the latter of birdlime for new converts. The twelfth page is the heart of this report; that I mean to canvass. And I do assert, that there is not one of all the principal positions contained in it which is true, in the sense and to the extent assumed by the committee. Let us examine each, separately:

> "Your committee can perceive no other alternative but abject and degrading submission, war with both nations, or a continuance and enforcement of the present suspension of our commerce."

Here is a tri-forked alternative. Let us consider each branch, and see if either be true, in the sense assumed by the committee. The first – "abject and degrading submission" – takes two things for granted: that trading, pending the edicts of France and Great Britain, is submission; and next that it is submission, in its nature, abject and degrading. Neither is true. It is not submission to trade, pending those edicts, because they do not command you to trade; they command you *not* to trade. When you refuse to trade, you submit; not when you carry on that trade, as far as you can, which they prohibit. Again, it is not true that such trading is abject and disgraceful, and that, too, upon the principles avowed by the advocates of this report. Trading, while these edicts are suspended over our commerce, is submission, say they, because we have not physical force to resist the power of these belligerents; of course, if we trade, we must submit to these restrictions, not having power to evade or break through them. Now, admit, for the sake of argument, (what however in fact I deny,) that the belligerents have the power to carry into effect their decrees so perfectly; that, by reason of the orders of Great Britain, we are physically disabled from going to France; and that, by the edicts of France, we are in like manner disabled from going to Great Britain. If such be our case, in relation to these powers, the question is, whether submitting to exercise all the trade which remains to us, notwithstanding these edicts, is "abject and degrading."

In the first place, I observe, that submission is not, to beings constituted as we are, always "abject and degrading." We submit to the decrees of Providence – to the laws of our nature. Absolute weakness submits to absolute power; and there is nothing in such submission shameful or degrading. It is no dishonor for finite not to contend with infinite. There is no loss of reputation if creatures, such as men, perform not impossibilities. If then it be true, in the sense asserted by some of the advocates of this report, that it is physically impossible for us to trade with France and Great Britain and their dependencies, by reason of these edicts, still there is nothing "abject or degrading" in carrying on such trade as these edicts leave open to us, let it be never so small or so trifling; which, however, it might be easily shown, as it has been, that it is neither the one nor the other. Sir, in this point of view, it is no more disgraceful for us to trade to Sweden, to China, to the Northwest coast, or to Spain and her dependencies – not one of which countries is now included in those edicts – than it is disgraceful for us to walk, because we are unable to fly; no more than it is shameful for man to use and enjoy the surface of this globe, because he has not at his command the whole circle of nature, and cannot range at will over all the glorious spheres which constitute the universe.

The gentleman from Tennessee (Mr. Campbell) called upon us just now to tell him what was disgraceful submission, if carrying on commerce under these restrictions was not such submission. I will tell that gentleman. That submission is "abject and disgraceful" which yields to the decrees of frail and feeble power, as though they were irresistible; which takes counsel of fear, and weighs not our comparative force; which abandons the whole, at a summons to deliver up a part; which makes the will of others the measure of rights, which God and nature not only have constituted eternal and unalienable, but have also endued us with ample means to maintain.

My argument on this clause of the report of the committee may be presented in this form: either the United States have or they have not physical ability to carry on commerce in defiance of the edicts of both or of either of these nations. If we have not physical ability to carry on the trade which they prohibit, then it is no disgrace to exercise that commerce which these irresistible decrees permit. If we have such physical ability, then, to the degree in which we abandon that commerce which we have power to carry on, is our submission "abject and disgraceful." It is yielding without a struggle; it is sacrificing our rights, not because we have not force, but because we have not spirit to maintain them. It is in this point of view that I am disgusted with this report. It abjures what it recommends; it declaims, in heroics, against submission, and proposes, in creeping prose, a tame and servile subserviency.

It cannot be concealed, let gentlemen try as much as they will, that we can trade, not only with one, but with both these belligerents, notwithstanding these restrictive decrees. The risk to Great Britain against French capture scarcely amounts to two per cent.; that to France against Great Britain is unquestionably much greater. But, what is that to us? It is not our fault, if the power of Britain on the ocean is superior to that of Bonaparte. It is equal and exact justice between both nations for us to trade with both, as far as it is in our power. Great as the power of Britain is on the ocean, the enterprise and intrepidity of our merchants are more than a match for it. They will get your products to the Continent in spite of her navy. But suppose they do not; suppose they fail, and are captured in the attempt; what is that to us? After we have given them full notice of all their dangers, and perfect warning, either of our inability or of our determination not to protect them, if they take the risk, it is at their peril. And, upon whom does the loss fall? As it does now, through the operation of your embargo, on the planter, on the farmer, on the mechanic, on the day-laborer? No, sir; on the insurer – on the capitalist – on those who in the full exercise of their intelligence, apprised of all the circumstances, are willing to take the hazard for the sake of the profit.

I will illustrate my general idea by a supposition. There are two avenues to the ocean from the harbor of New York – by the Narrows, and through Long Island Sound. Suppose the fleets, both of France and Great Britain, should block up the Narrows, so that to pass them would be physically impossible, in the relative state of our naval force. Will gentlemen seriously contend that there would be any thing "abject or disgraceful," if the people of New York should submit to carry on their trade through the Sound? Would the remedy for this interference with our rights be abandoning the ocean altogether? Again: suppose, that instead of both nations blockading the same point, each should station its force at a different one – France at the mouth of the Sound, Britain at the Narrows. In such case, would staying at home, and refusing any more to go upon the sea, be an exercise of independence in the citizens of New York? Great philosophers may call it "dignified retirement," if they will. I call it, and I am mistaken if the people would not call it, "base and abject submission." Sir, what in such a case would be true honor? Why, to consider well which adversary is the weakest, and cut our way to our rights through the path which he obstructs. Having removed the smaller impediment, we should return with courage, strengthened by trial and animated by success, to the relief of our rights, from the pressure of the strongest assailant. But, all this is war; and war is never to be incurred. If this be the national principle, avow it; tell your merchants you will not protect them; but, for Heaven's sake, do not deny them the power of relieving their own and the nation's burdens, by the exercise of their own ingenuity. Sir, impassable as the barriers offered by these edicts are in the estimation of members on this floor, the merchants abroad do not estimate them as insurmountable. Their anxiety to risk their property, in defiance of them, is full evidence of this. The great danger to mercantile ingenuity is internal envy – the corrosion of weakness or prejudice. Its external hazard is ever infinitely smaller. That practical intelligence which this class of men possesses, beyond any other in the community, excited by self-interest – the strongest of human passions – is too elastic to be confined by the limits of exterior human powers, however

great or uncommon. Build a Chinese wall, and the wit of your merchants, if permitted freely to operate, will break through it or overleap it, or undercreep it.

> –"mille adde catenas
> Effugiet tamen, hæc sceleratus vincula Proteus."

The second branch of the alternatives under consideration is equally deceptive – "War with both nations." Can this ever be an alternative? Did you ever read in history, can you conceive in fancy, a war of two nations, each of whom is at war with the other, without a union with one against the other immediately resulting? It cannot exist in nature. The very idea is absurd. It never can be an alternative, whether we shall find two nations each hostile to the other. But it may be, and if we are to fight at all, it is a very serious question, which of the two we are to select as an adversary. As to the third branch of these celebrated alternatives, "a continuance and enforcement of the present system of commerce," I need not spend time to show that this does not include all the alternatives which exist under this head – since the committee immediately admit, that there does exist another alternative, "partial repeal," about which they proceed to reason.

The report proceeds. "The first" (abject and degrading submission) "cannot require any discussion." Certainly not. Submission of that quality which the committee assume, and with the epithets of which they choose to invest it, can never require discussion at any time. But, whether trading under these orders and decrees be such submission, whether we are not competent to resist them in part, if not in whole, without a total abandonment of the exercise of all our maritime rights, the comparative effects of the edicts of each upon our commerce and the means we possess to influence or control either, are all fair and proper subjects of discussion; some of which the committee have wholly neglected and none of which have they examined, as the House had a right to expect.

The committee proceed "to dissipate the illusion" that there is any "middle course," and to reassert the position before examined, that "there is no other alternative than war with both nations, or a continuance of the present system." This position they undertake to support by two assertions. First, that "war with one of the belligerents only, would be submission to the edicts and will of the other." Second, that "repeal in whole or in part of the embargo, must necessarily be war or submission."

As to the first assertion, it is a miserable fallacy, confounding coincidence of interest with subjection of will; things in their nature palpably distinct. A man may do what another wills, nay, what he commands, and not act in submission to his will, or in obedience to his command. Our interest or duty may coincide with the line of conduct another presumes to prescribe. Shall we vindicate our independence at the expense of our social or moral obligations? I exemplify my idea in this way. Two bullies beset your door, from which there are but two avenues. One of them forbids you to go by the left, the other forbids you to go by the right avenue. Each is willing that you should pass by the way which he permits. In such case, what will you do? Will you keep house forever, rather than make choice of the path through which you will resume your external rights? You cannot go both ways at once, you must make your election. Yet, in making such election, you must necessarily coincide with the wishes and act according to the commands of one of the bullies. Yet who, before this committee, ever thought an election of one of two inevitable courses, made under such circumstances, "abject and degrading submission" to the will of either of the assailants? The second assertion, that "repeal in whole or in part of the embargo must necessarily be war or submission," the committee proceed to maintain by several subsidiary assertions. First – "a general repeal without arming would be submission to both nations." So far from this being true, the reverse is the fact; it would be submission to neither. Great Britain does not say, "you shall trade with me." France does not say, "you shall trade with me." If this was the language of their edicts, there

might be some color for the assertion of the committee, that if we trade with either we submit. The edicts of each declare you shall not trade with my adversary. Our servile knee-crooking embargo says, "you shall, therefore, not trade." Can any submission be more palpable, more "abject, more disgraceful?" A general repeal without arming, would be only an exercise of our natural rights, under the protection of our mercantile ingenuity, and not under that of physical power. Whether our merchants shall arm or not, is a question of political expediency and of relative force. It may be very true that we can fight our way to neither country, and yet it may be also very true, that we may carry on a very important commerce with both. The strength of the national arm may not be equal to contend with either, and yet the wit of our merchants may be over-match for the edicts of all. The question of arming or not arming, has reference only to the mode in which we shall best enjoy our rights, and not at all to the quality of the act of trading during these edicts. To exercise commerce is our absolute right. If we arm, we may possibly extend the field beyond that which mere ingenuity would open to us. Whether the extension thus acquired be worthy of the risk and expense, is a fair question. But, decide it either way, how is trading as far as we have ability, made less abject than not trading at all?

I come to the second subsidiary assertion. "A general repeal and arming of merchant vessels, would be war with both, and war of the worst kind, suffering the enemies to plunder us, without retaliation upon them."

I have before exposed the absurdity of a war with two belligerents, each hostile to the other. It cannot be true, therefore, that "a general repeal and arming our merchant vessels," would be such a war. Neither if war resulted, would it be "war of the worst kind." In my humble apprehension, a war, in which our enemies are permitted to plunder us, and our merchants not permitted to defend their property, is somewhat worse than a war like this; in which, with arms in their hands, our brave seamen might sometimes prove too strong for their piratical assailants. By the whole amount of property which we might be able to preserve by these means, would such a war be better than that in which we are now engaged. For the committee assure us, that the aggressions to which we are subject, "are to all intents and purposes a maritime war, waged with both nations against the United States."

The last assertion of the committee, in this most masterly page is, that "a partial repeal must from the situation of Europe, necessarily be actual submission to one of the aggressors, and war with the other." In the name of common sense, how can this be true? The trade to Sweden, to Spain, to China, is not now affected by the orders or decrees of either belligerent. How is it submission, then, to these orders for us to trade to Gottenburg, when neither France nor Britain command, nor prohibit it? Of what consequence is it to us what way the Gottenburg merchant disposes of our products, after he has paid us our price? I am not about to deny that a trade to Gottenburg would defeat the purpose of coercing Great Britain, through the want of our supplies, but I reason on the report upon its avowed principles. If gentlemen adhere to their system, as a means of coercion, let the Administration avow it as such, and support the system, by arguments, such as their friends use every day on this floor. Let them avow, as those friends do, that this is our mode of hostility against Great Britain. That it is better than "ball and gunpowder." Let them show that the means are adequate to the end; let them exhibit to us, beyond the term of all this suffering, a happy salvation, and a glorious victory, and the people may then submit to it, even without murmur. But while the Administration support their system only as a municipal regulation, as a means of safety and preservation, those who canvass their principle are not called upon to contest with them on ground, which not only they do not take, but which, officially, they disavow. As partial repeal would not be submission to either, so, also, it would not be war with either. A trade to Sweden would not be war with Great Britain; that nation is her ally, and she permits it. Nor with France, though Sweden is her enemy, she does not prohibit it. Ah! but say the committee, "a measure which would supply exclusively one of the belligerents, would be war with the other." This is the State secret; this is

the master-key to the whole policy. You must not only do what the letter of these orders prohibits, but you must not sin against the spirit of them. The great purpose is, to prevent your product from getting to our enemy, and to effect this you must not only so act as to obey the terms of the decrees, but keeping the great purpose of them always in sight, you must extend their construction to cases which they cannot, by any rule of reason, be made to include.

Sir, I have done with this report. I would not have submitted to the task of canvassing it, if gentlemen had not thrown the gauntlet with the air of sturdy defiance. I willingly leave to this House and the nation to decide whether the position I took in the commencement of my argument is not maintained; that there is not one of the principal positions contained in the 12th page, the heart of this report, which is true, in the sense and to the extent assumed by the committee.

It was under these general impressions that I used the word "loathsome," which has so often been repeated. Sir, it may not have been a well chosen word. It was that which happened to come to hand first. I meant to express my disgust at what appeared to me a mass of bold assumptions, and of illy-cemented sophisms.

I said, also, that "the spirit which it breathed was disgraceful" Sir, I meant no reflection upon the committee. Honest men and wise men may mistake the character of the spirit which they recommend, or by which they are actuated. When called upon to reason concerning that which, by adoption, is to become identified with the national character, I am bound to speak of it as it appears to my vision. I may be mistaken. Yet, I ask the question: is not the spirit which it breathes disgraceful? Is it not disgraceful to abandon the exercise of all our commercial rights, because our rivals interfere with a part; not only to refrain from exercising that trade which they prohibit, but for fear of giving offence, to decline that which they permit? Is it not disgraceful, after inflammatory recapitulation of insults, and plunderings, and burnings, and confiscations, and murders, and actual war made upon us, to talk of nothing but alternatives, of general declarations, of still longer suspension of our rights, and retreating farther out of "harm's way?" If this course be adopted by my country, I hope I am in error concerning its real character. But to my sense, this whole report is nothing else than a recommendation to us of the abandonment of our essential rights and apologies for doing it.

Before I sit down, I feel myself compelled to notice some observations which have been made in different quarters of this House on the remarks which, at an early stage of this debate, I had the honor of submitting to its consideration. My honorable colleague (Mr. Bacon) was pleased to represent me as appealing to the people over the heads of the whole Government, against the authority of a law which had not only the sanction of all the legislative branches of the Government, but also of the Judiciary. Sir, I made no such appeal. I did not so much as threaten it. I admitted, expressly, the binding authority of the law. But I claim a right, which I ever will claim, and ever will exercise, to urge, on this floor, my opinion of the unconstitutionality of a law, and my reasons for that opinion, as a valid ground for its repeal. Sir, I will not only do this, I will do more. If a law be, in my apprehension, dangerous in its principles, ruinous in its consequences, above all if it be unconstitutional, I will not fail in every fair and honorable way to awaken the people to a sense of their peril; and to quicken them, by the exercise of their constitutional privileges, to vindicate themselves and their posterity from ruin.

My honorable colleague (Mr. Bacon) was also pleased to refer to me, "as a man of divisions and distinctions, waging war with adverbs, and dealing in figures." Sir, I am sorry that my honorable colleague should stoop "from his pride of place," at such humble game as my poor style presents to him. Certainly, Mr. Speaker, I cannot but confess that, "deeming high" of the station which I hold; standing, as it were, in the awful presence of an assembled people, I am more than ordinarily anxious, on all occasions, to select the best thoughts in my narrow storehouse, and to adapt to them the most appropriate dress in my intellectual wardrobe. I know not whether, on this account, I am justly obnoxious to the asperity of my honorable colleague. But, on the subject of figures, sir, this

I know, and cannot refrain from assuring this House that, as on the one hand, I shall, to the extent of my humble talents, always be ambitious, and never cease striving to make a decent figure on this floor; so, on the other, I never can be ambitious, but, on the contrary, shall ever strive chiefly to avoid cutting a figure like my honorable colleague.

The gentleman from Georgia, (Mr. Troup,) the other day, told this House that, if commerce were permitted, such was the state of our foreign relations, none but bankrupts would carry on trade. Sir, the honorable gentleman has not attained correct information in this particular. I do not believe that I state any thing above the real fact, when I say that, on the day this Legislature assembled, one hundred vessels, at least, were lying in the different ports and harbors of New England loaded, riding at single anchor, ready and anxious for nothing so much as for your leave to depart. Certainly, this does not look much like any doubt that a field of advantageous commerce would open, if you would unbar the door to your citizens. That this was the case in Massachusetts I know. Before I left that part of the country, I had several applications from men, who stated that they had property in such situations, and soliciting me to give them the earliest information of your probable policy. The men so applying, I can assure the House, were no bankrupts; but intelligent merchants, shrewd to perceive their true interests; keen to pursue them. The same honorable gentleman was also pleased to speak of "a paltry trade in potash and codfish," and to refer to me as the Representative of men who raised "beef and pork, and butter and cheese, and potatoes and cabbages." Well, sir, I confess the fact. I am the Representative, in part, of men, the products of whose industry are beef and pork, and butter and cheese, and potatoes and cabbages. And let me tell that honorable gentleman, that I would not yield the honor of representing such men, to be the Representative of all the growers of cotton and rice, and tobacco and indigo, in the whole world. Sir, the men whom I represent, not only raise those humble articles, but they do it with the labor of their own hands, with the sweat of their own brows. And by this, their habitual mode of hardy industry, they acquire a vigor of nerve, a strength of muscle, and spirit of intelligence, somewhat characteristic. And let me say to that honorable gentleman, that the men of whom I speak will not, at his call, nor at the invitation of any man or set of men from his quarter of the Union, undertake to "drive one another into the ocean." But, on the contrary, whenever they once realize that their rights are invaded, they will unite, like a band of brothers, and drive their enemies there.

The honorable gentleman from Kentucky, (Mr. Johnson,) speaking of the embargo, said, that this was the kind of conflict which our fathers waged; and my honorable colleague (Mr. Bacon) made a poor attempt to confound this policy with the non-intercourse and non-importation agreement of 1774 and 1775. Sir, nothing can be more dissimilar. The non-intercourse and non-importation agreement of that period, so far from destroying commerce, fostered and encouraged it. The trade with Great Britain was indeed voluntarily obstructed, but the enterprise of our merchants found a new incentive in the commerce with all the other nations of the globe, which succeeded immediately on our escape from the monopoly of the mother country. Our navigation was never suspended. The field of commerce at that period, so far from being blasted by pestiferous regulations, was extended by the effect of the restrictions adopted.

But let us grant all that they assert. Admit, for the sake of argument, that the embargo, which restrains us now from communication with all the world, is precisely synonymous with that non-intercourse and non-importation which restrained us then from Great Britain. Suppose the war, which we now wage with that nation, is in every respect the same as that which our fathers waged with her in 1774 and 1775. Have we from the effects of their trial any lively hope of success in our present attempt? Did our fathers either effect a change in her injurious policy or prevent a war by non-intercourse? Sir, they did neither the one nor the other. Her policy was never changed until she had been beaten on our soil, in an eight years' war. Our fathers never relied upon non-intercourse and non-importation, as measures of hostile coercion. They placed their dependence upon them solely as means of pacific influence among the people of that nation. The relation in

which this country stood at that time with regard to Great Britain, gave a weight and a potency to those measures then, which in our present relation to her, we can neither hope nor imagine possible. At that time we were her Colonies, a part of her family. Our prosperity was essentially hers. So it was avowed in this country. So it was admitted in Great Britain. Every refusal of intercourse which had a tendency to show the importance of these then colonies to the parent country, of the part to the whole, was a natural and a wise means of giving weight to our remonstrances. We pretended not to control, but to influence, by making her feel our importance. In this attempt we excited no national pride on the other side of the Atlantic. Our success was no national degradation, for the more we developed our resources and relative weight, the more we discovered the strength and resources of the British power. We were the component parts of it. All the measures of the Colonies, antecedent to the Declaration of Independence, had this principle for their basis. As such, non-importation and non-intercourse were adopted in this country. As such, they met the co-operation of the patriots of Great Britain, who deemed themselves deviating from none of their national duties, when they avowed themselves the allies of American patriots, to drive, through the influence of the loss of our trade, the ministry from their places, or their measures. Those patriots did co-operate with our fathers, and that openly, in exciting discontent, under the effect of our non-intercourse agreements. In so doing, they failed in none of their obligations to their sovereign. In no nation can it ever be a failure of duty to maintain that the safety of the whole depends on preserving its due weight to every part. Yet, notwithstanding the natural and little suspicious use of these instruments of influence, notwithstanding the zeal of the American people coincided with the views of Congress, and a mighty party existed in Great Britain openly leagued, with our fathers, to give weight and effect to their measures, they did not effect the purposes for which they were put into operation. The British policy was not abandoned. War was not prevented. How then can any encouragement be drawn from that precedent, to support us under the privations of the present system of commercial suspension? Can any nation admit that the trade of another is so important to her welfare, as that on its being withdrawn, any obnoxious policy must be abandoned, without at the same time admitting that she is no longer independent? Sir, I could indeed wish that it were in our power to regulate not only Great Britain, but the whole world, by opening or closing our ports. It would be a glorious thing for our country to possess such a mighty weapon of defence. But, acting in a public capacity, with the high responsibilities resulting from the great interests dependant upon my decision, I cannot yield to the wishes of lovesick patriots, or the visions of teeming enthusiasts; I must see the adequacy of means to their ends. I must see, not merely that it is very desirable that Great Britain should be brought to our feet, by this embargo, but that there is some likelihood of such a consequence to the measure, before I can concur in that universal distress and ruin which, if much longer continued, will inevitably result from it. Since, then, every dictate of sense and reflection convinces me of the utter futility of this system, as a means of coercion, on Great Britain, I shall not hesitate to urge its abandonment. No, sir, not even although, like others, I should be assailed by all the terrors of the outcry of British influence.

Really, Mr. Speaker, I know not how to express the shame and disgust with which I am filled, when I hear language of this kind cast out upon this floor, and thrown in the faces of men, standing justly on no mean height in the confidence of their countrymen. Sir, I did, indeed, know that such vulgar aspersions were circulating among the lower passions of our nature. I knew that such vile substances were ever tempering between the paws of some printer's devil. I knew that foul exhalations like these daily rose in our cities, and crept along the ground, just as high as the spirits of lampblack and saline oil could elevate; falling, soon, by native baseness, into oblivion, in the jakes. I knew, too, that this species of party insinuation was a mighty engine, in this quarter of the country, on an election day, played off from the top of a stump, or the top of a hogshead, while the gin circulated, while barbecue was roasting; in those happy, fraternal associations and consociations, when those who speak, utter without responsibility, and those who listen, hear without scrutiny. But

little did I think, that such odious shapes would dare to obtrude themselves, on this national floor, among honorable men; – the select representatives, the confidential agents of a wise, a thoughtful and a virtuous people. I want language to express my contempt and indignation at the sight.

So far as respects the attempt which has been made to cast such aspersions on that part of the country which I have the honor to represent, I beg this honorable House to understand, that so long as they, who circulate such insinuations, deal only in generals and touch not particulars, they may gain among the ignorant and the stupid a vacant and a staring audience. But when once these suggestions are brought to bear upon those individuals who in New England have naturally the confidence of their countrymen, there is no power in these calumnies. The men who now lead the influences of that country, and in whose councils the people on the day when the tempest shall come will seek refuge, are men whose stake is in the soil, whose interests are identified with those of the mass of their brethren, whose private lives and public sacrifices present a never-failing antidote to the poison of malicious invectives. On such men, sir, party spirit may indeed cast its odious filth, but there is a polish in their virtues to which no such slime can adhere. They are owners of the soil; real yeomanry; many of them men who led in the councils of our country in the dark day which preceded the national independence; many of them men who, like my honorable friend from Connecticut on my left, (Mr. Tallmadge,) stood foremost on the perilous edge of battle; making their breasts in the day of danger a bulwark for their country. True it is, Mr. Speaker, there is another and a much more numerous class, composed of such as through defect of age can claim no share in the glories of our Revolution; such as have not yet been blest with the happy opportunity of "playing the man" for their country; generous sons of illustrious sires; men, not to be deterred from fulfilling the high obligations they owe to this people by the sight of foul and offensive weapons. Men who, with little experience of their own to boast, will fly to the tombs of their fathers, and questioning, concerning their duties, the spirit which hovers there, will no more shrink from maintaining their native rights, through fear of the sharpness of malevolent tongues, than they will, if put to the trial, shrink from defending them through fear of the sharpness of their enemies' swords.

When Mr. Quincy had concluded, the House adjourned without taking a question.

Thursday, December 8

On motion of Mr. Newton, that the unfinished business of yesterday, depending at the time of adjournment, do lie on the table; and that the House do now resolve itself into a Committee of the Whole on the amendatory bill authorizing the President to employ an additional number of revenue cutters: and the question being taken thereupon, it was resolved in the affirmative.

The House accordingly resolved itself into the said committee; and, after some time spent therein, the bill was reported without amendment, and ordered to be engrossed, and read the third time to-day.

Foreign Relations

The House then resumed the consideration of the first member of the first resolution reported on Thursday last from the Committee of the Whole, which was depending yesterday at the time of adjournment, in the words following, to wit:

> "*Resolved*, That the United States cannot, without a sacrifice of their rights, honor, and independence, submit to the late edicts of Great Britain."

Mr. Key said that it was with much regret that he had seen the course which the debate on the first resolution had taken; as the propositions contained in that resolution met his entire and full approbation, he could have wished that instead of the discussion which had taken place, a silent, dignified vote, the spontaneous effect of feeling and judgment, had at once passed. It would have been a better course, would have had a better effect, and kept the American mind from the impression which the protraction of the discussion must have occasioned, when taken in connection with the subject. A view however of the embargo had been gone into in respect to its past effects at home, and its probable future effects at home and abroad. As that course had been adopted, he said he should find an apology for the time which he should occupy, in the present eventful crisis, and the interest it universally excited.

I did myself believe (said Mr. Key) that the first resolution was an abstract proposition, and I still think so, although gentlemen consider it special; but surely a special proposition may be an abstract one. That which I consider an abstract proposition, is one out of which no future legislative proceedings can grow; but I agree that the crisis well warrants an expression of the public voice.

I shall take up the report and resolutions as a system, not with a view to condemn the report at all, for I take it as gentlemen wish it to be considered. I understand the gentleman from Massachusetts (Mr. Bacon) as stating that the committee on our foreign relations had said nothing of the embargo. It was not necessary, Mr. Speaker, that they should, for the embargo law continues in operation until repealed. But surely it must be recollected that the Committee on Foreign Relations in their resolutions seemed to consider the system which they recommend, as including a continuance of the embargo; and I trust I meet the committee on fair and firm ground, when I consider their assent to be implied to the continuance of the embargo, and that it is their opinion that the measures which they recommend, united with the embargo, form an efficient system proper for the American people to adopt at this time. I shall necessarily therefore endeavor to answer gentlemen who have considered the embargo as a wise measure for the American people; that they are competent to bear it; and that it will, if guarded more sedulously, yet work out the political salvation of our land.

That the embargo is a measure severely felt by our country at large, and by some portions of it to a very eminent degree, cannot be denied. I did not expect to hear its effects contradicted; but they have been in some measure softened by the honorable chairman of the committee. I think the

pressure of this measure great, and in some places requiring all the exertion of patriotism to support it. And as a proof of it, the members on this floor from different parts of the Union have only contended which section suffered most. A member from Massachusetts, (Mr. Quincy,) because he conceives that thirty millions of dollars have been lost to the Eastern country by the measure, hence concludes that the Eastern country suffers most. The gentlemen from the Southern country say that they raise seventy millions of pounds of cotton, of which but ten millions are consumed at home, and the whole of the residue remains on hand; and that having seven-tenths of their produce unsold, conceive that they most sensibly feel the weight of this affliction in their country. A member from Virginia (Mr. Randolph) will not yield the palm of oppression to either. "I live (said the gentleman) in the centre of the tobacco country, whether you draw the line from East to West, or from North to South. We are not less pressed than others, for we have no vent for this article so obnoxious in itself, but which the taste of mankind has rendered necessary." Now, with great deference to all these gentlemen, I say that my country suffers most. The Southern country possesses its staples, which but remain on hand; their value only diminished by the non-export. Tobacco and cotton may be preserved without material injury for a length of time. We know that at the close of the Revolutionary war tobacco bore a greater price than previous to its commencement, and amply remunerated the holders. But I represent an agricultural country. What can resuscitate wheat devoured by the fly? What restore flour soured in the barrel? Our produce perishes, the subject is destroyed. So far therefore as I represent an extensive and fertile farming district, I will not yield the palm of pressure to the cotton and tobacco country. So great has been the feeling of the people that it has wrought a wondrous change in the State which I have the honor to represent; not in men who are either deluded or deceived, as intimated by the gentleman from Tennessee, (Mr. Campbell,) but men who, by the pressure of the embargo itself, have been driven to reflection, and by reflection removed the film from their eyes, and thereby seen their true interests more distinctly. In the course of the last Winter, the Legislature of the State of Maryland, believing that the Orders in Council justified the embargo, and that it was a wise measure, approved of it. Succeeding elections have taken place, and the present House of Representatives tells you that it is most ruinous and oppressive. Such certainly are its effects in the State of Maryland; and I should illy represent my own district, if I did not so declare. Gentlemen will say that I should rather be pleased with the change than regret it; but, so help me God, Mr. Speaker, I am much less anxious what description of citizens administers the affairs of the country, than that they should be well administered; that it should protect the liberty, give to labor its just reward, and promote the happiness and prosperity of the citizens.

But it is alleged, by the honorable chairman of the committee, (Mr. Campbell,) that this is a delusion; that the people do not comprehend the subject; for that it is the Orders in Council which have produced our embarrassments, and not the embargo. Here then, sir, I am precisely at issue with that learned and honorable gentleman. I contend that the pressure on the people is caused by the embargo, and not by the Orders in Council. However speculative theorists may reason, there is proof abroad, and stubborn facts to contradict their reasoning. Test the market from Boston to Savannah, as to the price which you may get at ninety days credit, the embargo being continued, or on condition that the embargo be repealed in thirty days. Is there no difference in the price under these circumstances? I know well from experience, and the whole country knows, that if the embargo be now taken off, the price of every species of produce will rise fifty per cent. The depreciation in price then flows from the embargo. Remove it and they will give you more; keep it on and they will give you less. These are stubborn facts, and every man who has gone to the market will attest their correctness. You may reason as you please; but there is not a farmer that can be reasoned out of his senses, especially when they are sharpened a little by necessity. I hold these facts to be more conclusive than any abstract reasoning to prove that the embargo does work a diminution in the value of the articles which we have for sale. If this be the case, it results, sir,

that we must ascribe to the operation of that measure the loss our country now so greatly feels. Our citizens are not so uninformed as the gentleman from Tennessee imagines. He thinks, and I agree with him, that the public voice will be generally right when the people are well informed. They have seen all the official communications which have been published, and are competed to judge whether the Orders in Council justified the embargo, and whether, if the embargo had not been laid, they would have wrought that effect which we now so sensibly feel. Instead of being deluded, sir, their eyes are open, and the film removed; and they see that the embargo was not justified by necessity, and as far as their opinion has been expressed, that it was impolitic and unwise.

The gentleman seems to think that the country cannot feel much because it feeds well; but we may feel and feed at the same time. It is plenty that we complain of. Our surplus is touched by this torpedo, the embargo, and is thereby rendered useless. But gentlemen say that if the embargo were now taken off, we could not trade; and a calculation has been entered into by the gentleman from Tennessee in opposition to one made by me at the last session. I have not seen my calculation for months, sir; it is before the public – the gentleman's statement will go to the same tribunal, and I am willing to commit my slender reputation to the country for the accuracy of mine, and let the people judge between us. The gentleman tells you that we have no commerce to resort to which would be either safe or profitable. It is strange we cannot confide the decision of this question to commercial men – for what commercial man would undertake a voyage which shall be attended with certain ruin? I had thought that men of great experience and information, and whose knowledge was sharpened by interest, might be safely confided in. But merchants, whose habits of life have led them to calculate, whose information extends to every part of the world, are not to be trusted with the prosecution of their own interest, but we must kindly take it in hand for them! Sir, I contend that commerce had better be left free for merchants to find a market, which every one knows they would do, from their eagerness now to ship. If they could not export with safety, or profit, they would lay a voluntary embargo, ten thousand times better than a coercive one; the very necessity of coercion shows that our merchants would sail, were it not for the embargo. I contend that the embargo is ruinous and oppressive. Need I say any thing further on the subject? Look at the country. The courts of justice shut in one of the Southern States; executions suspended in a State contiguous to this; and Maryland reduced to the same necessity, from the circumstance of there being no market for our produce. So great is the pressure that the people have it not in their power to pay their ordinary debts; and how eloquent is the fact that in a moment of peace (for certainly there is not war) we are compelled to arrest the current of justice. The legislative acts depict the situation of the country more strikingly than volumes of argument. The State Legislatures know the inability of their citizens to pay, and hold out a kind hand to assist them.

In point of revenue how does it work? The honorable chairman of the committee, (Mr. Campbell,) in a speech of great learning and investigation, told us that the Treasury never was more full. I wish the documents were before the House to convince us of it. But did an atom of it flow in from the operation of the embargo? If there be such a surplus, it only shows the beneficial operation of the system pursued anterior to the embargo. What is to fill your Treasury now, if the people cannot sell their products? What will in this case become of your source of wealth in the Western country? The people can neither buy lands, nor buying, pay for them. Where is the impost duty which has supported the Government, and sunk to a considerable degree the national debt? The moment you prevent all importation, there is an utter extinction of impost revenue; and at home a physical inability to produce any from the people at large. We are a rich country, abounding in the necessaries of life; we have money's worth, but no money. Nor can our people by any practical means raise money to defray the expenses of State Governments, much more of that of the United States. I am in the country, sir; I cannot collect my rents, my neighbors cannot sell wheat or tobacco. All is stopped. I ask then what physical ability we have to discharge the State taxes, or any other? We have no other way of getting money but through the sale of our produce.

Gentlemen say that our revenue would fall just as short, supposing the embargo to be raised. That is begging the question, sir. They assume that for a truth which they ought to prove in the first instance. Leave commerce open, and you will soon have money in return for our produce, or that which will procure it. Revenue is the life of Government, and let me suppose gentlemen to be sitting here thirteen months hence, on the first of January, 1810. Where is your revenue then to come from? You have dried up every source of the national wealth. What must you do? Either borrow or raise money by direct taxation. There is no doubt what must be resorted to; and it was touched with great ability, though slightly touched, by the gentleman from Virginia, (Mr. Randolph,) as to the consequences which must grow out of such a system of direct taxation. This species of taxation is consonant to the genius of the country, to the habits of our people – it comes too close to the pocket of the agriculturist, and is besides a source of revenue which ought to belong exclusively to the States. I hold it as a political truism, that upon the sovereignty and independence of each State, as guarantied by the constitution, do our liberties depend. I know that some of the ablest men in America opposed the adoption of the Federal Constitution on this ground: that the General Government being raised and supported on external matters only, if the time should ever arrive at which foreign commerce should cease, and internal taxes be resorted to, that great would be the conflict between the officers of the State and General Governments, which would ultimately end in the prostration of State rights. Gentlemen call the embargo, in silken phrase, a temporary suspension of commerce. I will call it by its own name; it is better known to the people by it. I contend that the embargo now laid is a perpetual embargo, and no member of this House can constitutionally say it is otherwise; for the immediate Representatives of the people have so played the game as to leave the winning trump out of their own hands, and must now have a coincidence in opinion both of the Senate and of the President of the United States to effect its repeal. If the whole of this body were to consent to a repeal, and a majority of the Senate, yet the President might resist them both. Is there any limitation to the law on the statute book? No; but there is a power given to the President to suspend it in the whole or in part, in the event of certain contingencies. Have those contingencies happened? Are they likely to happen? No, sir; and these are the views which I take of the subject. America, anxious to get red of this burden, has proffered to take it off, if either of the two belligerents would relax their edicts in our favor in relation to such one, keeping it on in relation to the other. What says the sarcastic British Minister? Why, sir, that they have no cause of complaint; that it was laid by the President as a precautionary measure; and they were told by our Minister that it was not to be considered as a hostile measure. What says France? She gives us no answer, say gentlemen. Aye, sir – and is that true? Have we indeed received no answer? I think we have one that wounds our feelings as deeply as the answer of Mr. Canning. It is the situation of our Minister abroad, who says he dare not ask for an answer, because the asking it might be injurious to our cause. What, have we a Minister abroad, and is he afraid or unwilling to make a proposition to the Government where he is resident? Surely, sir, that state of things furnishes as definite an answer as any that could be given. We have no hopes that either will remove its edicts. Sir, I consider the embargo as a premium to the commerce of Great Britain. Gentlemen say that she is a great power, a jealous power, and possessed of a monopolizing spirit. If these views be correct, by annihilating our commerce, do we not yield the seas to her, and hold out an inducement to her forever to continue her orders in force? What prospect is there that the embargo will be removed? It cannot now be got rid of by a vote of this House. We are saddled with it. If we cast our eyes to proceedings elsewhere constitutionally held on the same subject, we shall find that it is to remain still farther to oppress and burden the people of this country with increased rigor.

As a measure of finance it has laid the axe to the root. The tree is down that bore the golden fruit, and will not again grow till we ease ourselves of this measure. In a fiscal point of view I cannot then for my life think it a wise or provident measure. But as a preparation for war, it is still worse; because it produces a deficiency of that out of which war alone cannot be sustained. Instead

of having money for your surplus produce, it rots upon your hands; instead of receiving a regular revenue, we have arrested its course, and dried up the very source of the fountain. As to preparation at home, which is the only preparation contemplated to make, what or whom is it against? Against France? She cannot come here. Or against England, who, with the monopoly of commerce which you leave her to enjoy, has no object further to annoy you? I believe, as a preparation for war, the best expedient would be to get as much money as we could, to send out our surplus produce and bring back the supplies necessary for an army if to be raised at all – to arm and discipline the militia. A raising of the embargo would be a preparation for war – it would bring us articles of the first necessity for our surplus. But on a continuation of the embargo, things must progress from bad to worse.

Another thing, sir; I do not now mean to take a constitutional view of the subject – but will not gentlemen pause and reflect on the continuance of the embargo? It is well known that the General Government grew out of a spirit of compromise. The great authors of that instrument were well acquainted with the term embargo. A temporary embargo for the purpose of sending out a squadron or concealing an equipment, was well understood. But I ask every one who hears me, if a question had been agitated in convention to give Congress a power to lay an embargo for one or two years, if the Eastern or commercial States would have agreed to it? Does any man believe it? No man who knows the country can believe it. With what sedulous anxiety did they say, in a negative provision of the constitution, that Congress should not lay an export duty! You are prohibited the minor power of taxing exports, and yet you stop exports altogether for an indefinite term. It is utterly inconceivable, that the States interested in commerce should have given their assent to any such powers so self-destructive. If they had given them, they ought to be most clear; not by implication, but most manifest. The exercise of powers counteracting principles most dear to every part of the community, ought to be assumed with the utmost caution. Under that view, except the measure be most wise in itself and its effects most clear, the Government ought not to continue the embargo. But why is it to be continued? We have taken some view of its effects at home. Let us see what effects may be expected to be produced by it abroad. An honorable gentleman told us an hundred millions were saved by having the embargo, a sum nearly equal to the whole exports of the United States for one year, excluding the capital employed. The first two or three seizures of vessels, sir, would have sent an alarm abroad, and the danger been so imminent, they would have voluntarily retired from destruction. There are no reasonable data from which to infer that one hundred millions of our property could at any one time have fallen a prey. Some few vessels might have been taken, but the rest would have escaped the grasp of the power which harassed them.

I will now examine the character of this measure; for upon my word, sir, it seems a political nondescript, though we feel its effects so severely. The President tells you it is a measure of precaution only; and yet we are told by the gentlemen that it is a species of war, which America can best use to coerce the two greatest powers on the earth, commanding land and sea, to truckle at our feet. I know not how gentlemen can place our connection with foreign nations in such a predicament; whilst the President officially holds out to the world that the embargo was a peaceful measure, gentlemen now say that it is a coercive one, a sort of quasi war. I recollect a gentleman at the last session making an estimate of the West Indies being worth an hundred millions to Britain, and predicting that before the measure was ninety days known in the West Indies, it would bring that nation to our feet, that it would act as a great political lever, resting its fulcrum on Jamaica, and move all Europe to our wishes. Double the number of days have elapsed, and they hold out insulting language. How then can we trust to the future predictions of gentlemen? Their error arises from a want of knowledge of the country; a little experience is worth all the theory in the world. In the years 1774-'5, an honorable feeling adopted a non-exportation and non-importation agreement, more faithfully executed by patriotism than any law since made or enacted; for every family refused to use an article which was not raised within the bosom of its own country. Did it produce starvation

in the West Indies? No, sir; the politicians of that day did not so calculate. They knew the resources of those islands, and told them that if they would convert a part of their sugar plantations into corn-fields, they would not suffer. We are now in the habit of overvaluing ourselves and undervaluing our enemies. Come the day when it will, we shall have no ignoble foes to meet.

In the Revolutionary war how did England stand – how her islands? For several years she was at war with America, with Holland, with Spain, with France, whose fleets in the East and West Indies were often equal, sometimes superior to her own, and an armed neutrality in the North – during this period a French fleet blockaded the Chesapeake, and aided the capture of Cornwallis, and threatened the British islands – but how was this conflict with the world sustained? Were the islands starved during these years? did they fall? No, sir; the British nation braved the storm, and was only conquered by her sons – America was victorious and independent; but Europe retired discomfited. Sir, America can again prove victorious, but it must be by other measures than embargoes – destructive only at home and without effect abroad.

It is said that one reason why the embargo has not pressed so hard on Great Britain as it might, is, that it has not been so tightly drawn as it may be; that our citizens have evaded it. And, sir, if I have not any geographical knowledge of the country, tighten the cords as you may by revenue cutters and gunboats on the seaboard, and collectors and military on land, they will escape both. Interest, ever alert, will avail itself of our extensive coast and elude the law.

But gentlemen say they are not accountable for the failure in England, from another cause – the language of the public papers and pamphlets of the anti-embargoists. The enemy, we are told, has been induced to hold out under the idea that America will yield. Sir, would Great Britain rely for her oracles on the newspapers or pamphlets of this country? Have those causes wrought on her a perseverance in her measures? I wonder, sir, that, in the anxiety to find causes, gentlemen never cast their eyes to official documents – to a very important State paper issued on this side the Atlantic – saying that the marshals and civil force were not adequate to enforce the embargo. When the President's proclamation arrived in England, no doubt could have remained of the effect of the embargo. Another public record accompanied it – an act of one of the States arresting executions for debt during the continuance of the embargo, and for six months afterwards. With these public documents before them, the British nation would be more apt to judge, and more correctly judge, of the internal situation of the country, than from all the periodical publications of the day put together. Pamphlets also have been written in this country, of which it is said the British Ministry have availed themselves, to induce their people to believe that the United States are not capable of suffering. I believe we are. The people of America are as patriotic as any on earth, and will respect the laws, and must be made to respect them. They will obey them from principle; they must be made to obey them if they do not; for, while a law is in existence, it must be enforced. But I am somewhat surprised that gentlemen who talk of opposition publications in this country, as influencing England, should derive all their political data from British newspaper publications or opposition pamphlets. British opposition papers and pamphlets are with them the best things in the world; but nothing said here must be regarded there as correct. Even Mr. Baring has been quoted, who is a commission merchant, to the greatest extent perhaps known in the world. The Louisiana purchase of fifteen millions was nothing to him as a commission merchant. The next writer referred to, is Mr. Brougham, brought before Parliament, to assert the rights of a body of merchants confined almost exclusively to the continental trade. He came forward on their account, and the fact was demonstrated, notwithstanding his exertions, that the Orders in Council did not, but the prior French decrees did, curtail that commerce. So the majority thought and acted on that supposition. If the continuance of the embargo, then, does not produce a change in the policy of Great Britain, by its operation on the West Indies, if they resort to documents in this country, or even to speeches on this floor, they will probably continue the conflict of suffering as long as we are able to endure it, and continue our measures. For my opinion is, sir, that the extent of our seaboard

affords such opportunities for evasion, that, unless we station cutters within hail of each other, on our whole coast, they will not be competent to carry our laws into effect. It will be benefiting the British colonies at the expense of our own country.

The continuance of our measures may be productive of another consequence, attended with more serious mischief than all others together – the diversion of trade from us to other channels. Look at both sides of the case. If Great Britain holds on, (and my predictions are not fulfilled, or she will persevere,) she will look for other resources of supply, that, in the event of a war, she may not be essentially injured. She will endeavor to arrange her sources of supply, so that no one nation refusing to deal with her shall have it in their power materially to impair her interests. As to cotton, large quantities of this article were formerly drawn from the West Indies. The destruction of the sugar estates in St. Domingo gave a new direction to cultivation. They ceased to grow in many of the West India islands that article which they formerly had raised to a considerable extent, (cotton,) and which, if the increased labor employed in the sugar estates, now adequate to the supply of Europe, be not profitable, they will again cultivate. The Brazils will assist to take a sufficient quantity for consumption, (and, as well as my memory serves me, they produce seventy or eighty thousand bags annually;) and South America will add her supplies. I grant that we can now undersell these countries; but I beg gentlemen to pause before they drive England into a change of commercial habits, which in the hour of future peace may never be fully restored, and thus inflict deep and lasting wounds upon our prosperity. Sir, we are told that we are to produce great effects by the continuance of the embargo and non-intercourse with this nation. Do gentlemen who were in the majority on the subject of the embargo when laid (for I was anxious then that at least foreign nations might come and give us what we wanted in exchange for our product) recollect their argument against permitting foreign vessels to come and take our produce; that it was privilege all on one side; that it would be nominal to France, while England would be the sole carrier? Now, sir, as to the non-intercourse system – how does that operate? France has no commerce – cannot come here – and therefore is not injured by her exclusion from our ports. It operates solely on England. If the argument was then correct, to avoid the measure because it operated to the sole benefit of England, what shall we think of the non-intercourse measure which operates solely against her? In a commercial view, therefore, and in point of interest, this country will be deeply benefited by a removal of the embargo.

But, gentlemen say that the honor of the country is at stake; that a removal of the embargo would be submission to Great Britain, and submission to France. How is our honor affected by removing it? We say we will not trade – with whom? With them alone? No, sir; the embargo says we will not trade with anybody. All nations, when they find it convenient, can pocket their honor for profit. What is it we do for a license to go into the Mediterranean? Do we not pay an annual tribute to Algiers for liberty to navigate the sea safer from its corsairs? Have we not an undoubted right to navigate the Mediterranean? Surely; and yet we pay annually a tribute for permission to do it – and why? Because the happiness and interest of the nation are promoted by it. In a monarchy, the Prince leads his subjects to war for the honor of his mistress, or to avenge a petty insult. But, what best consults the honor of a Republican Government? Those measures which maintain the independence, promote the interest, and secure the happiness of the individuals composing it. And that is the true line of honor which, if pursued, shall bring with it the greatest benefits to the people at large. I do not know, sir, strictly speaking, whether the destruction of any commercial right is destructive to the independence of the country; for a nation may exist independent, and the happiness of the people be secured, without commerce. So, that the violation of commercial rights does not destroy our independence. I acknowledge that it would affect the sovereignty of the country and retard its prosperity. But, are not the measures which have been adopted, submission? No train of argument can make more clear the fact, that, withdrawing from the ocean for a time is an abandonment, instead of an assertion, of our rights. Nay, I think I have the authority of the

committee for it, for I speak of submission as applicable to the measure recommended by the committee. They say, that "a permanent suspension of commerce, after repeated and unavailing efforts to obtain peace, would not properly be resistance; it would be withdrawing from the contest, and abandoning our indisputable right freely to navigate the ocean." If a permanent embargo, after repeated offers of peace, would not properly be resistance, but an abandonment of our rights, is not a temporary embargo – and this has been a year continued – an abandonment for the time? Unquestionably it is. So long as it continues, it does abandon our rights. And now I will show that it is submission, and not resistance. I maintain that the embargo, aided by the second and third resolutions of the committee, does complete an abandonment of our maritime rights, and is a submission to the orders and decrees.

Of what nature are the rights in contest? They are maritime rights, and not territorial; and, to be used, must be exercised exterior to the limits of our territory. Whatever measures are confined within our territorial limits, is not an assertion or enjoyment of our exterior rights. Their enjoyment must be abroad, consisting of the actual use of them. If, then, all our measures be confined within our jurisdictional limits, they cannot amount to an enjoyment of the rights exterior to those limits. I will illustrate this, to every man's comprehension. There is a street in Georgetown, through which every one has a right to pass – it is a highway. A merchant, with whom I have dealt for many years, because I purchase some articles of another merchant, says I shall not go through that street. I cross over, and his enemy says I shall not pass by him. I retire home and call a consultation of my friends. I tell them that I have entered into resolutions, first, that, to submit to this will be an abandonment of my right to pass and repass. Well, what then, say my friends? Why, I declare I will neither go nor send to either of their houses – have no intercourse with them. Well, what then? Why, I will buy a broadsword and pair of pistols, and lock my door and stay at home. And do I enjoy my right of walking the street by making myself a prisoner? Surely not, sir. Now, this is precisely our case, under these resolutions. We say, that to submit, would be a wound on our honor and independence. We call a consultation. What is the result of it? We say we will have no intercourse with the nations injuring us, nor with any other; and, lastly, that we will arm and defend ourselves at home. And, I ask, is this resistance? Is it an enjoyment of our rights, or a direct, full submission? Is it not an abandonment of those rights to which we are entitled?

It has been said, that the little portion of commerce which would remain unaffected by the belligerent edicts, would belong to us as a boon from England, were we to prosecute it. I do not understand it in this light. Our right to navigate the ocean is inherent, and belongs to us as a part of our sovereignty; but, when interdicted from any one place, if we go to another, we certainly do not accept that commerce as a boon. I might as well say, if a man interdicted me from going down one street in Georgetown, that I accept a boon from him in going down another. This is certainly not the case. The trading to these places is exercising our original right, not interfered with; and, so far as those orders and decrees do not operate, we could carry on a legitimate trade, flowing from our indisputable right, as a sovereign nation, to navigate the ocean. It does seem to me then, sir, that the residue of our trade might be carried on without submitting to the belligerent edicts. But, an honorable gentleman (Mr. G. W. Campbell) asked me, yesterday, if we were to permit our enemies to take any part, whether they would not take the remainder? This, like the horse's tail in Horace, would be plucked, hair by hair, till it was all out. True, sir, this might possibly happen. But, what have we done? Why, we have cut the tail off, for fear all the hair should be taken out. We have ourselves destroyed all that portion of our trade which the belligerents have not interdicted.

Taking the whole into view, then, I think that the continuance of the embargo, as an assertion of our rights, is not an efficient mode of resistance.

But gentlemen say, in a crisis like the present, when each individual ought to contribute his mite, it is very easy to find fault; and they ask for a substitute. I want no substitute. Take off the embargo. That is what I want. But when called upon in this manner, I cannot help looking around

me to the source whence I expected higher and better information. The crisis is awful. We are brought into it by the means recommended by the head of our foreign relations. I think the President advised the embargo. If he did not, he certainly advised the gunboats and the additional military force. In these minor measures, which have been in their consequences so interesting, there was no want of advice or responsibility. Why then, in this awful crisis, shall we not look to the same quarter? The responsibility is left on us. We anti-embargoists show that things would not have been thus, had our advice been taken; and, not being taken, we have little encouragement to give more. Our advice is on the journals. We said, let us have what commerce we can get, and bring home returns to stimulate our industry. I believe the declarations of gentlemen when they say that they are friendly to commerce; but their fondness for it is the embrace of death. They say they will protect it; but it is strange that they should begin to protect it by abolishing it. I contend that their measures have not answered the purposes of protection, but on the contrary they have been prejudicial to it; and I trust in their candor that they will join us in giving elasticity to commerce, and removing this pressure. The interests of commerce and agriculture are identified; whenever one increases, the other extends. They progress *pari passu*. Look at your mercantile towns; and wherever you find one, like a pebble thrown into water, its influence extends in a circle more or less remotely, over the whole surface. Gentlemen from the agricultural country vote to support commerce, because it increases the value of their own product; they are not so disinterested as they suppose, and I believe the best way is to consider the two inseparable. As I am at present disposed, could I not obtain a total repeal, I would prefer a resolution laid on the table by a gentleman (Mr. Mumford) from one of the largest commercial cities in the Union, and who must be supposed to know the opinion of commercial men. I can scarcely with my knowledge or understanding point out any thing; but if I have not capacity to be one of the *ins*, I can readily perceive whether the present system be adequate or not. I would let our vessels go out armed for resistance; and if they were interfered with, I would make the dernier appeal. We are able and willing to resist; and when the moment arrives, there will be but one heart and hand throughout the whole Union. All will be American – all united for the protection of their dearest rights and interests.

Mr. Lyon opposed the report in a speech of an hour.

Mr. Desha said he had been particularly attentive to the whole of the debates during the very lengthy discussion of this important subject, and, said he, I am at a loss how to understand gentlemen, or what to conclude from their observations. Am I to conclude that they are really Americans in principle? I wish to do so; and I hope they are; but it appears somewhat doubtful, or they would not tamely give up the honor of their country by submitting to French decrees and British Orders in Council – that is, by warmly advocating the repeal of the embargo, without proposing something as a substitute. Do gentlemen mean an abject acquiescence to those iniquitous decrees and Orders in Council? Do gentlemen mean that that liberty and independence that was obtained through the valorous exertions of our ancestors, should be wrested from our hands without a murmur – that independence, in the obtaining of which so much virtue was displayed, and so much blood was shed? Do they mean that it should be relinquished to our former masters without a struggle? Gentlemen assign as a reason why the embargo should be removed, its inefficacy – that it has not answered the contemplated purpose. I acknowledge that as a measure of coercion it has not come entirely up to my expectations. It has not been as efficient as I expected it would have been. But what are the reasons why it has not fully come up to the expectations of its supporters, as a measure of coercion? The reasons are obvious to every man who is not inimical to the principles of our Government, and who is not prejudiced against the present Administration. Was it not for want of unanimity in support of the measure? Was it not in consequence of its having been wantonly, shamefully, and infamously violated? and perhaps winked at by some who are inimical to the principles of our Government; but who have had address and ingenuity sufficient to procure themselves to be appointed to office, and in which situation they have obtained a certain

influence, and by misrepresentations as well as clamorous exertions have, in many instances, led the unwary astray, and caused the measure to become unpopular in some parts of the country? By improper representations and fallacious statements of certain prints, apparently, and I might add, undoubtedly, hostile to civil liberty and free Government, and advocates of British policy; by the baneful opposition of British agents and partisans, together with refugees or old tories, who still recollect their former abject standing, and who have never forgiven the American independence, and who, in all probability, are doing all in their power at this time to assist their master George the Third in bringing about colonization and vassalage in this happy land – by keeping up party spirit to such a height, that the tyrant of the ocean was led to believe that he had a most powerful British party in the bosom of our country – and that, by an extraordinary opposition made to the embargo, we would become restless, and could not adhere to a suspension of commerce – consequently would have to relax, and fall into paying tribute, under the Orders of Council, to that corrupt Government, Britain. These are part of the reasons why the embargo, as a measure of coercion, has not proved completely efficacious; and had it not been for this kind of conduct, our enemies would have been brought to a sense of justice, an amicable adjustment of differences would have taken place. By this iniquitous conduct they have tried to wrest from the hands of Government an engine, the best calculated of all others that could have been imagined, to coerce our enemies into a sense of justice, and bring about reciprocity of commerce, that most desirable object, a system of all others the best suited to the peaceful genius of our Government. But if it has not been entirely efficacious as a measure of coercion, it has been particularly serviceable in many instances – by keeping us out of war, which is at all times to be deprecated by civilized men, by preserving our citizens from becoming victims of British tyranny on board their war ships, and securing an immense amount of American property that was sailing on the ocean, supposed to amount in value to between sixty and a hundred millions of dollars, the principal part of which would inevitably have fallen into the voracious jaws of the monster of the deep, or into the iron grasp of the tyrant Napoleon – by which, if we are involved in war, we have preserved the leading sinews, wealth; and above all, for preventing us from becoming tributary to those piratical depredators, whose inevitable determination is to monopolize the whole trade of the world, by which they rob us of our inherent rights. If gentlemen had come forward with propositions to adopt any thing as a substitute for the embargo, that would have prevented us from the degradation of submission, or from falling into the hands of those monsters of iniquity, they no doubt would have met with support. The friends of this measure are not so particularly attached to it, but what they would willingly exchange it for one that was less sorely felt, less oppressive, and one that would preserve national honor, and bring about a redress of grievances; as it was with extreme regret that they had to resort to the measure of the embargo, and which could only be warranted by the necessity of the case. I am as anxious for the repeal of the embargo as any gentleman in this House, or perhaps any man on the continent, whenever it can be done consistent with the honor and welfare of the nation. The citizens of Kentucky, whom I have the honor to represent, feel its effects in common with their fellow men throughout the continent; but their patriotism is such that they bear it with cheerfulness, and magnanimity, and very justly consider it as a preventive of greater evils. I think that a retrograde step at this time would have the appearance of acquiescence, and be calculated to mark the Government with pusillanimity; therefore I deprecate war, believing as I do, that in a Government constructed like ours, war ought to be the last alternative, so as to preserve national honor. As such it would perhaps be advisable to adopt something like the second resolution that is under consideration, which, in addition to the embargo, would amount to a complete non-intercourse – which if systematically adhered to must produce the desired effect. If it should not, it will at least give time to make preparations for a more energetic appeal, which may probably have to be the result. But let it not be understood, because I am for avoiding war, as long as it can be avoided upon honorable terms, that I am against going to war when it becomes actually necessary. No, sir, my life and my property are at all times at my

country's command, and I feel no hesitation in saying that the citizens of Kentucky, whom I have the honor to represent, would step forward with alacrity, and defend with bravery that independence in which they glory, and in the obtaining of which some of the best blood of their ancestors was spilt; for the degradation of tribute they would spurn with manly indignation. I would even agree to go further. From my present impression, I would agree to a recall of our Ministers from both England and France, and to a discharge of theirs; and have no intercourse with the principal belligerents until they learned to respect our rights as an independent nation, and laid aside that dictatorial conduct which has for years been characteristic of those European despots; for I am almost certain, under existing circumstances, that our Ministers in neither England nor France can do us any possible service, and that their Ministers here can, and in all probability do a great deal of harm, by fomenting division and keeping up party spirit, at a time, too, when unanimity is of the utmost consequence.

As to our commerce being driven from the ocean, I am not disposed to take a lengthy retrospect, or to examine minutely in order to discover which of our enemies, England or France, was the first aggressor; it is sufficient for me that both France and England have done nearly all in their power to harass and oppress us in every imaginable way. I am not the apologist of either France or England. I am an American in principle, and I trust whenever it is thought necessary to call my energies into action I shall prove myself to be such, by defending and protecting the rights and independence of my own country, from any encroachments, let them come from what quarter they may. By those iniquitous decrees of France, all vessels bound to or from England are deemed lawful prize, and if spoken by an English ship they were condemned in the prize courts of France. When a ship arrived in any of the French ports, bribery and corruption was practiced; in order to succeed in her condemnation, a separate examination of the crew would be resorted to, as to the events that happened on the voyage; offers made of one-third of the ship and lading as their portion of the prize money, if they would give information of their vessel having touched at any of the ports of England, or that any English cruiser had visited her on the voyage. Consequently, by the French decrees, all property afloat belonging to the Americans was liable to seizure and condemnation. Are gentlemen, possessing the feelings of Americans, prepared to submit to such degradation? Are they prepared to say the embargo shall be raised, while our commerce is subjected to this kind of depredation? I trust not.

As respects the British Orders in Council, all American vessels bound to French ports, or to any of the allies of the French, are considered good prize in the courts of Britain. England says you must not carry on any trade to any of the places that I have interdicted, without obtaining my leave – pay me a duty, and then you shall be permitted to go to any port – by paying me a tribute you may trade to any port you please. Degrading to freemen! Britain in her goodness says, you shall have the liberty to bring flour from the United States of America to England, land it, and re-export it, by paying two dollars on every barrel into my coffers. On cotton, which is certainly a very important article, a duty is charged on its exportation of about nine pence per pound sterling; nearly equal to the full value of that article in the parts of America where it is raised, exclusive of the import duty, which is two pence in the pound. Therefore, if our traders wish to go to the Continent of Europe, the condition is, a tribute must be paid nearly equal to the value of the cargo, exclusive of the insurance and risk. If I mistake not, about two-thirds of the cotton exported from this country is made use of in England; on the balance a tribute must be paid of about nine pence sterling per pound, which is about twenty millions of pounds – on a calculation the sums will be found to be enormous – purely for the liberty of selling cotton; as also high and oppressive duties on other articles. If these impositions are submitted to, I pronounce your liberties gone – irretrievably lost – a blot made in the American political character, never to be obliterated. No man possessing an American heart will submit to the degradation of paying tribute to any nation on earth, nor suffer the freemen of America to be taxed without their consent. Will gentlemen say the embargo law must be repealed, and suffer our commerce to flow in its usual channel, while the decrees of France and

the British Orders in Council are enforced, by which they would not only be liable to seizure and condemnation, but what is more degrading, pay a tribute of many millions of dollars annually, too degrading to be thought of with patience? We received liberty in its purity from our heroic ancestors – it is a duty incumbent on us to transmit it to posterity unsullied, or perish in the undertaking.

But, sir, it has been said that the people of the East would not bear the continuance of the embargo any longer – that they would force their way in trade; hinting, I presume, that they would openly rebel against your laws if they were not allowed to pursue their usual course in commerce, by which they subscribe to those nefarious Orders in Council, which is tribute of the most degrading kind. Who are these people of the East that have the hardihood to insinuate any thing like rebellion against the laws of the land, or that would wish to degrade themselves so far as to pay tribute? It cannot be the descendants of the heroes of '76, that bravely stepped forth and fought against a tyrant for liberty! It cannot be the descendants of those brave fellows that struggled on the brow of Bunker's Hill for independence! No. It must be the descendants of refugees or old tories, or otherwise it must be British agents or partisans; for no man possessing the feeling that an American ought to feel, would throw out such threats, or degrade himself by coming under tribute. If patriotism has left the land of freedom – if it has taken its flight from the mild and peaceful shores of Columbia – if foreign influence and corruption has extended itself so far that the people are disposed to rebel against the Government of their country – if the dissemination of foreign gold has had the baneful effect of suppressing all noble and patriotic sentiments, it is indeed time that foreign intercourse should cease. If the spirit of commercial speculation and cupidity had surmounted all patriotism, it is time that more energetic measures should be resorted to, in order that the chaff might be separated from the wheat; in a word, that traitors might be known.

Mr. Nelson said it was with very considerable reluctance that he rose to make a few remarks on this subject, after the very lengthy and very eloquent discourse of the gentleman from Maryland, (Mr. Key.) I did not intend, said he, to have troubled the House upon this question; but as I am a man who generally speaks off-hand, it is necessary for me to answer the arguments of any gentleman promptly, if I intend to do it at all. For this reason I rise to do away some false impressions which may have been made by the gentleman's eloquence on the House, and on the by-standers, in the galleries, for I must say that his speech was better calculated for the galleries than for the sober members of this House. The gentleman commenced his argument with stating, what I do not believe, with due submission, is true in point of fact, that, although at their last session the Legislature of Maryland passed resolutions approving the embargo, yet another election having taken place, the present Legislature have passed contrary resolutions.

Mr. Key said he had spoken of the House of Representatives of Maryland, and not of the Legislature.

Mr. Nelson said the House of Representatives have, to be sure, passed resolutions bottomed on the same principles as those on which the gentleman himself has spoken, and which I have heard echoed in the electioneering campaign from almost every stump in the district in which I live. Whilst the gentleman was on this subject, I wish he had told us of the philippic these resolutions got from the Senate of Maryland. The fact is not, as I understood the gentleman to say, that the Legislature of Maryland have passed resolutions disapproving the measures of the Government. But the gentleman intimates that the politics of Maryland have undergone a great change, and that the party formerly uppermost, is now under. Sir, the question which turned out the old members of the Legislature in the county where I live, was not the embargo system, but a question as to a State law. The militia system was the stumbling-block which caused many of the old members to be turned out, and thus the opposite party got the ascendency in one branch of the Legislature of Maryland. But, since that election, another has taken place for members of Congress; and how has that turned out? Why, sir, that gentleman and two other anti-embargoists are elected, whilst six men, who have always approved of it, are also returned; making six to three. Does this prove a

change? No, sir. But we have had another election since that. Out of eleven electors, nine men are returned as elected who have approved this system of measures. Does this prove that the embargo was the cause of the change of the politics of the Maryland Legislature? I think not, sir.

But the gentleman has said that the embargo, and not the Orders in Council and decrees, has destroyed the commerce of this country. I do not know, after all the arguments which I have heard, if the gentleman listened with the same attention as I did, how he could make such an assertion. When our ports are blockaded, and all the world is against us, so that, if the embargo was raised, we could go nowhere with perfect freedom, can gentlemen say that the embargo has ruined our commerce? Is it not these acts which have shut us out from a market? The gentleman says we may trade to England. Yes, sir, we may, provided we will pay all such duties as she chooses, and go nowhere else. And would not the doing this place us in precisely the same situation as we were in before the Revolution? England says we may trade with her, paying heavy import and export duties, but says we shall go nowhere else. If you go anywhere else, she says you shall go by England, take a license, and pay a duty, and then you may trade. Is it to be supposed that the people of the United States will agree to this? Are they reduced to that situation, that they will become the vassals of a foreign power – for what? Why, sir, for the prosecution of a trade with that foreign power, who, if her present impositions be submitted to, may cut up our trade in any manner she pleases; for, through our trade, she will raise a revenue to almost an equal amount with the value of your whole produce carried hence. She levies a higher tribute on some articles than the article itself is worth, and this trade the gentleman wants to pursue. He wants no substitute; "take off the embargo," says he, "and let us trade." Sir, if we could trade upon equal terms, I, too, should say, "take off the embargo, and let us trade." But if we cannot trade, except under the license of a foreign power, I say it would be ruinous to us. And has it come to this, for all the arguments go to this, that the American people, for the sake of pounds, shillings, and pence, for the sake of hoarding up a few pence, are to give up their independence, and become vassals of England and France? I hear nothing from the gentleman about the *honor* of the nation. It would appear as if gentlemen on the other side of the House are willing to sell their country if they can put money in their pocket. Take off the embargo, they cry – for what? money. Pay tribute – for what? money. Surrender your independence – for what? all for money, sir. I trust the people have a different feeling from these gentlemen. The people love money, sir; but they love liberty and independence much better. If money had been the sole object, the Revolution would never have happened; and if that be our sole object now, the blood spilt and money spent in our Revolution was all in vain. But the gentleman says, that our honor is not concerned; that Republics have none; that their honor is to pursue that course by which they can make the most money.

Mr. Key said that he did not say that the honor of the nation was money; but that the line of conduct was most honorable which best secured the happiness and independence of the people.

Mr. Nelson. – I ask pardon of the gentleman if I misrepresented him; because the gentleman's argument was quite vulnerable enough, without my making it more so than it really was. I did understand the gentleman to say, and had he not contradicted me, should still believe so, that the honor of the Republic is precisely that which brings the most riches to the nation. But I ask, whether the line of conduct recommended by that gentleman be such a one as would be proper to secure and take care of the independence of the people? Is it to secure the independence of the people, to suffer a foreign nation to impose upon them any terms which it thinks proper? Is it for the honor or happiness of this nation that we should again pass under the yoke of Great Britain? Is it for the honor of the nation to remove the embargo, without taking any other measure, and to bear with every indignity? No, sir; and yet the gentleman tells you, "take off the embargo, I want no substitute." I did not suppose, sir, that gentlemen who oppose our measures (for I have great charity for them) would openly tell us to take off the embargo, and trade as foreign nations choose to dictate.

But the gentleman talks about the pressure of the embargo. That it does press hard is beyond doubt. It is an evil thing in itself; something like the dose a doctor gives us; it is a disagreeable thing in itself, but it cures your complaint. Thus the embargo is a disagreeable thing; but if we swallow it, however disagreeable, it may bring the political body to health. The gentleman gilds the pill he would give us; but it is a slow poison that would creep upon us, and bring on a distemper heretofore unknown to us, that sooner or later would carry us to the grave. We take off the embargo, and trade on their terms; what will be the consequence? Will they not forever hereafter compel us to trade as they please? Unquestionably. And is it not better to submit to some inconveniences, eventually to insure a free trade?

The gentleman says that, if produce be offered for sale, on condition that the embargo be raised, it will bring a higher price than if on a certainty that the embargo is to be continued. No doubt, sir, when the embargo is taken off, a momentary spur will be given to exportation; but how long will it continue? It will last but a very few weeks. Produce will soon be reduced to its proper level in the market. Take flour, for instance, the principal article raised for exportation in the gentleman's district and mine. It would rise, on a removal of the embargo, to ten or twelve dollars; and how long would that price last? It would be a thing of a day, and to the people who live in our districts of no sort of consequence; it would be of no benefit but to those who have flour at the market; to the merchants who have bought it up at a low price. Before the honest farmer can bring his produce to market, the great price will be all over; and though no embargo affects it, will be down to its present price, of four or five dollars; so that, although a removal of the embargo would reduce the price of produce at first, I cannot see how gentlemen would make that an argument for taking off the embargo. If the gentleman can show that the price will continue, and that we can traffic without dishonor, then, sir, would I cordially join hands with him to take off the embargo.

But the gentleman says, that the pressure is so very great that some of the States have passed laws for suspending executions. I know not what has been done in other States on this subject, nor what has been done in my own. If the gentleman has any information on the subject, I should like to hear it. A bill was before the House of Delegates for that purpose, but I did trust in God that it would be unanimously rejected. That such a law would pass in Maryland I never had an idea, because it is totally unnecessary. There are fewer men confined in jail for debt on this day than there ever were before for sixteen years that I have been in the practice of the law in that State. No man has gone to jail but those who, to use an emphatic expression, have *broken into jail*, who were too idle to work to pay their debts; who would get a friend to put them into jail, if they could get no other; and who stay there awhile, and then come out new men. This being the case, there can be no reason for shutting the courts of justice there.

On the subject of revenue, I can only say, that at present there appears to be no deficiency of money in the Treasury. It is very certain that if this embargo and non-intercourse system be continued long, our Treasury will run short, and we shall have no means of filling it but by loans or direct taxation. But I trust and hope that before the money already in the Treasury is fairly expended, if we pursue our object we shall get over our embarrassments. Rather than pursue this subject much further, I would not only arm our merchantmen at sea, but our citizens on the land, and march to the North and East, and see if we could not do them some injury in return for all that we have received from them, even if we should do ourselves no good by it. It would do me some good to be able to do them some injury. I confess I do not like this Quaker policy. If one man slaps another's face, the other ought to knock him down; and I hope this will be our policy.

But the gentleman says that the President recommended this measure to Congress as a measure of precaution. I do believe that, at the time the embargo was laid, it was done as a measure of precaution, and the President viewed it in that light. After its having answered every purpose as a measure of precaution, I am for continuing it as a measure of coercion. For, whatever gentlemen say about turning sugar plantations into cotton-fields, if the embargo be rigidly enforced, that we

shall distress the West Indies very considerably, I do believe. I am unwilling to involve this country in a war if I can avoid it, but I am still more unwilling to take off the embargo and embrace the proposition of my colleague: for I have no idea of a free trade being permitted to us. In any country a war is to be deprecated; in this country particularly, where every thing depends on the will of the people, we ought to be well aware that war meets the approbation of the people. We might make many declarations of war without effect, unless the people follow us. We try every method to obtain honorable peace; and if we do not succeed, the people will go with us heart and hand to war.

I shall enter into no calculations on this subject, sir. When the great question is presented to us whether we will submit or maintain our independence, we must determine either to do one or the other: that nation is not independent which carries on trade subject to the will of any other power. Then, to my mind, the only question is, shall we defend ourselves, or shall we submit? And on that question I will make no calculations. If a man submits, of what use are calculations of money, for it may be drawn from him at the pleasure of his master? Let us have as much trade as we may, if we can only carry it on as others please, we need not calculate about money. We shall be poor, indeed; and, having lost our independence, we shall not even have money in return for it. But this nation will not submit, sir, nor will any man, who is a real American, advocate such a doctrine.

As to the embargo, Mr. N said he was not wedded to it. If any better system were devised, he would give up the present system and embrace the better one, let it come whence it would.

The House adjourned without taking a question.

Friday, December 9

Mr. Lewis presented a petition of the President and Directors of the Washington Bridge Company, praying a revision and amendment of an act passed at the last session of Congress, entitled "An act authorizing the erection of a bridge over the river Potomac within the District of Columbia." – Referred to the Committee for the District of Columbia.

Mr. Jeremiah Morrow, from the Committee on the Public Lands, presented a bill to revive and continue the authority of the Commissioners of Kaskaskia; which was read twice, and committed to a Committee of the Whole on Monday next.

An engrossed bill to authorize the President to employ an additional number of revenue cutters was read a third time: Whereupon, a motion was made by Mr. Durell that the said bill be recommitted to the Committee of Commerce and Manufactures, farther to consider and report thereon to the House: it passed in the negative.

The main question was then taken, that the said bill do pass, and resolved in the affirmative – yeas 90, nays 26, as follows:

> Yeas. – Evan Alexander, Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, John Clopton, Richard Cutts, John Dawson, Josiah Deane, Joseph Desha, Daniel M. Durell, William Findlay, James Fisk, Meshack Franklin, Francis Gardner, Thomas Gholson, jun., Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Harris, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard, Reuben Humphreys, Daniel Ilsley, Richard M. Johnson, James Kelly, Thomas Kenan, Philip B. Key, William Kirkpatrick, John Lambert, Edward Lloyd, John Love, Robert Marion, William McCreery, William Milnor, Daniel Montgomery, jun., John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, John Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Samuel Riker, Benjamin Say, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Samuel Smith, Richard Stanford, Clement Storer, Peter Swart, John Taylor, John Thompson, George M. Troup, James I. Van Allen, Archibald Van Horne, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, Alexander Wilson, and Richard Wynn.
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> Nays. – John Campbell, Martin Chittenden, John Culpeper, John Davenport, jun., James Elliot, William Ely, Barent Gardenier, William Hoge, Richard Jackson, Robert Jenkins, Joseph Lewis, jun., Edward St. Loe Livermore, Nathaniel Macon, Josiah Masters, Jonathan O. Mosely, Timothy Pitkin, jun., John Russell, James Sloan, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Philip Van Cortlandt, David R. Williams, and Nathan Wilson.

Resolved, That the title be, "An act to authorize the President to employ an additional number of revenue cutters."

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act farther to amend the judicial system of the United States;" to which they desire the concurrence of this House.

Foreign Affairs

The House resumed the consideration of the unfinished business depending yesterday at the time of adjournment – the report of the committee still under consideration.

Mr. D. R. Williams said: It has become very fashionable to apologize to you, sir, for every trespass which a gentleman contemplates making on the patience of the House, and I do not know but in ordinary cases it may be very proper; but the present question is certainly such a one as exempts every gentleman from the necessity of making any apology whatever. I shall offer none, and for the additional reason, that I have given to every member who has spoken the utmost of my attention.

Upon this question, which presents itself in every point of view too clear to admit of a single doubt; equally unsusceptible of sophistical perversion or misrepresentation; a question which involves a political truism, and which is undenied; a debate has grown out of it, embracing the whole foreign relations of this country. I shall not attempt to follow the gentlemen in the course which they have pursued, but will confine my observations to a justification of the embargo, and to the proof, that the orders and decrees of the belligerents, and not the embargo, as was said by the gentleman from Maryland, (Mr. Key,) have produced the present embarrassments. Bad as our situation was at the close of the last session, it has now become infinitely worse. The offer to suspend the embargo laws, for a suspension of the Orders in Council, made in a sincere spirit of conciliation, has been contemptuously rejected, those orders justified, and an extension of their operation threatened: this is a state of things insufferable. At a crisis of this sort, the importance of which every gentleman acknowledges, I deem it proper that every man who feels an ardent love of country should come forward to save that country, to rescue his sinking parent from the jaws of pollution. The effort should be, who shall render our common country the most good; who will be foremost in the ranks; we should not shrink behind the irresponsible stand of doing nothing, ready to raise ourselves upon the mistakes of others; perhaps, the virtuous misfortunes of our political brothers. I am willing to take my share of the responsibility of asserting the wisdom of the original imposition of the embargo, and the correctness of its present and future continuance. Gentlemen have been frequently called upon, while they make vehement declamation against the embargo, to say what they wish in its stead; they declare the utmost hostility to the measure, and yet they offer no substitute. Can they for one moment forget, that upon this question as upon every other national subject, we must all hang together or be hung separate! It inevitably follows from the organization of our Government, that this is the fact.

I consider the original imposition of the embargo, as wise in a precautionary point of view; and notwithstanding all that has been said, and eloquently said, by the gentleman from Maryland, (Mr. Key,) I believe it was called for by the most imperious public necessity. Every one must know, that had it not been for the embargo, millions of property, and (what is worse) thousands of our seamen, must have fallen a sacrifice to the cupidity of belligerent cruisers. No need of calculations on this subject – I shall not stop to enter into one. I appeal to the common sense of the nation and of this House, whether or not the orders and decrees were calculated to have swept from the ocean all our floating property and seamen. But, no, say gentlemen, the seamen are not saved; and here we are amused with the old story, new vamped, of the fishermen running away. The seamen gone, sir! This is a libel on their generous and patriotic natures. Where are they gone? Every man who ventures such an allegation, is bound to prove it; because it is, if true, susceptible of proof. Surely, sir, the assertion, or even proof, that British or other foreign seamen have left your service, does not establish that American seamen have deserted their country. The British seamen gone! I am glad of it, sir. I wish there had never been one in our service; and if there is an American tar who would, in the hour of peril, desert his country, that he would go also. The thing is impossible sir; every

vessel which has sailed from the United States since the imposition of the embargo, has passed under such a peculiar review before the officers of the revenue, that had any number of American seamen shipped themselves, proofs of their departure might, and certainly would, have been had. Read the intelligence from Nova Scotia; it informs us that none but English sailors have arrived there. I call upon gentlemen then to show how, where, and when, an American seaman has left his country, except in the pursuit of his ordinary vocation.

If the gentleman from Maryland (Mr. Key) will apply to his political – I beg pardon – to his mercantile barometer, the insurance offices, he would find that, after the operation of the Orders in Council was known, insurance could not have been effected at Baltimore to the Continent of Europe for 80 per cent., and not at London, on American property, for 90 guineas per cent. The proof of this is before me. Does not this prove that so much danger existed on the ocean that it was next to impossible to pass without seizure and condemnation? And surely he will not contend that this advance of premium was caused by the embargo? If the embargo then has saved any thing to the country – and that it has there can be no doubt – exactly in the proportion that it has saved property and seamen to you, it has lessened the ability of the enemy to make war upon you, and what is primarily important, lessened the temptation to war. The rich plunder of your inoffensive and enlarged commerce, must inevitably have gone to swell the coffers which are to support the sinews of war against you. The reaction thus caused by the embargo, is in your favor, precisely to the amount of property and men which it has saved to you from your enemies.

But we are told that the enterprising merchant is deprived of an opportunity – of what? Of ruining himself and sacrificing the industry of others. Has any capitalist said he would venture out in the present tempest which blackens the ocean? No, sir, they are your dashing merchants; speculators, who, having nothing to lose and every thing to gain, would launch headlong on the ocean, regardless of consequences. No commerce can be now carried on, other than that which is subservient to the Orders in Council. I appeal to the gentleman from Rhode Island (Mr. Jackson) – no man is better informed on this subject – would he venture his property on the ocean in a trade contravening those orders? I would ask him further, would Brown and Ives, merchants, as remarkable for their prudence as for their enterprise, and for their capital as either; would they send their vessels to the Continent of Europe? I believe their opinion would corroborate the opinion of Mr. Gray.

The mercantile distresses have been described, with every possible exaggeration, as insufferable. The real distress, sir, is quite sufficient, without any undue coloring. I regret extremely, indeed, sir, from my heart and soul, I lament that the embargo should be considered as falling heavier on the merchant than on the planter. If I know my own heart I would share with them to the last loaf. But compare their situation now with what it would have been if their whole property had been swept away. Compare their present situation with that which must have been the necessary consequence of the seizure of all the floating, registered tonnage of the United States, and which would have happened, but for the embargo. Their vessels are now in safety; if the embargo had not been laid they would have lost both vessel and cargo. They must have either imposed an embargo on themselves, or exposed their capital to total destruction.

Another reason why I approve of the embargo, and which, really to my mind, is a very consolatory reason, is, it has at least preserved us thus far from bloodshed. I am one of those who believe the miseries of this life are sufficiently numerous and pressing without increasing either their number or pungency by the calamities inseparable from war. If we had put the question to every man in the nation, the head of a family, whether we should go to war or lay an embargo, (the only choice we had,) nineteen out of twenty would have voted for the embargo. I believe, sir, the people of the United States confiding their honor and national character to your guardianship, would this day decide the same question in the same way. The people have nothing to gain by war, nothing by bloodshed; but they have every thing to lose. From this reason results another, equally

satisfactory; we are still free from an alliance with either of the belligerents. Upon a loss of peace inevitably follows an alliance with one of those two powers. I would rather stake the nation on a war with both, than ally with either. No, sir, I never will consent to rush into the polluted, detestable, distempered embraces of the whore of England, nor truckle at the footstool of the Gallic Emperor.

But the embargo has failed, it has been triumphantly asserted on one side of the House, and echoed along the vaulted dome from the other. If it has, it is no cause of triumph; no, indeed, sir; but it is a cause of melancholy feelings to every true patriot, to every man who does not rejoice in the wrongs of his country. Why has the measure failed of expected success? The gentleman from Maryland (Mr. Key) used an argument incomprehensible to me, as an argument in his favor; on my side it is indeed invincible. He has established it was the evasion of the laws which prevented their being effectual. He tells you that certain evaders of the laws have so risen up in opposition to them, that the President of the United States was obliged to issue his proclamation in April last; that this proclamation told the British Cabinet the people had rebelled against the embargo – but I will pass over the subject; it imposes silence on me, because it must speak daggers to the hearts of some men.

My friend from Virginia (Mr. Randolph) urged one argument against the embargo, which, to be sure, is a most serious one. He asked if we were prepared to violate the public faith? I hope not, sir. I beg to be excused for asking him (for I know he scorns submission as much as any man) if submission will pay the public debt? To that gentleman's acute and comprehensive mind, the deleterious consequences of the present system of the belligerents to our interests, must be glowing, self-evident. He will see that their present measures carry destruction to the most valuable interests, and are subversive of the most sacred rights of the people; and if they are submitted to, every thing dear to an American must be afflicted with the slow, lingering, but certain approaches of consumption. I had rather go off at once. I have no opinion of a lingering death. Rather than the nation should be made to take this yoke, if so superlative a curse can be in store for us, may the hand of Heaven first annihilate that which cannot be nurtured into honor. I had much rather all should perish in one glorious conflict, than submit to this, so vile a system.

But we are told, that the embargo itself is submission. Indeed, sir! Then, with all my heart, I would tear it from the statute book, and leave a black page where it stood. Is the embargo submission? By whom is it so called? By gentlemen who are for active offence? Do these gentlemen come forward and tell you that that the embargo is submission? No such thing, sir. My memory deceives me, if any man who voted for the embargo thinks it submission. They are the original opponents of the embargo who call it submission, and who, while they charge you with the intention, are by every act and deed practising it themselves. It is incorrect, sir. Every gentleman who has spoken, and who has told you that the embargo is submission, has acknowledged the truth of the resolution under consideration; it has not been denied by a single individual. Suppose then we were to change its phraseology, and make it the preamble to a resolution for repealing the embargo, it will then read: "whereas the United States cannot without a sacrifice of their rights, honor, and independence, submit to the late edicts of Great Britain." Therefore resolved, that the embargo be repealed, and commerce with Great Britain permitted. Do these two declarations hang together, sir? That, because we cannot submit to the edicts of the belligerents, we will therefore open a free trade with them? The first part of the proposition is true, no man has denied it; the addition which I have made to it then, is the discordant part, and proves the embargo is not submission. I wish to know of gentlemen, whether trading with the belligerents, under their present restrictions on commerce, would not be submission? Certainly, sir. Is then a refraining from so doing, submission? In a word, is resistance submission? Was the embargo principle considered submission in the days of the stamp act? Did the nation call it submission when it was enacted under General Washington? Was it so considered by the Republicans, when resorted to for redress against the primary violations in 1793? Or was it ever contended that had not the embargo been raised, the terms of Jay's treaty would have been worse? Do gentlemen of the "old school" undertake to say that the Father of

their country submitted then to George III.? I hope not, sir. If the embargo was not submission under George Washington, it is not under Thomas Jefferson. Again, I ask, were the principles of the embargo submission in 1774-'5-'6? But it has been replied, it is not meet that the remedies of that day should be applied to the present case. Why not, sir? The disease was the same; and lest gentlemen have forgotten what it was, I will tell them how the old Congress described it: "You exercised unbounded sovereignty over the sea, you named the ports and nations to which alone our merchandise should be carried, and with whom alone we should trade." Draw the parallel, sir, and if the remedy of that period will not suit the present crisis, let us look out for others. I will not stop here; I am willing to go further; I would carry fire and sword into the enemy's quarters; but I would first exhaust every means to preserve peace.

You will excuse me, sir, for giving an opinion in this place, which, perhaps, some gentlemen may think does not result from the subject immediately before us. I will tell you what description of people in the United States are most anxious that the embargo should not be repealed. It is a new sect, sir, sprung up among us – ultra-federalists. They are the persons, in my belief, who are most desirous the embargo should be continued. They see that upon its removal a war with Great Britain follows. An alliance with her is the object nearest their hearts – not a resistance of the wrongs and insults practised by her. If this embargo be submission, if non-intercourse be submission, if a prompt preparation for war be submission, I ask them what is it to sit still and do nothing? Do you mean to submit? Come out and tell the nation whether you will or will not resist the Orders in Council – let us know it – it is desirable that we should know it – it will conduce to the public weal.

I, for one, sir, will vote to continue the embargo, because I do still consider it a coercive measure – as the most deadly weapon we can use against Great Britain. I am induced to consider it so, when I take a view of what is the nature of our products – what is the nature of her exports and imports – what is the nature of her wants, and what her capacity and means of supply. Look at the West Indies, where the embargo has a decided ascendency over every other measure you can adopt. You will find that her colonial and navigation system has, in that quarter, never been maintained since the Revolution. Perhaps I ought, in presuming to speak further about the West Indies, to apologize to the gentleman from Maryland, (Mr. Key,) not indeed for his very courtly conduct, because if a man is ignorant, he does not like to be told of it. The gentleman will be pleased to pardon me, if I blunder on in my ignorant way, and talk a little more of that part of the world. [Mr. Key explained that he had not intended any reference to the gentleman from South Carolina in his remarks.] I am extremely obliged to the gentleman for his explanation. Entertaining great respect for his talents, I am happy to find, upon such authority, the charge is neither applicable nor intended. The colonial system has been always regarded as essential to all the vital interests of Great Britain. Every relaxation of that system has excited murmurs and great discontent in the mother country, and yet they have been constantly produced by the wants of the colonies. Would they have been permitted in favor of the United States, could those wants be supplied from any other quarter? I must contend, then, that their profitable existence depends upon an intercourse with the United States, notwithstanding every thing which has been said to the contrary. I do not mean to involve the idea of absolute starvation; much less to insinuate that the embargo is so coercive as to humble Great Britain at our feet; far from it – but I do say, from the nature of their products, their profitable existence depends upon us. There are not contained within the whole British empire at this time, whatever they may have been previous to the American Revolution, supplies for the home and colonial consumption. Will gentlemen tell us from whence they are to procure the principal articles of provisions and lumber? I might rest the argument in safety on these articles alone; these are essential, and of our produce. All the evasions of the embargo have been made with a view to that supply; enforce it, and from whence will they procure the article of lumber? It bears a higher price and is more scarce in Great Britain, even in ordinary times, than in the West Indies. The opinion that Nova Scotia and Canada were adequate to that supply, has been long since abandoned. The articles

of their produce require a constant supply of our materials, some of them cannot be procured from any other part of the world; of the lumber received, we have heretofore furnished ninety-nine parts out of one hundred. But we are told they can raise corn. Who denies it? I will grant to gentlemen all they ask on that point, and add, too, that their corn is actually more valuable per bushel than that of this country; but when their labor and industry is directed to that object, what becomes of their cotton, sugar, and coffee cultivation? What becomes of the immense revenues derived from those sources? Gentlemen must not forget that at least one-third of her revenue accruing from commerce, is derived from the West India trade alone. I do not know that I should be wrong, if I were to say from coffee and sugar only. If you drive them to the cultivation of corn for subsistence, they must necessarily abandon the cultivation of their most valuable staples. And do gentlemen believe Great Britain is willing to sacrifice all these considerations to a refusal to do you justice? We do not require justice, for all we ask of her is to abstain from plundering us. We say to her "hands off;" we wish not to come into collision with you; let us alone. These sacrifices will not be much longer hazarded, unless indeed she is deluded into a belief that she has sufficient influence, in this country, to excite disaffection and insurrection, and thereby remove the cause of pressure.

Another objection with me to removing the embargo is, it will betray a timid, wavering, indecisive policy. If you will study the sentiments contained in Mr. Canning's note, you will find they afford a lesson of instruction which you ought to learn and practise upon: "To this universal combination His Majesty has opposed a temperate, but a determined retaliation upon the enemy; trusting that a firm resistance would defeat their project; but knowing that the smallest concession would infallibly encourage a perseverance in it." I beg the House to draw instruction from this otherwise detestable paper – it preaches a doctrine to which I hope we shall become proselytes. A steady perseverance in our measures will assist us almost as much as the strength of them.

I conceive the supplies necessary for the maintenance of the war with Spain and Portugal will fairly come into the calculation. It has become the duty and interest of Great Britain to maintain the cause of Spain and Portugal – she has made it so. Where will those supplies be drawn from? Does she produce them at home? Certainly not; for it cannot be forgotten that the average importation of flour alone at Liverpool is ninety thousand barrels annually. The Baltic is closed against her. The demand must be great; for Spain and Portugal in times of peace have regularly imported grain for their own consumption. And here I will observe, there is no attribute in my nature which induces me to take sides with those who contend for a choice of masters. So far as they are fighting for the right of self-government, God send them speed; but at this peculiar crisis I think it extremely important that our sympathies should not be enlisted on the side of either of the contending parties. I would, therefore, from Spain and Portugal withhold our supplies, because through them we coerce Great Britain.

But that pressure which Great Britain feels most, is most alive to, is at home. The last crop is short, and injured in harvesting; wheat is fourteen shillings the bushel, and rising. Her millions of poor must be supplied with bread, and what has become almost equally important, she must furnish employment for her laborers and manufacturers. Where can the necessary supply of cotton be procured? For, thank God! while we are making a sacrifice of that article, it goes to the injury of Great Britain who oppresses us, and whose present importation is not equal to one-half her ordinary consumption. If the manufacturer is to be thrown out of employ, till that raw material which is now the hypothesis of the day, is produced from Africa, the ministry who are the cause of it will not long rule the destinies of that nation. No, sir, I am not alarmed about supplies of cotton from Africa. Nor am I to be frightened out of the embargo by a fear of being supplanted in the market, from that quarter; they must be but little read indeed in political economy, who can dread a competition with barbarians, in the cultivation of the earth.

Another strong inducement with this House to continue and enforce the embargo is, that while it presses those who injure us, it preserves the nation in peace. I see no other honorable course in

which peace can be maintained. Take whatever other project has been hinted at, and war inevitably results. While we can procrastinate the miseries of war, I am for procrastinating; we thereby gain the additional advantage of waiting the events in Europe. The true interests of this country can be found only in peace. Among many other important considerations, remember, that moment you go to war, you may bid adieu to every prospect of discharging the national debt. The present war of all others should be avoided; being without an object, no man can conjecture its termination; for as was most correctly observed by my friend, (Mr. Macon,) the belligerents fight everybody but one another. Every object for which the war was originally begun and continued to 1806, has since that time become extinct. The rupture in the negotiations of that day was made not on points affecting directly the British interest, but grew out of the indirect concern she felt in maintaining those urged by Russia, which Power, having since declared war against Great Britain, has obliterated the then only existing object of the war. Embark in it when you please, it will not procure you indemnity for the past; and your security for the future must ultimately depend on the same promises, which you can obtain by peaceable means. I have no disposition, sir, to hazard the interest of my country in a conflict so undefined, so interminable!

But, say gentlemen, it is certainly not submission to trade to those ports which the edicts of the belligerents have not prohibited us from trading with. Granted – I will not enter into a calculation on the subject, as to how much importance the trade would be of to us. The chairman of the Committee of Ways and Means has told you it would be contemptible in amount; but, sir, I say this, because I consider it expedient to continue the embargo, to withhold our supplies from those who need them, I will not permit you to go to those countries. Repeal the embargo in part! No, sir. Give merchants one single spot anywhere out of the jurisdiction of your own country, as large as the square of this House, and they would carry away the whole of our surplus produce. Give them a little island on which to place the fulcrum of their lever, and Archimedes-like, they will move your whole trade. Let them go to Demarara, to Gottenburg, or any other burg, and it is to the whole world. But the trade to Spain and Portugal has been held up as highly profitable to the merchants of the United States. The gentlemen who venture this opinion have not, perhaps, considered the subject with all the attention it is entitled to. It appears to me to be demonstrable from the documents, and the knowledge of circumstances which we possess, that Great Britain, with the extension of plunder the Orders in Council warranted, is not satisfied. She was not content that she had laid a snare whereby she intercepted our whole commerce to Europe. She then permitted us (no doubt from extreme moderation) to trade with the French colonies, taking care, at the same time, to force a direction of that trade in a channel which could not fail to yield a tributary supply to her exchequer. She has now interdicted, by orders secretly issued, that commerce also. The language of Cochrane's proclamation cannot be misunderstood. What a harvest he would have reaped from the robbery of your merchantmen, had the embargo been raised, as was expected by the British Cabinet, at the commencement of the session. The Orders in Council would have taken all your property going to continental Europe, and those of the Admiralty would have swept the West India traders. I believe the idea of enjoying a free trade to Spain and Portugal is altogether illusory. Mr. Canning has told us, not *in totidem verbis*, but certainly in effect, that we should be permitted to trade with those countries, only under the Orders in Council. In answer to the proposition made by Mr. Pinkney to suspend the embargo as to Great Britain, for a suspension of the Orders in Council as to the United States, the British Minister replied in the most peremptory manner possible. Here let me observe, that had that suspension been agreed to, the embargo would have co-operated with the Orders in Council against France. It would have been even much more efficacious than those orders, inasmuch as our own regulations would have interdicted all commerce with France. The professed object of the Orders in Council, retaliation on the enemy, cannot therefore be real – they originated, as they have been executed, in a spirit of deadly hostility against us. That the operation of those orders would be extended to Spain and Portugal, should the embargo be repealed in part, I infer from

this positive assertion of the British Secretary: "It is not improbable, indeed, that some alterations may be made in the Orders in Council, as they are at present framed; alterations calculated not to abate their spirit or impair their principle, but to adapt them more exactly to the different state of things which has fortunately grown up in Europe, and to combine all practicable relief to neutrals with a more severe pressure upon the enemy." Here is not only a denial of suspension, but a threat that alterations will be made, (no doubt in tender mercy to us,) not to abate their spirit, but to adapt their operation more extensively to our ruin. What is the state of things alluded to? Let every gentleman who seeks after truth, candidly inquire for himself, what is the state of things which Mr. Canning considers has so fortunately grown up in Europe. Can it be any thing but the revolutions in Spain and Portugal? If the Orders in Council are not to be impaired, but their operation rendered more applicable to the present state of things, *a fortiori*, you are to be cut off from the South of Europe, in the same manner as you are from France and her dependencies. And are you ready to repeal the embargo under such a threat as this? This note, sir, is sarcastic to the last degree; in it I read insult added to the atrocious injuries my country has received; there is but one part of it which can be looked at with patience, and that is the valuable admonition I have read.

Some gentlemen have gone into a discussion of the propriety of encouraging manufactures in this country. I heard with regret the observations of the gentleman from Virginia on this subject. I will be excused by him for offering my protest against those sentiments. I am for no high protecting duties in favor of any description of men in this country. Extending to him the equal protection of the law, I am for keeping the manufacturer on the same footing with the agriculturist. Under such a system, they will increase precisely in that proportion which will essentially advance the public good. So far as your revenue system has protected the interests of your merchants, I am sincerely rejoiced; but I can consent to no additional imposition of duty, by way of bounty to one description of persons, at the expense of another, equally meritorious. I deplore most sincerely the situation into which the unprecedented state of the world has thrown the merchant. A gentleman from Massachusetts has said, they feel all the sensibility for the mercantile interest, which we feel for a certain species of property in the Southern States. This appeal is understood, and I well remember, that some of their representatives were among the first who felt for our distressing situation, while discussing the bill to prohibit the importation of slaves. I feel all the sympathy for that interest now, which was felt for us then; but I ask if it is not sound policy to encourage the patriotism of our merchants to support still longer the sacrifices, which the public exigencies call for, with spirit and resolution? If they should suffer most from our present situation, it is for their immediate advantage that we are contending. I must be allowed in continuation to say, that, although I do not profess to be one of the exclusive protectors of commerce, I am as willing to defend certain rights of the merchant, as the rights of the planter. Thus far I will go; I will assist in directing the physical strength of the nation to the protection of that commerce which properly grows out of the produce of the soil; but no further. Nor am I therefore disposed to limit the scene of his enterprise. Go up to Mocha, through the Dardanelles, into the South seas. Search for gums, skins, and gold, where and when you please; but take care, it shall be at your own risk. If you get into broils and quarrels, do not call upon me, to leave my plough in the field, where I am toiling for the bread my children must eat, or starve, to fight your battles.

It has been generally circulated throughout the Eastern States, in extracts of letters, said to be from members of Congress, (and which I am certainly sorry for, because it has excited jealousies, which I wish to see allayed,) that the Southern States are inimical to commerce. So far as South Carolina is concerned in the general implication, I do pronounce this a gross slander, an abominable falsehood, be the authors who they may. The State of South Carolina is now making a most magnanimous sacrifice for commercial rights.

Will gentlemen be surprised when I tell them, South Carolina is interested, by the suspension of our trade, in the article of cotton alone, to an amount greater than the whole revenue of the United

States? We do make a sacrifice, sir; I wish it could be consummated. I should rejoice to see this day all our surplus cotton, rice, flour and tobacco burnt. Much better would it be to destroy it ourselves, than to pay a tribute on it to any foreign power. Such a national offering, caused by the cupidity and oppression of Great Britain, would convince her she could not humble the spirit of freemen. From the nature of her products, the people of South Carolina can have no interest unconnected and at variance with commerce. They feel for the pressure on Boston, as much as for that on Charleston, and they have given proofs of that feeling. Upon a mere calculation of dollars and cents – I do from my soul abhor such a calculation where national rights are concerned – if South Carolina could thus stoop to calculate, she would see that she has no interest in this question – upon a calculation of dollars and cents, which, I repeat, I protest against, it is perfectly immaterial to her whether her cotton, rice, and tobacco, go to Europe in English or American vessels. No, sir, she spurned a system which would export her produce at the expense of the American merchant, who ought to be her carrier. When a motion was made last winter for that kind of embargo which the gentleman from Maryland (Mr. Key) was in favor of; for he says he gave his advice to do that very thing, which if adopted would cut up the navigation interest most completely, (an embargo on our ships and vessels only;) South Carolina could have put money in her pocket, (another favorite idea with the gentleman,) by selling her produce to foreigners at enormous prices; her representatives here unanimously voted against the proposition; and her Legislature, with a magnanimity I wish to see imitated throughout the United States, applauded that vote – they too said they would unanimously support the embargo, at the expense of their lives and fortunes. She did not want an embargo on our ships, and not on produce. No, sir; she knows we are linked together by one common chain – break it where you will, it dissolves the tie of union. She feels, sir, a stroke inflicted on Massachusetts, with the same spirit of resistance that she would one on Georgia. The Legislature, the representatives of a people with whom the love of country is indigenous, told you unanimously, that they would support the measures of the General Government. Thank God, that I am the Representative of such a State, and that its representatives would not accept of a commerce, even at the advice of a gentleman from Maryland, which would profit themselves at the expense of their Eastern brethren. Feeling these sentiments, I cannot but say, in contradiction to what fell from the gentleman from Virginia, (Mr. Gholson,) I should deplore that state of things which offers to the merchant the lamentable alternative, beggary or the plough. I would say to the merchant, in the sincerity of my heart, bear this pressure with manly fortitude; if the embargo fails of expected benefit, we will avenge your cause. I do say so, and believe the nation will maintain the assertion.

It is with reluctance I feel compelled, before I resume my seat, to make a few observations in reply to what fell from the gentleman from Maryland (Mr. Key) yesterday. The gentleman commenced his address by contradicting the statements made by a gentleman from Massachusetts, and my worthy friends from Virginia and Georgia, (Messrs. Randolph and Troup.) He told you their districts could not feel the embargo most, as it was in his the sufferings were most severe. I shall not waste the time of the House by an inquiry into the truth of this assertion; nor, sir, will I enter into a competition of this sort. I aim at a distinction far more glorious. The State I represent in part, bears the embargo the best. This it is my pride to boast of. There, sir, there are no murmurs, no discontent at the exertions of Government to preserve the rights of the nation. And as long as respect for the honor, and a hope of the salvation of the country exists, so long will they bear it, press as hard as it may.

The gentleman told you, in speaking of the Maryland elections, that the film is removed from the eyes of the people, and that in discerning their true interests, they saw it was the embargo, and not the Orders in Council, which oppresses them. He must feel confident indeed in the knowledge that he is two years in advance of his constituents, or he would not have ventured such an assertion. [Mr. Key explained that he had said the film was removed, and the people saw that their distress arose more from the embargo than from the Orders in Council.] Mr. Williams continued: I have no

intention to misrepresent the gentleman, but I understood him to say that the Orders in Council did not affect the continental market, but the Berlin decree; that the embargo caused all the pressure at home; that the Orders in Council had no part in producing that measure, and therefore I infer as his opinion, that the Orders in Council have not injured us. [Mr. Key said that the few observations which he had made on this subject, were in reply to the gentleman from Tennessee, (Mr. G. W. Campbell,) that the people should be no longer deluded. In answer to this Mr. K. said he had observed that the people were not deluded – that the film was removed from their eyes, and that he then had gone on to show that the depression of produce arose from the embargo. But that he never had meant to say that the Berlin decree and Orders in Council were not injurious, because they lopped off a large portion of our commerce.]

I understood the gentleman to say (observed Mr. W.) that it was very strange we would not trust our merchants upon the subject of the embargo, who were the best judges. I wish to represent the gentleman's sentiments correctly, and shall not consider him impolite, if I have misstated him, should he again stop me. Why, sir, is it strange? Are the merchants the guardians of the public honor? This I conceive to be the peculiar province of Congress, because to it alone has the constitution confided the power to declare war. Will the gentleman trust the merchants with the guardianship of his own honor? No, sir, he chooses to protect it himself. And would he advise the nation to pursue a course disgraceful, and to which he would not expose himself? I will not trust the merchants in this case, nor any other class of men; not being responsible for the national character, they will trade anywhere, without regard to principle. So true is this, Dessalines felt no uneasiness when informed of the law prohibiting all intercourse with St. Domingo; he replied, "hang up a bag of coffee in hell, and the American merchant will go after it." I am not sure that, in the evasions of the embargo, some of them have not already approached near its verge: certain I am, that, in a fair commerce, such is the enterprise and perseverance of their character, they will drive their trade as far as it can be driven. No, sir, I will not trust the merchant now, because he would do the very thing which the gentleman seems to wish, trade under the Orders in Council.

The embargo should be removed, because, says the gentleman, it has operated as a bounty to the British trade. I should be disposed to doubt this, if for no other reason than a knowledge of who advocates its removal. Before the embargo was laid, agricultural labor in the British West India islands, particularly on sugar estates, could scarcely support itself. I refer the gentleman to the documents printed by order of Parliament, and the memorials of the agent of Jamaica. He will find that the planters are in a distressed situation, not from their failure in the cultivation of the soil, but from the enormous duties on their produce in the mother country. Are the extravagant prices of articles of the first necessity, superadded to their former embarrassments, to operate as a bounty on their trade? I should be extremely gratified if the gentleman will inform us what would have been the amount of bounty on the trade, if evasions of the embargo had not taken place. If the price of flour has been sixty dollars per barrel, and other articles in proportion, what would have been the price had there been no evasions of the law? They could not have been procured at all: and yet we are told the embargo is a bounty on British trade! When the gentleman was, I had like to have said, justifying the Orders in Council, he should have favored us with a vindication of the *smuggling* proclamation also. Such a degree of corruption and of immorality never before, in any one paper, disgraced a civilized nation. The citizens of a country, at peace and in amity, enticed to evade their own laws! Is such an act calculated to induce the belief that the embargo operates as a bounty on British trade?

I shall not enter upon another question stirred by the gentleman, the constitutionality of the embargo law; the subject has become so stale, that even he could scarcely make it interesting. It has been laid asleep – a solemn adjudication has taken place and put it at rest. But the gentleman will excuse me for observing he made a most unfortunate allusion in the course of his argument. He said it was strange that, not having the power delegated to us to tax exports, we should undertake

to prohibit them. The Orders in Council, which if the gentleman did not justify, he was certainly very tender of, do exercise that very power of taxing our exports, which by the constitution we are prohibited, and that too when they are destined to a government equally sovereign and independent with that of Great Britain.

We have been referred by the gentleman to the history of the Revolution, and after a kind of encomium on the resources of Great Britain, the triumphs of her navy and her present imperious attitude, he demanded to know if we can expect she will yield to us now, when during the Revolution she maintained a war against the whole world, at the same time that she kept us at bay seven years and succeeded with every nation but her own sons – will she truckle at our feet now? The gentleman knows we do not seek to make her truckle at our feet; we wish her no injury; we ask of her no boon whatever; we only entreat her to let us alone; to abstain from wanton, unprovoked acts of oppression. What is the object of this language? Is it to tell us she never will redress our wrongs; or is it to divert us from a prosecution of our rights? The contest was very different with her at that time from what it is now. She then contended against the dismemberment of her Empire. Will the gentleman say she values the principles of the Orders in Council, as she did the sovereignty of her colonies? What will the gentleman discover, by examining the history of the period he referred to? England, at that time, when France, Spain, Holland, and the United States, were opposed to her, when the armed neutrality in the north of Europe assailed her, when all these brought the principle of embargo to bear upon her, was nearer ruin than she ever was before or since. I refer him to Playfair's tables for the year 1781; there he will find the very principle proven, for which we are now contending. Does Great Britain now prize the plunder of your merchantmen, the impressment of your seamen, insult to your national flag, as much as she did the sovereignty of the soil? Certainly not; and yet she must, precisely the same, or she will not hold out now as she did then. When I recollect that her necessary annual expenditure is greater than the gross rent of all the landed property in her kingdom; that the armed neutrality affected her so materially, that the same principle is brought into operation again; that by withholding our custom, our supplies, our raw materials, we must necessarily destroy a large portion of her revenue, I cannot but hope she will see her own interest in redressing our injuries. This is all we contend for, allow the experiment to be made; if not, at least propose some better remedy.

But said the gentleman, at the close of the Revolutionary war we alone triumphed over the arms of Great Britain; defeat befell all the rest of the world. I will not contest that point with him, as he is old enough to speak from experience.

We were informed by the gentleman, that it was the Berlin decree, and not the Orders in Council, had destroyed our trade to the Continent of Europe. Here too we are directly at points. The gentleman has not made himself master of his case, or has totally mistaken his evidence. I hold a document in my hand which, perhaps, the gentleman may object to, as coming from the opposition party in Great Britain; it is the depositions of sundry merchants of great wealth and respectability, taken before the British House of Lords, on the subject of the Orders in Council. Here Mr. W. read from the depositions the following questions and answers:

> "If the American embargo were removed, and the Orders in Council still continued in force, in that case would the witness resume his shipments?
>
> "To a very small amount.
>
> "For what reason?
>
> "Because I do conceive, that there would be such great impediments, indeed a total annihilation of trade from the United States of America to the Continent of Europe, that I could not expect to receive any returns for the goods I sent out; and another reason would be my apprehension that a war between the United States and this country would be the consequence of those Orders in Council.

"What is the reason that the Orders in Council prevent the witness sending our cotton goods in ships in ballast?

"I believe I stated my apprehension that they might produce a war between the two countries; another reason was, I could not expect to get remittances, and a total annihilation of the trade between the United States of America and the Continent of Europe, from whence a great part of my remittances must be derived.

"If the American embargo in general were taken off, and the Orders in Council to be continued, would his trade in that case revive?

"I certainly should feel no inducement to export goods to America while the orders continued.

"Why not?

"I should apprehend that hostilities between this country and America would be the consequence of continuing the Orders in Council.

"Would the Orders in Council have any other effect as to discouraging the trade?

"They would have considerable effect in regard to our remittances.

"In what manner?

"By bringing all the produce of America to this country, they must occasion such a vast glut in the market, that the produce would be worth little or nothing.

"In what degree would it affect the dealers in those commodities brought to this country, as to their remittances to this country?

"The consequence I apprehend would be, that great parts of the bills must go back protested; because the produce, for which the bills are drawn, would sell for scarcely the value of the freight and charges.

"Does the witness conceive, from his knowledge of the American trade, that if the whole of the American produce, which according to an average of years had been carried to the Continent of Europe, and to Great Britain, was now to be imported into Great Britain alone, and the Orders in Council to continue; whether it would be possible to export from Great Britain to the continent, so much of the American produce as should prevent a glut of the American produce remaining in the market?

"I think it would be impossible.

"Have you lately written to your correspondents in America respecting shipments of American produce to this country?

"I have.

"To what effect have you so written?

"I have written that in case of submission to these Orders of Council, in case such a thing should take place, to suspend all operations.

"Did you give this advice to your American correspondents, upon the supposition that America would acquiesce in the Orders in Council?

"Certainly not, I stated it as a thing by no means likely; but, as there is nothing impossible in this world, that if it were so, not to move; that in case they were acquiesced in, not to attempt any business."

Considering (continued Mr. W.) these are the sentiments (delivered under the sacred obligation of an oath) of that very description of men who the gentleman believes are the best judges and ought to be trusted, I am warranted in saying, they prove his position wholly unfounded. The gentleman's project last year was to lay the embargo on our ships and vessels, and to dispose of our produce, the effect of which would have been destruction to our own vessels, constant encouragement to those of Great Britain. I beg him to remember, that if two or three years hence, he

should not stand as high with the American merchants as he could wish, it may be fairly attributed to this friendly protection of their immediate interests, which he would have extended to them.

The gentleman was equally unfortunate in saying, the destruction of St. Domingo had caused such a demand for sugar, that the cultivation of cotton in the British West India islands had been abandoned; he is not well versed on the subject, the fact not being as he has stated it. However great an impetus the destruction of St. Domingo may have given to the cultivation of sugar and coffee, in the British West Indies, it certainly had no effect in any way on that of cotton, the quantity of that article formerly exported from thence being too small to have any influence whatever. Our cotton will never be supplanted from that quarter. Could the sugar estates be converted to cotton plantations, so depressed has been their situation, that conversion would have been long since effected. Nor, sir, is it true that the cultivation of cotton in the British West India islands has been abandoned; on the contrary, it has been regular though slow in its increase, compared with that of coffee. Crops of that kind are frequently precarious, owing to a natural enemy of the plant in those islands, and therefore the cultivation has not kept pace with the demand.

I heard the gentleman with pain and mortification, I repeat it, with pain and mortification I heard him declare that nations like individuals should pocket their honor for money. The act is base in an individual, in a nation infinitely worse. The gentleman was corrected by his colleague (Mr. Nelson) on this subject. He evidently, to my apprehension, expressed an opinion, that money was to be preferred to honor. He told us that honor in arbitrary governments was identified with the monarch, who went to war for his mistress; that in republics honor consisted in the opportunities afforded to acquire wealth, and by way of illustration said, we pocketed our honor for money in paying tribute to the Barbary Powers, for the security of a paltry trade. Does the gentleman mean to assimilate a tribute exacted by Great Britain with that paid to Algiers? Or does he mean to be understood as advising us, because we purchase peace with barbarians, involving no honorable consideration, to barter for a pecuniary reward, with Great Britain, our rights, our honor, and our independence? Detestable as this inference is, it results from his arguments. Repeal the embargo, throw open your trade to Great Britain; you can put money in your pocket by it. I want no substitute. Sir, if my tongue was in the thunder's mouth, then with a passion would I shake the world and cry out treason! This abandonment of our rights, this sacrifice of our independence, I most solemnly abjure. Astonished indeed am I, that a gentleman so eloquent, so well qualified to uphold the honor and dignity of his country, should so abandon them! Is it possible such doctrine should be advocated on the floor of Congress? Has it come to this? Was it for this the martyrs of the Revolution died? Is this great continent and the free millions who inhabit it, again to become appendages of the British Crown? Shall it again be held, in its orbit by the attractive, the corruptive influence of the petty island of Great Britain? No. Sooner may you expect the sun with all the planetary system will rush from their shining spheres, to gravitate round a pebble. Remember, sir, it is no longer a contest singly about the carrying trade, or the impressment of seamen, or the insult to the national flag, but all united with the rights and attributes of sovereignty, even to the violation of the good old United States. You stand on the verge of destruction, one step, one movement backwards will stamp your character with indelible disgrace. You must now determine whether you will maintain the high station among nations, to which the virtues, the spirit of the people have elevated you, or sink into tributary vassalage and colonization. By all your rights, your duties, your awful responsibility, I charge you "choose ye this day whom ye will serve; but as for me and my house, we will serve the Lord."

Mr. Culpeper spoke in opposition to the report.

Mr. Cook moved to adjourn. Mr. J. G. Jackson called for the yeas and nays on the motion; but a sufficient number did not rise to justify the taking them. Motion to adjourn negatived. Mr. Cook renewed the motion, observing that he had some remarks to make, which might occupy the House some time. – Carried, 54 to 50, and the House adjourned.

Saturday, December 10

Mr. Lewis, from the Committee for the District of Columbia, presented a bill supplementary to the act, entitled "An Act for the establishment of a Turnpike Company in the county of Alexandria, in the District of Columbia;" which was read twice, and committed to a Committee of the Whole on Monday next.

The bill sent from the Senate, entitled "An act further to amend the judicial system of the United States," was read twice, and committed to Mr. Marion, Mr. Holland, and Mr. Kelly, to consider and report thereon to the House.

Mr. Nelson, from the committee appointed the eleventh ultimo, on so much of the Message from the President of the United States as relates to the Military and Naval Establishments, presented a bill authorizing the appointment and employment of an additional number of navy officers, seamen and marines; which was read twice, and committed to a Committee of the Whole on Monday next.

Foreign Relations

The House again proceeded to the consideration of the first resolution of the report made by the Committee of Foreign Relations.

Mr. Cook addressed the House at considerable length.

Mr. R. Jackson said: Mr. Speaker, not having been in the habit of public speaking, it is with great diffidence I rise, to make any observations on the resolutions now under consideration, after so much has been said upon the subject. But, sir, knowing the deep stake that the portion of citizens which I have the honor to represent, and the United States at large, have in the present embarrassed state of our political affairs, was I to remain silent, sir, I should feel as if I was guilty of treachery to their interests. I shall not attempt to follow gentlemen in their arguments who have gone before me in the debate, but confine myself to making such observations on the resolutions and the state of our political affairs, as appear to me to be necessary and proper. By the first resolution we are called upon to declare "that the United States cannot, without a sacrifice of their rights, honor and independence, submit to the late edicts of Great Britain and France." Why we are called upon to make this declaration, I cannot conceive. I do not see the use of it, unless it is considered by the committee as a kind of test act, which they think ought to be administered to every member of the House to ascertain whether they are of sound principles or not. I do not like such abstract propositions; I think them useless, as nothing can come from them in a legislative way; no bill can be formed from it; however, I do not see anything at present to prevent me from voting for it. By the second resolution we are called upon to declare "that it is expedient to prohibit, by law, the admission into the ports and harbors of the United States of all public or private armed or unarmed ships or vessels belonging to Great Britain or France, or to any other of the belligerents having in force orders or decrees violating the lawful commerce and neutral rights of the United States; and also the importation of any goods, wares, or merchandise, the growth, produce, or manufacture of the dominions of any of the said powers, or imported from any place in the possession of either."

Here, sir, I shall take the liberty to dissent from the committee, for I do not think it to be expedient to join them in such a resolution as this. For I would ask, what are we to promise to ourselves from such a system as this; what will be the probable effects of it? Will it compel the great belligerent Powers to do us justice for past injuries and secure us for the future? If I thought it would, I would most cheerfully vote for it. But, sir, I have no reason to suppose it will, for we have now had considerable experimental knowledge of the effects of the embargo system, both as it respects ourselves and foreign powers, and we have found from experience, that, as a coercive

measure, it has had no effect. It has not compelled France or England to do us justice, or to rescind their unlawful edicts and decrees, issued against neutral commerce. And those nations having now experienced the effects of the embargo for nearly one year, whatever alarm it might have given them, when first laid on, that alarm has ceased. And we have it from high authority, that France cares nothing about it, and that in England, owing to the great events now passing in Europe, it is forgotten. And shall we still, with all this information and experience, adhere to this system, and still think we can legislate France and England into a comitance to do us justice, and bring them to the bar of justice in this way? Far be it from me to censure any one for the part they have taken in endeavoring to maintain the rights of our country, and giving security to the interest of our citizens. But, sir, I think, in the business of legislation, that the same line of conduct ought to be pursued, that we would pursue in the common and ordinary proceedings of life; for should any of us undertake to do any thing, suppose it be to get a vessel afloat that had been stranded, and the means employed were totally inadequate to its accomplishment, should we not abandon those means and try some other? We have tried the embargo, and found it altogether ineffectual, and we have no reason to suppose, that by a further continuance of it, it will answer any of the purposes for which it was intended.

I will now take some view, as it appears to me, of what has been, and will be the effect of the embargo, if continued, as it respects ourselves. The burden of it has already been very great, on a large proportion of our citizens. It has been grievous, and very sore. For how otherwise can it be, when we consider that all the navigation business, from one end to the other of these United States, is totally stopped, excepting a small remnant of our coasting trade, and that remnant under very great embarrassments; and all that numerous class of our citizens, dependent on commerce, deprived of their usual means of gaining a livelihood, and in consequence thereof thousands of them have been obliged to live on their former earnings, and consume that little property they had treasured up for their future support? And if the embargo is continued, the inevitable consequence must be, bankruptcy to many of our merchants, and absolute distress, misery, and want, to a large proportion of our citizens who live in the seaport towns, and great embarrassments to all classes of citizens throughout our country. And if this system is continued, we must incur the hazard of having civil commotions in our country, for experience has proved, that when great distress prevails among the people, and that distress arises from political measures, which the people are divided in sentiment upon, the hazard is very great that civil commotions will take place. Some gentlemen have undertaken to show how much we have already lost by the embargo. But I shall not go into any calculation of this sort, for I am convinced that it defies calculation; it is impossible to follow it into all its turnings and windings. It is enough for me to know that the loss is immense, and that we have received such a shock by it, that it will require a long time to come, to recover from it. Gentlemen have also endeavored to point out such parts of the Union as they think are suffering the most by the embargo. There is no doubt but that it does bear harder upon some portions than on others, and that it is unequal in its operation. But, sir, my idea is, that it bears the hardest upon that part of our citizens where they are the most dependent on commerce for their living; and this being the case, in nearly as great a degree, perhaps, with the citizens of Rhode Island as in any part of the Union, it follows that my constituents are suffering as much as any portion of the United States.

But, sir, its pressure is upon the whole country, and it carries misery throughout our land; and if continued, the distress occasioned by it must still be much greater than it has been, and will become intolerable in some parts of the Union, and the consequences may be dreadful to the nation. And as to its effects on France or England, for myself, I am of opinion, that the Emperor of France and King of Italy is well pleased with it, for, as it is observed by Mr. Canning, "it certainly comes in aid" of his grand design of destroying the commerce of the English, and trying to give that nation the consumption of the purse; and, until he is satisfied with that speculation, he will wish us to keep on the embargo. And since Spain and Portugal have refused any longer to be under the control of

Bonaparte, and have bid him and all his hosts defiance, and have connected themselves with the English, I believe the English care nothing about the embargo, but would give us their free leave to keep it on forever; for, sir, it gives the greatest activity to their colonies of Canada and Nova Scotia, and must be the means of increasing their settlements with astonishing rapidity. Experience has already proved to them, that their colonies in the West Indies can be maintained without us, and Spain and Portugal and their colonies having become open to them, to vend their manufactures, and with what can be smuggled into the continent and into our country, in spite of all the laws that can be made against it, will furnish them market enough; and our navigation being all laid up, and out of the way, their ships will obtain great freights from Spain and Portugal to the colonies, and from the colonies back to the mother country; and in consequence of our retiring into a state of dignified retirement, as it has been called, they will have nearly the whole trade of the world in their own hands. And it appears to me, sir, in every point of view that I can place the subject, if we continue the embargo, it will operate to distress ourselves a hundred times more than it will anybody else. I will now, as I have heard the call so frequently made, that, if you do not like this system, point out a better, and if it appears so, we will adopt it – I will, therefore, point out what appears to me a better line of conduct for the United States to pursue, and if I am so unfortunate as not to find a man in this House of my opinion, I cannot help it, for I feel myself constrained, from a sense of duty to my suffering constituents, to inform this House and the nation, that I wash my hands of it, and protest against it. I therefore, sir, with great deference to superior abilities, propose that the law imposing an embargo on all ships and vessels of the United States, and all the laws supplementary thereto, be immediately repealed, and that we authorize our merchants to arm their vessels, under proper regulations, in defence of our legitimate and lawful commerce; that the Government from time to time afford the commerce of the country such protection as may be found necessary and prudent. If this was done, I have no doubt but that the citizens of the United States would soon be relieved from their present embarrassments and distress. This, sir, would produce a circulation in the body politic, our planters and farmers would immediately find a sale for their surplus produce, our merchants would find employ for their vessels, and all that numerous class of citizens who have heretofore been engaged in the active and busy scenes of commerce, would again find employ in our seaports. In lieu of beholding dismantled ships covered with boards and mats, we should see in them spars and rigging aloft, and the ports whitened with their sails, and again hear the cheering sound of industry. But it has been said that if the embargo was removed and our merchants should send their vessels to sea, most of the property would be taken by one or other of the great belligerent powers, and thus be lost to our country; and that we have so little trade left that it is not worth our notice. But let us examine this, and see if it be so. Could we not, sir, in the present state of the world, trade to England, Scotland, and Ireland, to Sweden, Spain, and Portugal, to some of the islands in the Mediterranean, and some of the Turkish ports on that sea; to nearly all the ports in the East and West Indies, to both sides of the continent of South America, and some other places, and have the obstruction occasioned by the embargo laws removed from our own coast? Is all this trade of no importance to trading people? Gentlemen have gone into statements to show, from our former trade, how much of our domestic produce could be exported to the different parts of the world, under the present embarrassments, occasioned by the great belligerent powers; but for myself I put no confidence in such statements. I consider trade may in some measure be compared to water; if the channel it has been used to run in becomes obstructed, it will find new channels to vent itself in. For instance, sir, suppose we should adopt the resolution offered by the gentleman from New York (Mr. Mumford). He mentioned that we could trade to the little Swedish island of St. Bartholomews, in the West Indies. Now suppose we should look over our former exports to this island in any one year, what should we find the amount to be? I do not know, sir, perhaps one hundred thousand dollars, but double, triple it if you please, and what comparison would it bear with the amount that would be shipped there under his system? Would it not immediately

become a distributing point for the whole of the West India Islands, and the amount increased to an astonishing degree, when compared with what used to be exported there? And so it would be in other parts of the world. The articles will go where they are wanted, in a greater or less degree; and if they cannot be carried directly, they will find their way in an indirect manner. And as to the danger of the property being captured and confiscated, I think our merchants and underwriters are the most competent to judge of that. They do not wish the Government to become guardians for them in this respect. All they wish for Government to do is to let them manage their own affairs in their own way; and the Government to afford the commerce of the country as much protection as shall be for the real interest of the whole nation. Have we not seen, in the summer past, with what eagerness the merchants in the United States availed themselves of the special permission granted to fit their vessels in ballast, and go abroad to collect debts? And was not every old and obsolete claim hunted up that existed in the country, to make out the amount necessary to avail themselves of this permission? Is not this proof that the merchants did not consider the risk very great? And were not several hundred sail of vessels fitted out under this permission; and have they not nearly all returned back to the United States in safety? Many of these vessels were insured to the West Indies, out and home, at premiums of about eight and nine per cent., and this in the midst of the hurricane season. This proves that the underwriters did not estimate the political risk at more than two or three per cent., for the natural perils in time of profound peace would be considered equal to six per cent. And the calculation of the underwriters has proved correct, for they have made money by the business. And was our embargo removed, I am of opinion that the premiums of insurance would not be more than six or seven per cent. to any port in Great Britain, and about the same to Spain and Portugal. This, if correct, proves that the political risk is not considered to be very great by those who are the best judges of it. But, sir, it appears to me there are many gentlemen in this House who think it will not do to trade, until all political risk is removed out of the way. If we wait for this, we shall never trade any more, for the natural perils of traversing the ocean always exist, and always remain nearly the same, allowing for the variation of the seasons. And the political perils always exist, but they vary according to the state of political affairs among the nations of the world. But, sir, I have repeatedly heard it said, and the same thing is expressed in the report of the committee, that our situation is such, that we have no other alternative than a war with both Great Britain and France, submission, or a total suspension of our commerce.

The committee have, sir, after a long statement, brought our affairs up to this point, and I do not like any of the alternatives out of which they say we must make a choice, for I do not believe that we are reduced to this dilemma; and I will not agree to go to war with both England and France, nor will I agree to submit, or to totally suspend our commerce. But I will agree to give our merchants liberty to arm their vessels, under proper regulations, in defence of our legitimate commerce, and leave it to them to send their vessels for trade where they please; and if any of them are so unwise as to trust their property to France, or to any ports in Europe where the French control, let them fight their way there if they choose. I see no other course, sir, that we can pursue, that will be so much for the interest and honor of our country, as the one pointed out. The American people are a cool, calculating people, and know what is best for their interest, as well if not better than any nation upon earth, and I have no idea that they will support the Government in a ruinous war with England, under the present existing circumstances, nor in measures depriving them of all trade and commerce.

Mr. Mumford then offered a few observations in answer to the remarks of Mr. Gholson of Virginia. During the discussion, six different motions were made for an adjournment, the last of which, offered by Mr. Gardenier, was carried – yeas 58, nays 48.

Tuesday, December 13

On motion of Mr. Thomas,

Resolved, That a committee be appointed to inquire into the expediency of dividing the Indiana Territory; and that they have leave to report by bill or otherwise.

Ordered, That Mr. Thomas, Mr. Kenan, Mr. Bassett, Mr. Taggart, and Mr. Smilie, be appointed a committee pursuant to the said resolution.

On motion of Mr. Thomas, the resolutions of the House of Representatives of the Indiana Territory, which were read and ordered to lie on the table on the fourteenth ultimo, were referred to the select committee last appointed.

Mr. Marion, from the committee to whom was referred, on the tenth instant, the bill sent from the Senate, entitled "An act further to amend the Judicial System of the United States," reported the bill to the House without amendment: Whereupon the bill was committed to a Committee of the Whole to-morrow.

The bill sent from the Senate, entitled "An act for the relief of Andrew Joseph Villard," was read twice and committed to a Committee of the Whole to-morrow.

On motion of Mr. Alexander,

Resolved, That a committee be appointed to inquire whether any, and if any, what farther provision ought to be made by law, prescribing the manner in which the public acts, records, and judicial proceedings of one State, shall be proved and given in evidence in another State, and the effect thereof; and that they have leave to report by bill or otherwise.

Ordered, That Mr. Alexander, Mr. David R. Williams, Mr. John G. Jackson, Mr. Key, and Mr. Quincy, be appointed a committee, pursuant to the said resolution.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act supplemental to an act entitled 'An act for extending the terms of credit on revenue bonds, in certain cases, and for other purposes;'" also, a bill, entitled "An act to change the post route from Annapolis to Rockhall, by Baltimore to Rockhall;" to which they desire the concurrence of this House.

Foreign Relations

The following is Mr. Gardenier's speech entire:

Mr. Speaker: I had intended to defer the delivery of my sentiments upon the second resolution, until that resolution should come before the House. But the course which the debate has taken, has produced a change in my original intention.

That the first resolution is an unnecessary one, because no clear, definite, practical results can flow from it, appears to me self-evident. Are the people of this country suspected of an intention to abandon their rights or their independence? Indeed, sir, they are not. Why then is it, that we are called upon to make a new declaration of independence? Or was the Administration conducted in such a manner as to make the firmness and patriotism of the nation itself doubted abroad? Even I, sir, who am not suspected of a blind confidence in our rulers, will not advance such a charge.

The true question is not, Is the matter expressed in this abstract proposition true? But, Is it necessary that a resolution containing it should be passed by this House? I agree with the gentleman from Tennessee (Mr. Campbell) that it would be no less ridiculous to pass this resolution than to pass one that the sun shines. Allowing both to be true, both are equally unnecessary to be embodied in a resolution of this House. Begin this system of abstract legislation, and where are you to stop? Sir, it partakes too much of the character of disturbed, revolutionary times. To such a blasphemous height was this notion of voting abstract propositions, or declarations, or truisms (call them what you will)

carried at one time in France, that their Convention very gravely decreed "that there was a God!" This was a self-evident truth; and being so could not become more so by being decreed. And if the edicts of Great Britain and France go to the destruction of our "rights, honor and independence," our voting that such is their operation, makes it neither more nor less true.

But, it is said, a select committee have placed the resolution before us, and we are bound to vote whether the assertions it contains are true or false. Why, sir, if I should offer a resolution that at this moment the sun shines, and some one should second me, would it be contended that this House ought gravely to proceed to the question? and if any member should say, "I vote against this resolution because it is too true to be made more so; and because, therefore, I think it unnecessary to be passed," that he, sir, should be considered blind?

Again, gentlemen, some too with whom I am in the habit of acting, say, at the worst, the resolution is harmless – it ties you down to no specific course, and therefore you may as well vote for it; that to vote against it, will afford a handle against our popularity – that the resolution itself is an artful one – a trap set to catch the Federalists, as it will hold them up to suspicion, if they vote against it – for the vote will appear upon the Journals, when the argument is not to be found there. Well, sir, if it be in truth a trap to catch poor Federalism in, I, for one, sir, am willing to be caught. I never deceived the people whom I have the honor to represent, either by giving a vote to the propriety of which my judgment was opposed, or by professing opinions which I did not entertain; and, sir, I trust in God I never shall. The applause of my constituents is dear to me. But I would rather strive to deserve it – than, not deserving it, to receive it. Yes, sir, my course shall be always a plain one – a straightforward course. I have not acquired the confidence of my constituents by increasing their delusions. I have always labored to disperse them. At my first election to this House, a decided majority of them were opposed to my politics. The thought has often distressed me. But the cause of that distress exists no longer. And, therefore, sir, I will go on discharging my duty with the most scrupulous obedience to my judgment, and where the weight of a hair ought to turn the scale, it shall turn it.

But if I had no other objection against this abstract "harmless" resolution, there is one which would be decisive: I would reject it on account of "the company it keeps." The committee, for reasons which I shall not stop to disclose, have thought it important to introduce this, by way of propping the second one. That second one, sir, the undoubted object and inevitable tendency of which my whole soul recoils from, which I abhor and deprecate, as fatal to the prosperity and happiness of my country – as the grave of its honor – and I fear I do not go too far when I add, of its independence! that resolution is not alone submission to France; but, under the pretence of resisting her infractions of the laws of nations, her violations of the sacred rights of hospitality, her laughing to scorn the obligation of treaties – it makes us submit to all – to encourage a perseverance in all. Nay, sir, it throws the whole weight of our power into her scale, and we become not only the passive, but, to the whole extent of our means, the active instruments of that policy which we affect to abhor. This, sir, unhappily, is capable of the most clear demonstration; and, in the proper place it shall appear so. I enter now upon the discussion of the second resolution. And although I am aware how little professions of sincerity and embarrassment are generally regarded, and, indeed, how little they ought to be regarded, yet I cannot approach this awful subject without declaring that I feel as if I was about to enter the sanctuary of our country's independence; and I tremble with the same fearful distrust of my powers, the same distressing perplexity which would embarrass me if I had entered the labyrinth in which was concealed the secret of that country's honor, prosperity and glory. I do feel, sir, that we should enter upon the discussion of this question divested of all the prejudices and passion of party – no less than all foreign predilections and animosities – with clean hearts, sir; yes, hearts seven times purified, to prepare them for the discharge of the sacred, the holy duties of this awful crisis. He who can come to this debate with other motives than to save his country, placed as it is on the brink of a dreadful precipice, deserves to be heard nowhere but

in the cells of the Inquisition. The sound of his voice should never be suffered to pollute the Hall of the Representatives of the American people. But he who, thinking that he has traced the causes and the progress of our misfortunes, and that he may, perhaps, point the nation to a path which may lead it back to the prosperous position it has been made to abandon, would be a traitor to the State, if any considerations could keep him silent.

In my view, sir, we have gone on so long in error – our affairs have been suffered to run on, year after year, into so much confusion, that it is not easy to say what should be done. But if it is magnanimous to retract error, certainly it is only the performance of a sacred duty, which their servants owe the people, to abandon a system which has produced only disappointment and disasters hitherto, and promises only ruin and disgrace in future.

The time, sir, has been, when the Government was respected at home and abroad, when the people were prosperous and happy, when the political body was in high, in vigorous health; when America rejoiced in the fulness of her glory, and the whole extent of the United States presented a scene unknown in any other country, in any other age. Behold now the mournful contrast, the sad reverse! We are "indeed fallen, fallen from our high estate!" The nation is sick – sick at heart. We are called upon to apply a remedy; and none will answer which shall not be effectual. No quack prescriptions will answer now. And the cure, to be effectual, must not persevere in a course which has not only produced no good, nor promises any; but which has brought the patient (if I may use the figure of the gentleman from Maryland, Mr. Nelson) to his present forlorn condition. Such a perseverance may seem to argue great hardihood, or, if you please, spirit; but, after all, it is nothing but the desperate frenzy of a losing, half-ruined gamester.

It becomes, therefore, at last, indispensable to take a retrospective view of our affairs. And, if in taking this view, we should find the cause of our disasters, we must not fear to contemplate it, to hold it up; and, having grown wise by experience, we must not be prevented by false pride, from profiting by it; we must not shrink from the exercise of a virtue because it is also an imperious duty. And I hope that no gentleman who hears me is unwilling to sacrifice the popularity of the Administration to the salvation of the country.

Permit me then, sir, to go back to that period in our history which immediately preceded the adoption of our present form of Government. What was then our condition? The people were poor – for there was no commerce to assist agriculture – there was no revenue for general objects. Many States were hardly able to collect enough for State purposes. And, of course, there was no such thing as public credit, although there was an immense floating debt. We had no reputation abroad – there was no confidence even at home. But, sir, we had a Washington, and we had the pupils of Washington, men whom he knew to be faithful in the Cabinet, for he had found them faithful in the darkest stages of the Revolution. The nation, happily, had not been deluded – they knew their friends by their deeds – they had not yet yielded to the sweet fascination of the seductive popular declamations of these latter times. Men were known by what they did, not by what they said. These men, sir, had the sagacity to discover the secret springs of our prosperity and happiness and glory. And they were able to strike them with a powerful hand, and with a powerful hand they did strike them; and, instantly, as if by enchantment, the scene changed. Suddenly, agriculture raised her drooping head, for commerce beckoned her to prosperity. Your people began to pay their debts and to become rich. Public credit was restored; the Treasury began to fill readily. Sources of revenue were explored, certain of continually increasing, equally certain of being never exhausted, except by folly and madness. Indeed, sir, so perfect was the financial machinery that it admitted of no improvement. It required no more skill in the successors of the illustrious Hamilton to make this instrument "discourse most excellent music," than it would a child to play a hand-organ. An end was put to our Indian wars; our Algerine captives were redeemed – our reputation was established abroad, and the United States assumed their just rank among the nations of the earth! This was, indeed, a work worthy of the illustrious patriots who achieved it. It was the result of that profound

practical wisdom, which, never yielding to the deception of brilliant theory, saw the public interest with a clear eye, and pursued it with a firm and steady step; and it was no wonder that it was successful. Let me add, too, that all this was accomplished without taxation being felt by the people.

But this great prosperity was not without interruption. It received a stroke, sir, deep and dangerous, and almost mortal, from the tremendous system of spoliations commenced by Great Britain in 1793. Misfortunes cast themselves across the path of nations as well as individuals. They are often unavoidable, and no nation can hope to be always exempt from them. The wisdom of the human mind is displayed in putting an end to them in private affairs, and in public that statesman only is great who can overcome and disperse them, who, though he cannot avert the bolt, can prevent the ruin it threatens. At the period of which I speak, we had such statesmen. Yes, sir, the alarm was depicted on every countenance – though the nation staggered to its centre under the severity of the blow it had received, yet was the Administration equal to the dreadful emergency – it had brought the nation into existence and prosperity, and it was equal to the preservation of both. And they showed it not by venting their rage in idle reproaches, but by applying efficient remedies to the diseases of the country.

Let it be remembered that justice was to be obtained from Great Britain; from that power which is now represented and held up to our indignation as "proud, unprincipled, imperious, and tyrannical;" and which certainly was at least as much so then; for then she had on her side all Europe engaged in combination against France, and France was alone as England is now. In short, she was then on the continent of Europe what France is now. Yet, from this same country did our Government succeed in obtaining not only reparation for the spoliations committed, but a surrender of the Western posts also. I repeat, sir, all this was accomplished when Great Britain was not less imperious in disposition, but more formidable in power than she is now. And surely all this ought to appear strange and wonderful indeed to those who have been deluded into the idea that, when Great Britain was struggling, gasping for existence, the same thing was impossible: that has with ease, and under more inauspicious circumstances, been accomplished, which the men now in power pretend they have attempted in vain. Still strange as it may seem to them, it is a fact – it is history. Well, sir, how was this miracle brought about? By a process very plain and simple. The Administration was sincerely desirous of peace; and that single object in their eye, they exerted their abilities to obtain it and consequently did obtain it. The instructions of the Minister breathed a desire of peace – of reconciliation upon terms compatible with the honor of both nations. The Administration did not send with their Minister a non-importation act, a proclamation, or a permanent embargo, by way of exhibiting their love of peace. The refinement in diplomacy which sends with the negotiator a new cause of quarrel for the purpose of accelerating the adjustment of an old one, was not yet invented. No, sir, Mr. Jay, (and the name of that stern, inflexible patriot and Republican, I always repeat with delight and veneration, because he is a patriot and a Republican) —

[Here Mr. Upham took the advantage of a pause made by Mr. G. to observe that, as the gentleman appeared considerably exhausted, &c., he would move an adjournment, which was taken by ayes and noes and lost – ayes 47, noes 65 – Mr. G. voting in the affirmative.]

Mr. G. continued. – Mr. Jay had no disposition to bully the British Government into justice; he had no objection that they should have all the merit of returning voluntarily to a sense of justice, provided his country might have the benefit of substantial reparation. The stern sage of the Revolution became the courteous ambassador, and, appealing "to the justice and magnanimity of His Britannic Majesty," he demanded redress and he obtained it. The British Government saw that ours was sincerely disposed to be at peace with them, and, pursuing the natural direction of their interests, there was no difficulty in making peace. Our plundered merchants were compensated – paid, sir, *bona fide*. We did not purchase redress; we did not pay for the surrender of the Western posts, which were our right, and out of the purchase money indemnify a portion of our own citizens.

No; the payment was to all; and in right old-fashioned "British gold," all counted down on the nail. I wish that I could, with equal truth, say the same thing of more modern treaties.

And now, sir, compensation being made by Great Britain for the spoliations on our commerce, the Western posts being surrendered, a commercial treaty being established, the dark cloud which obscured our prospects being dispersed, the sun of our prosperity once more burst forth in all its radiance, and again all was well.

I care not what were the objections of the day, begotten in the brain of faction, and cherished in mobs; under the treaty we were prosperous and happy, and that one fact is enough for me. Bad as the treaty was represented to be, and the worst feature of it most probably was, that it was a British Treaty – bad as it was, the continuance of its existence has been precisely co-extensive with the progress of our prosperity – it made our people rich and happy; and, bad as it was, they would have cause to rejoice indeed if the present Administration had furnished them with just such another.

France saw with uneasiness the return of a good understanding between America and Great Britain. And she, in her turn, let loose her plunders upon our commerce. Again the wisdom of our Government was called into action, and again it produced the most happy result. What did they do? An embassy was despatched to France, redress was demanded, but the Ministers were not received, nor could be, till a *douceur*– a tribute – was paid. From a nation which returned such an answer, redress could not be expected; and there was an end of negotiation. Britain and France had acted toward us with equal injustice – the disposition of our Government, its desire of peace, was the same with both. Its conduct was the same to both, but France would not even hear our demands. The American Government were at no loss how to act. The case was a plain one. One nation robs another – that other demands reparation – prevarication is the reply. It requires no skill to see, in such a case, that, to coax the offender into reparation is impossible. Accordingly, our Government did not hesitate as to the course it should pursue; they did not wait to be spurred on by any Government to an assertion of their rights; they would not leave it one moment doubtful whether they had the disposition and the courage to assert them. They proceeded immediately to annul the French Treaty, to pass non-intercourse laws; they built ships of war, and sent them upon the ocean, to protect our commerce. They were not so obstinate but that they could receive instruction, even from the author of the "Notes on Virginia," who, in that work, so judiciously recommends a navy. Our little armament picked up the French cruisers, great and small; the coast, the sea, was soon cleared of them. And our commerce again visited every clime in safety.

I will here remark, sir, that, during all this time, the staple commodities (particularly of the Northern States) suffered no diminution, but an increase in price. Well, sir, France very soon discovered that she had nothing to gain, and we nothing to lose by such a state of things. Even then, when she had some naval power, she discovered this. She was, therefore, very soon disposed to change it. A treaty was patched up, in the end, and something like the appearance of redress provided for.

Now, sir, for the result. A former Administration were able to settle our differences with Great Britain, although she governed all Europe, although she was unjust, haughty, and imperious. Now the same thing is said to be impossible! A former Administration were able, after a fair negotiation had failed, to bring France, who had then some maritime power, on her marrow-bones. And now, when she has none, again the same thing is impossible! How happens all this? Sir, I am afraid your Administration have committed most capital mistakes. They have been unwilling to learn wisdom from the experience and success of their predecessors. I do fear, and I shall be obliged to prove, that, on the one hand, they have been actuated by, certainly they have never (following the example of a former Administration) manifested a sincere disposition to accommodate our difficulties with Great Britain. And, on the other hand, they have in no instance shown to France that bold front which, in more unpromising times, brought the terrible Republic to her senses. These two errors, these wilful, wanton aberrations from established policy, are the true causes of all our misfortunes.

It is owing to them that we have, if we believe the Administration sincere, two enemies who are already at war with each other, and we, the only instance of the kind since the creation of the world, are to step out a third and distinct belligerent, a sort of Ishmaelite belligerent; our hand against every nation, and every nation's hand against us. We are in a situation which defies hope, one in which we have but a single miserable consolation, that though it promises nothing but ruin, yet it is so ridiculous, so ludicrous, that we can but smile at it.

These remarks are extorted from me a little out of their order. I return to the period of the restoration of peace between the United States and France.

The Administration now (1801) passed into the hands of other men. They received a country, rich, prosperous, and increasing in prosperity. A people contented and happy; or discontented only with those who had been the authors of their prosperity. They received a Treasury full and overflowing, giving a vigor and a spring to public credit almost unknown before, and to the reputation of the country a dignity unsullied; they found us in peace and friendship with all nations, our commerce whitening every sea, and rewarding agriculture for all its industry, and every one sitting in peace under his own vine and fig tree. Our country presented to the animated philanthropist one uninterrupted display of liberty, of gaiety, and of felicity. Oh! happy, happy period of our history – never, never, I fear to return. And, if ever truth dropped from the lips of man, it was when the nation was declared to be in "the full tide of successful experiment." Never were the destinies of a nation in more wonderful prosperity committed to men. That prosperity had been acquired at a price no less unparalleled, at the expense of the destruction and disgrace of those whose wisdom and energy had produced it.

The new men, sir, were not required to bring order out of confusion; that had been done already.

They were not called upon to lay the deep and strong foundations of national prosperity and happiness; that had been done already.

They were not enjoined to "multiply" the talents committed to their stewardship; that was unnecessary – they were merely commanded to preserve them undiminished.

They were not required to create a paradise – but to keep uninjured that which was committed to their guardianship.

They promised, indeed; they were so rash, in the fulness of their exultation, as to promise to do more; but folly alone could believe them; and for breaking this promise I forgive them, for to do more was impossible. And if they had but preserved unimpaired, if they had not totally destroyed the inestimable treasures intrusted to them, I would have endeavored to overcome my resentment, my indignation, and my despair.

In performance of their lofty promises, in disregard of sacred duties, what have they done? In what condition do they leave the country, which, eight years since, "in the full tide of successful experiment," fell into their hands? They present to us, sir, the gloomy reverse of all it was. The people discontented and distressed – all becoming daily more and more poor – except, indeed, that class of rich speculators, whose wealth and whose hearts enabled them to prey upon the wants of their countrymen. The despair and dismay of 1786 are returned! The prosperity of twenty years is annihilated at one stroke! The sources of revenue are dried up. The Treasury, indeed, may be now full – but it must continually diminish – and, without its usual supply, it must soon be empty. We have still some credit. But how long, sir, can that be maintained, when it is known that we have no longer the means, allowing us to possess the disposition, to fulfil our pecuniary engagements? When you cannot collect a cent upon imposts, and dare not lay a direct tax, how far you will be able to obtain money on loan, is, to say the least of it, very questionable. But, I will hasten to finish the contrast I was about to make. Commerce, sir, has perished, and agriculture lies dead at her side – for these twin sisters must flourish or die together. No nation in the world is our friend – our paradise is becoming a wilderness; our soil is stained with the blood of our own citizens; and we

look around us, in vain, for one solitary benefit to compensate us for all the dreadful effects of the present system.

Perhaps, sir, I may be answered: "Though all you have said be true, though our former prosperity exists no longer, it is ungenerous, it is unjust to impute the change to the agency of the Administration. What has happened could not be prevented." Though such a rebuke were reasonable, I will still insist that the Administration, if they deserve no censure, are certainly entitled to no praise, and can ask for no confidence. If they have not been the authors of the public calamities, they have not, like their predecessors, discovered the ability to prevent them from coming thick upon us. If their hearts are honest, their heads have not discovered much soundness. No set of men, however ignorant, however stupid, could have placed the country in a worse or a more deplorable situation. The truth is plain and palpable. Judging of the wisdom of the Administration by the result of its measures, I cannot sing praises to them for their skill and ingenuity in diplomacy. No, sir; I delight in that diplomacy which makes the poor rich; which makes industry prosperous; which spreads contentment through the land, and happiness among the people. I delight in the diplomacy, whose skill and wisdom can be read in the countenance of my countrymen, and makes the face of my country the evidence of its prosperity. I like not, I abhor that diplomatic skill which can be found only in a book! which has produced nothing but calamity, and whose praise is written in the blood of my countrymen.

But, sir, how happens it that we still remain under the distresses occasioned by the belligerents? Is there, indeed, a physical impossibility of removing them? From Great Britain, and that, too, when she had the whole continent on her side, we could once obtain justice, not only for the past, but security for the future. From France, too, we could once obtain justice, but now we can gain justice from neither. What change, sir, has occurred in the state of things to produce this strange impossibility? Our commerce is more an object to Great Britain now, than it was formerly – and France can oppose to us no resistance on the ocean. And yet no remedy can be found for our calamities! Sir, I will not be the dupe of this miserable artifice. What has been done once can be done again by employing the same means.

The Administration have committed greater errors. They have conducted all their affairs in such a style as to leave Great Britain no room to doubt that, when they asked for peace, they wanted it not. To this cause may be traced all our difficulties, so far as they proceed from that power. As it regards France, I fear that they have not acted the proper, the manly part. In short, sir, they have not pursued toward England the policy which saved us in 1795, nor toward France the policy which was successfully opposed to French rapacity and French obstinacy in '93.

I think an error was committed, when, affecting to desire an amicable arrangement with Great Britain, instead of treating with her as a nation not to be intimidated, much less bullied, the non-importation act was passed. For, sir, if she was so proud, so haughty, so imperious, as some gentlemen delight to describe her, then to bring her to justice by assuming an attitude of menace, was evidently impossible. When, therefore, you passed the non-importation act, under a pretence that it would be a successful auxiliary to friendly negotiation, what could you expect but to alarm the pride, and the haughtiness, and imperiousness of that nation? And, doing that, how could you expect an amicable result? No, sir, it was not, and it could not be expected. You obtained a treaty indeed – but it was from a Fox Ministry. Yet such as it was, it was not so good as a Jay's Treaty, and the Executive rejected it without so much as laying it before the Senate.

In support of the embargo system, gentlemen say, if we suffer our commerce to go on the ocean, or wherever it goes, it will be crippled either by France or Great Britain. Although this is not true in the extent laid down, yet it will hold tolerably true as respects the European seas. From what gentlemen are pleased to represent as the impossibility of sailing the ocean with safety, result (say they) the propriety and necessity of the embargo system. And they say, it is not the embargo, but the decrees and orders which are the true cause of all we suffer; that the embargo, so far from

being the cause of, was advised as a remedy for the evils we endure. Well, sir, for the sake of the argument, be it as they say. Has the embargo answered? Is there any probability, the slightest indication, that it will answer? Has it operated, to any perceptible extent, except upon ourselves, during the twelvemonth it has been in existence? If, then, neither the remembrance of the past, nor the prospect of the future, gives the least encouragement to hope, why will gentlemen persist in the system? And that too, sir, at an expense to their own country so enormous in amount? Will they go on obstinately amid all the discontents, or clamors (as gentlemen in very anti-republican language call the voice of the people) in the Eastern and Northern States? And that from mere obstinacy – an obstinacy not encouraged by the least glimmering of hope? If I could be pointed to a single fact, produced by the operation of the embargo, which would prove that it had any other effect on the disposition of Great Britain than to irritate – or any other on France than to please, than to encourage her to a perseverance in that system of injustice which we pretend to oppose, but to the policy of which we give all our support with an infatuated wilfulness, and which, therefore, increases the hostility Great Britain has felt from the measure – if they could show me, sir, that the embargo will bring either to terms, I would abandon the opposition at once, and come heart and hand into the support of your measures. The other day, the gentleman from South Carolina (Mr. Williams) almost persuaded me that it ought to operate upon Great Britain; but I looked and I found it did not, and I was convinced it would not.

But, have gentlemen reflected that, if all the evils were drawn from Pandora's box, to vex Great Britain, you could have hit on none so well calculated to call out all her resistance, and all her obstinacy, as this same expedient, the embargo! If she yields to us, under the pressure of such a system, she discloses to us the secret of her independence! Sir, the embargo is war; it was intended as such against Great Britain. And she understands its meaning and its character too well for us to disguise it, under a pretence of its being a mere precautionary municipal measure. Its efficacy as a coercive measure has been too often and too loudly boasted of in this House, to make its real object a secret to her. Nay, in so far as the great and prominent feature of war is coercion; in so far as war is always intended to make the adversary yield that which he will not yield voluntarily; in so far, are the embargo and the non-importation act WAR. Each was intended to coerce Great Britain to yield to us points which it had been ascertained she would not yield voluntarily. It was a system of coercion, a new-fangled sort of philosophical experimental war; novel, to be sure, in its character, but, to all substantial purposes, war. Instead of bloodshed, there was to be ink shed – instead of bayonets, pens – instead of the bloody arena, huge sheets of paper! Whenever Great Britain shall yield to the coercion of the non-importation, embargo, or non-intercourse system, she virtually tells the people of the United States, "we are in your power whenever you choose to make a claim upon us, whether just or unjust; threaten us with an embargo and a non-intercourse, and you bring us to your feet." Does any gentlemen believe, even allowing the pressure of the embargo to be great upon her, that she can yield, that she can afford to yield? That she can admit that we have her always perfectly in our power? Sooner would she give up in battle – sooner would she see her soldiers retreating before our bayonets; sooner would she see her armies perish under our valor, than acknowledge herself the slave of this magic wand. Her children might grow to be men, and she might try the fortune of another day; the hair of Samson might grow on again, and his strength be renewed; but in yielding to the chance of the embargo, she places her existence in our hands, and becomes dependent upon our will for the existence of her sovereignty. Sir, the King of England cannot, he dare not, yield to our embargo.

But, sir, he has not told us that he considers our embargo hostile to him; nor has our Government ever told him that it was; such a declaration has never been put to paper. No, sir; when you look into the correspondence, it would seem that the embargo was never intended as a coercive measure, nor even understood so by Great Britain. Every thing on both sides is conceived in a sincere spirit of "friendship." Our non-importation act, our proclamation, our embargo, are all

acts of friendship and kindness toward Great Britain, for aught we find there. And Great Britain issues her Orders in Council in a reciprocating spirit of amity toward us. She is not offended with our non-importation act, nor our embargo. Not at all. Her orders are not intended to harm us. She means nothing in the world, but simply to retaliate upon France – and she is sorry that almost the whole force of the blow falls upon us, but it is unavoidable. She, by the laws of nations, has as perfect a right to retaliate upon France as we have to make our innocent municipal regulations – and she is full as sorry that her retaliation system should wound us, as we are that our municipal regulations should incommode her. Sir, this diplomatic hypocrisy (begun, I acknowledge, by us) is intolerable. Sir, there is not one word of truth in the whole of it, from beginning to end. The plain state of the case is this: Anterior to the non-importation act, the British Treaty had expired – there were points of dispute, particularly concerning the impressment of seamen, which could not be adjusted to the satisfaction of our Government. In this state of things, either we ought to have gone to war, or we ought not. If we had intended to do so, stronger measures should have been resorted to than a non-importation act. If we had not intended to do so, the act should never have been passed. Those who passed it could have but one of two objects in view; either to coerce Great Britain to the terms we demanded – or, by vexing and irritating her, to raise up in due time an unnecessary fictitious quarrel, which (as this country is known to be extremely sensitive of British aggression) might ultimately end in a real old-fashioned war. No men could have been so weak as to calculate upon the first result. As to the other, the wisdom of the calculation is pretty strongly proved by the situation in which we now find ourselves. Sir, this is the whole mystery – and it must be explored – it must be exposed. We must understand the real character of our controversy with Great Britain – the real character, intent, and aim, of the different measures adopted by us and by her, before we can hope to heal the wounds our peace has received, or to restore the prosperity we have been unnecessarily made to abandon. I know, sir, how difficult it is to overcome matured opinions or inveterate prejudices; and I know, too, that, at this time, the individual who shall venture to lay open "the bare and rotten policy" of the time, makes himself the butt of party rancor, and strips himself to the unsparing "lacerations of the press." But these are considerations too feeble to deter me from my duty.

[Mr. G. appearing much exhausted, and Mr. Quincy having intimated to the House that Mr. G. suffered under a pain in the side, moved for an adjournment. The Speaker inquired whether Mr. G. yielded the floor? Mr. G. replied, he had himself little inclination to continue his remarks, but the House appeared so eager to hear him, (a laugh,) he hardly knew what answer to make. However, he said, he would give the floor. The House then adjourned.]

The object, sir, of our present deliberations is, or ought to be, to relieve our country from the distresses under which it groans; to do this, we should be prepared to legislate with a single eye to the welfare and happiness of the nation. It is of the first necessity that we should deliberate with calmness, if we mean to apply an effectual remedy to the diseases of the State. In the remarks which I had the honor to make yesterday, I was constrained to draw a contrast between the measures and prosperity of former times and those of the present times. Under circumstances of the same character, we were formerly able to overcome our misfortunes. Now we are not. And I did this for the purpose of impressing upon the House an opinion, that if the Administration had practised upon the principles of their predecessors, all had been well; or, that if retracing their steps, or relinquishing the path of error and misfortune, they would still be the learners of wisdom and experience, it would not even now be too late to retrieve the affairs of the country. If I know my own heart, I did not make the comparison from any invidious purposes; but merely to turn the minds of gentlemen back to former times; that they might reflect upon the perils and calamities of those times, and the means by which an end was put to them; but in doing this, I could not avoid paying the tribute of deserved praise and of sincere gratitude to the men under whose agency we prospered abundantly. In contrasting the conduct of the present with that of the former Administration, I

meant to subserve no purposes of party. Nay, sir, I could have much desired to have been spared the necessity of presenting that contrast before the nation. I could have wished to have avoided these references, lest I might excite party feeling in others; lest I might appear to be governed by them myself. But truth could not be attained by any other course, and I have been compelled to take it.

The first resolution, contained in the following words, was divided, so as to take the question first on the part in italic:

> "Resolved, *That the United States cannot, without a sacrifice of their rights, honor, and independence, submit to the late edicts of Great Britain*– and France."

The question was then taken on the first clause of this resolution, and carried – yeas 136, nays 2.

The question being about to be put on the remaining part of the resolution, viz: on the words "and France" —

The question then recurred on the second member of the first resolution; and the same being taken, it was resolved in the affirmative – yeas 113, nays 2.

The main question was then taken that the House do agree to the said first resolution as reported to the Committee of the Whole, in the words following, to wit:

> "*Resolved*, That the United States cannot, without a sacrifice of their rights, honor, and independence, submit to the edicts of Great Britain and France:"

And resolved in the affirmative – yeas 118, nays, 2.

Saturday, December 17

A division of the question on the resolution depending before the House was then called for by Mr. David R. Williams: Whereupon, so much of the said resolution was read, as is contained in the words following, to wit:

> "*Resolved*, That it is expedient to prohibit, by law, the admission into the ports of the United States of all public or private armed or unarmed ships or vessels belonging to Great Britain or France, or to any other of the belligerent powers having in force orders or decrees violating the lawful commerce and neutral rights of the United States."

The question then recurring on the first member of the original resolution, as proposed to be divided on a motion of Mr. D. R. Williams, and hereinbefore recited, a division of the question on the first said member of the resolution was called for by Mr. Gardenier, from the commencement of the same to the words "Great Britain," as contained in the words following, to wit:

> "*Resolved*, That it is expedient to prohibit, by law, the admission into the ports of the United States of all public or private armed or unarmed ships or vessels belonging to Great Britain."

The question being taken that the House do agree to the same, it was resolved in the affirmative – yeas 92, nays 29.

A farther division of the question was moved by Mr. Elliot, on the said first member of the resolution, on the words "or France," immediately following the words "Great Britain," hereinbefore recited: And the question being put thereupon, it was resolved in the affirmative – yeas 97, nays. 24.

And on the question that the House do agree to the second member of the said second resolution, contained in the words following, to wit:

> "Or to any other of the belligerent powers having in force orders or decrees violating the lawful commerce and neutral rights of the United States:"

It was resolved in the affirmative – yeas 96, nays 26.

The question then being on the residue of the said resolution contained in the following words:

> "And, also, the importation of any goods, wares, or merchandise, the growth, produce, or manufacture, of the dominions of any of the said powers, or imported from any place in the possession of either:"

The question was taken, and resolved in the affirmative – yeas 82, nays 36.

The main question was then taken that the House do agree to the said second resolution, as reported from the Committee of the whole House, and resolved in the affirmative – yeas 84, nays 30, as follows:

> Yeas. – Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Joseph Barker, Burwell Bassett, William W. Bibb, William Blackledge, John Blake, jun., Thomas Blount, Adam Boyd, John Boyle, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, George W. Campbell, Matthew Clay, Joseph Clopton, Richard Cutts, John Dawson, Joseph Desha, Daniel M. Durell, John W. Eppes, William Findlay, Jas. Fisk, Meshack Franklin, Francis Gardner, Thomas Gholson, jun., Peterson Goodwyn, Edwin Gray, Isaiah L. Green, John Heister, William Helms, James Holland, David Holmes, Benjamin Howard,

Reuben Humphreys, Daniel Ilsley, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kirkpatrick, John Lambert, John Love, Nathaniel Macon, Robert Marion, William McCreery, John Montgomery, Nicholas R. Moore, Thos. Moore, Jeremiah Morrow, John Morrow, Roger Nelson, Thos. Newbold, Thomas Newton, Wilson C. Nicholas, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Matthias Richards, Benjamin Say, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, John Smilie, Jedediah K. Smith, John Smith, Henry Southard, Richard Stanford, Clement Storer, John Taylor, George M. Troup, James I. Van Allen, Archibald Van Horne, Daniel C. Verplanck, Jesse Wharton, Robert Whitehill, Isaac Wilbour, David R. Williams, Alexander Wilson, and Richard Wynn.

Nays. – Evan Alexander, John Campbell, Epaphroditus Champion, Martin Chittenden, John Culpeper, Samuel W. Dana, John Davenport, jun., Jas. Elliot, William Ely, Barent Gardenier, John Harris, Richard Jackson, Robert Jenkins, James Kelly, Philip B. Key, Joseph Lewis, jun., Matthew Lyon, Josiah Masters, William Milnor, Jonathan O. Mosely, Timothy Pitkin, jun., Josiah Quincy, John Russell, James Sloan, L. B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Philip Van Cortlandt, and Killian K. Van Rensselaer.

And on the question that the House do concur with the Committee of the Whole in their agreement to the third resolution, in the words following, to wit:

> *Resolved*, That measures ought to be immediately taken for placing the country in a more complete state of defence:

It was unanimously resolved in the affirmative.

On motion of Mr. George W. Campbell,

Ordered, That the second resolution be referred to the committee appointed on so much of the Message from the President of the United States, at the commencement of the present session, as respects our relations with foreign powers, with leave to report thereon by way of bill or bills.

On motion of Mr. George W. Campbell,

Ordered, That the third resolution be referred to the committee appointed, on the 8th ultimo, on so much of the said Message from the President of the United States as relates to the Military and Naval Establishments, with leave to report thereon by bill, or bills.

Monday, December 19

Miranda's Expedition

Mr. Love called for the order of the day on the report of the committee on the subject of the thirty-six persons confined in Carthagena, South America. The following is the resolution reported by the committee:

> *Resolved*, That the President of the United States be *requested to adopt the most immediate and efficacious means in his power to obtain* from the Viceroy of Grenada, in South America, or other proper authority, the liberation of thirty-six American citizens, condemned on a charge of piracy, and now held in slavery in the vaults of St. Clara, in Carthagena, and that the sum of – dollars be appropriated to that purpose.

Mr. D. R. Williams moved to postpone the consideration of the subject indefinitely. Negatived – 50 to 36.

The House then went into a Committee of the Whole on the subject – 39 to 33.

Mr. Love moved to amend the resolution by striking out the words in italics, and inserting "authorized to request." – Carried, ayes 54.

Those gentlemen who supported this resolution in the debate were Messrs. Love, Lyon, Bacon, Nelson, Sloan, and Wilbour. Those who opposed it were Messrs. D. R. Williams, Taylor, Smilie, Macon, and Southard.

The gentlemen who opposed the resolution, among other objections, contended that an agreement to the resolution would but involve the Government in difficulty without answering any good purpose; that it would in fact be aiding the attempt of a certain party to prove that the General Government had some connection with this expedition originally, which it certainly had not; that the facts set forth in the petition were wholly unsupported by evidence; that these persons had engaged themselves in a foreign service; that they had become weary of the privileges of freemen, and had entered into a hostile expedition against a foreign country, and, in so doing, had been taken, condemned for piracy, and immured as a punishment for that offence; that the British Government, having been at the bottom of this business, was the proper power to release these persons, and indeed had applied to the Spanish commander for the purpose; that even were the United States bound by the laws of justice or humanity to intercede for these persons, they knew not to whom to make application, and would probably meet with a refusal, perhaps a rude one, if any judgment could be formed from the present situation of our affairs with Spain; that if gentlemen wished for objects on which to exercise their humanity, they might find them in the lacerated backs of our impressed seamen, without extending it to criminals. In reply to an observation of Mr. Lyon, that if we did not get these men Great Britain would do so, and employ them to extend her naval force, Mr. Macon replied, if she did, she was welcome to keep them; but she was in the habit of supplying her navy with seamen from our vessels, without the trouble which the acquisition of these men might occasion her.

In reply to these objections, and in support of the resolution, the humanity of the House was strongly appealed to. It was urged that the Government could in nowise be involved by an appeal to the generosity of the provincial government; that these men had not wilfully committed piracy, but had been deluded under various pretences to join the expedition; that they had joined it under a belief that they were entering into the service of the United States; that, even admitting them to have been indiscreetly led to join the enterprise, knowing it to be destined for a foreign service,

yet, that they had been sufficiently punished by the penalty they had already undergone; that it was wholly immaterial what inference any persons might draw from the conduct of the United States in this respect, as to their concern with the original expedition; that such considerations should have no weight with the House; that if these poor fellows were guilty, they had repented of it; and Mr. Nelson quoted on this point the Scriptures, to show that there should be more joy over one sinner that repenteth, than over ninety and nine who have no need of repentance. In reply to an intimation that it was not even ascertained that they were American citizens, Mr. Bacon observed that one of them had been born in the same town in which he was, and was of a reputable family.

The resolution was negatived by the committee – 49 to 31.

The committee rose and reported the resolution, which report the House agreed now to consider – ayes 57.

The question of concurrence with the committee in their disagreement to the resolution, was decided by yeas and nays, 50 to 34.

On motion, the House adjourned.

Tuesday, December 20

A new member, to wit, Joseph Story, returned to serve in this House, as a member for the State of Massachusetts, in the room of Jacob Crowninshield, deceased, appeared, produced his credentials, was qualified, and took his seat in the House.

Wednesday, December 21

Captain Pike's Expedition

On motion of Mr. J. Montgomery, the House resolved itself into a Committee of the Whole, on the bill making compensation to Z. M. Pike and his companions.

[The first section of this bill grants to Captain Pike and his companions a certain quantity of land. The second section allows them double pay during the time they were engaged in exploring the western country.]

Mr. Stanford moved to strike out the first section of the bill; which was negatived – 53 to 38.

The second section was stricken out – 42 to 35.

A considerable debate took place on this bill, in which Messrs. Montgomery, Lyon and Alexander supported the bill, and Messrs. Macon, Durell, Stanford and Tallmadge opposed it.

The bill being gone through, was reported to the House.

Saturday, December 31

Division of the Indiana Territory

Mr. Thomas, from the committee appointed on the thirteenth instant, to inquire into the expediency of dividing the Indiana Territory, made a report thereon; which was read, and committed to a Committee of the Whole on Monday next. The report is as follows:

> That, by the fifth article of the ordinance of Congress for the government of the Territory of the United States Northwest of the river Ohio, it is stipulated that there shall be formed in the said Territory no less than three, nor more than five States; and the boundaries of the States, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established, as follows:
>
> The Western State shall be bounded by the Mississippi, the Ohio, and Wabash rivers; a direct line drawn from the Wabash and Post Vincennes, due north, to the Territorial line between the United States and Canada, and by the said Territorial line to the Lake of the Woods and Mississippi.
>
> The middle State shall be bounded by the said direct line, the Wabash, from Post Vincennes to the Ohio; by the Ohio, by a direct line drawn due north from the mouth of the Great Miami, to the said Territorial line, and by the said Territorial line.
>
> The Eastern State shall be bounded by the last-mentioned direct line, the Ohio, Pennsylvania, and the said Territorial line: *Provided, however*, and it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said Territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted by its delegates into the Congress of the United States on an equal footing with the original States, in all respects whatever, and shall be at liberty to form a permanent constitution and State Government: *Provided*, the constitution and government so to be formed shall be republican, and in conformity to the principles contained in these articles; and, so far as it can be consistent with the general interest of the Confederacy, such admission shall be allowed at an earlier period, and when there shall be a less number of free inhabitants in the State than sixty thousand.
>
> By the aforesaid article, it appears to your committee that the line fixed as the boundary of the States to be formed in the Indiana Territory is unalterable, unless by common consent; that the line of demarcation, which the Wabash affords between the eastern and western portion of said Territory, added to the wide extent of wilderness country which separates the population in each, constitute reasons in favor of a division, founded on the soundest policy, and conformable with the natural situation of the country. The vast distance from the settlements of the Wabash to the present seat of Territorial government, renders the administration of justice burdensome and expensive to them in the highest degree. The superior courts of the Territory are, by law, established at Vincennes; at which place suitors, residing in every part of the Territory, are compelled to attend with their witnesses,

which, to those who reside west of the Wabash, amounts almost to a total denial of justice. The great difficulty of travelling through an extensive and loathsome wilderness, the want of food and other necessary accommodations on the road, often presents an insurmountable barrier to the attendance of witnesses; and, even when their attendance is obtained, the accumulated expense of prosecuting suits where the evidence is at so remote a distance, is a cause of much embarrassment to a due and impartial distribution of justice, and a proper execution of the laws for the redress of private wrongs.

In addition to the above considerations, your committee conceive that the scattered situation of the settlements over this extensive Territory cannot fail to enervate the powers of the Executive, and render it almost impossible to keep that part of the Government in order.

It further appears to your committee, that a division of the said Territory will become a matter of right under the aforesaid article of the ordinance, whenever the General Government shall establish therein a State Government; and the numerous inconveniences which would be removed by an immediate separation, would have a direct tendency to encourage and accelerate migration to each district, and thereby give additional strength and security to those outposts of the United States, exposed to the inroads of a savage neighbor, on whose friendly dispositions no permanent reliance can be placed.

Your committee have no certain data on which to ascertain the number of inhabitants in each section of the Territory; but, from the most accurate information they are enabled to collect, it appears that west of the Wabash there are about the number of eleven thousand, and east of said river about the number of seventeen thousand, and that the population of each section is in a state of rapid increase.

Your committee, after maturely considering this subject, are of opinion that there exists but one objection to the establishment of a separate Territorial Government west of the river Wabash, and that objection is based on the additional expense which would, in consequence thereof, be incurred by the Government of the United States. But, it is also worthy of observation, that the increased value of the public lands in each district, arising from the public institutions which would be permanently fixed in each, to comport with the convenience of the inhabitants, and the augmentation of emigrants, all of whom must become immediate purchasers of these lands, would far exceed the amount of expenditure produced by the contemplated temporary government.

And your committee, being convinced that it is the wish of a large majority of the citizens of the said Territory that a separation thereof should take place, deem it always just and wise policy to grant to every portion of the people of the Union that form of government which is the object of their wishes, when not incompatible with the constitution of the United States, nor subversive of their allegiance to the national sovereignty.

Your committee, therefore, respectfully submit the following resolution:

Resolved, That it is expedient to divide the Indiana Territory, and to establish a separate Territorial Government west of the river Wabash, agreeably to the ordinance for the government of the Territory of the United States northwest of the river Ohio, passed on the 13th day of July, 1787.

Mr. Thomas, from the same committee, presented a bill for dividing the Indiana Territory into two separate governments; which was read twice and committed to a Committee of the Whole on Monday next.

A motion was made by Mr. Wynn, that when this House adjourns, it will adjourn until Tuesday morning, eleven o'clock: And the question being taken thereupon, it was resolved in the affirmative – yeas 60, nays 45.

Monday, January 9, 1809

Another member, to wit, John Rowan, from Kentucky, appeared, and took his seat in the House.

Naval Establishment

The amendments of the Senate to the bill sent from the House for employing an additional number of seamen and marines, were taken up. [The amendments propose the immediate arming, manning, &c., all the armed vessels of the United States.]

Mr. G. W. Campbell expressed a hope that the House would disagree to the amendments. The President was already authorized by law to fit out these vessels, whenever, in his opinion, the public service should require it; and the expense which would attend them was a sufficient argument against it, if no urgent occasion existed for their service, which he believed did not.

Mr. Story entertained a very different opinion from that of the gentleman from Tennessee. In case of war there must be some ships of war of one kind or other; and it would take six months at least to prepare all our ships for service. At present they were rotting in the docks. If it were never intended to use them, it would be better to burn them at once than to suffer them to remain in their present situation. He believed if out at sea they might be useful and would be well employed. Why keep them up at this place, whence they could not get out of the river perhaps in three weeks or a month? He believed that a naval force would form the most effectual protection to our seaports that could be devised. Part of our little navy was suffered to rot in the docks, and the other part was scarcely able to keep the ocean. Could not a single foreign frigate enter almost any of our harbors now and batter down our towns? Could not even a single gunboat sweep some of them? Mr. S. said he could not conceive why gentlemen should wish to paralyze the strength of the nation by keeping back our naval force, and now in particular, when many of our native seamen (and he was sorry to say that from his own knowledge he spoke it) were starving in our ports. Mr. S. enumerated some of the advantages which this country possessed in relation to naval force. For every ship which we employed on our coasts, he said, any foreign nation must incur a double expense to be able to cope with us. The truth was, that gentlemen well versed in the subject, had calculated that it would require, for a fleet competent to resist such a naval force as the United States might without difficulty provide, four or five hundred transport ships to supply them with provisions, the expense of which alone would be formidable as a coercive argument to Great Britain. He wished it to be shown, however small our naval force, that we do not undervalue it, or underrate the courage and ability of our seamen.

Mr. Cook followed Mr. Story on the same side of the question. He compared the nation to a fortress on which an attack was made, and the garrison of which, instead of guarding the portal, ran upon the battlements to secure every small aperture. He thought their attention should first be directed to the gates, and that a naval force would be the most efficient defence for our ports.

Mr. D. R. Williams called for the yeas and nays on the amendments.

Mr. Smilie said that raising a naval force for the purpose of resisting Great Britain, would be attacking her on her strong ground. If we were to have a war with her on the ocean, it could only be carried on by distressing her trade. Neither did he believe that these vessels of war would be of any effect as a defence. They did not constitute the defence on which he would rely. If we had a navy, it would form the strongest temptation for attack upon our ports and harbors. If Denmark had possessed no navy, Copenhagen would never have been attacked. The only way in which we could carry on a war on the ocean to advantage, Mr. S. said, would be by our enterprising citizens giving them sufficient encouragement. Were we to employ a naval force in case of war, it would

but furnish our enemy with an addition to her navy. He hoped the House would disagree to the amendments of the Senate and appoint a committee of conference.

Mr. Dana said that the amendments sent from the Senate presented a question of no small importance to the nation. Without expressing any opinion on the question, it appeared to him to be at least of sufficient importance to be discussed in Committee of the Whole. Coming from the other branch of the Legislature, and being so interesting to the nation, he wished that it might be discussed fairly and fully; and, therefore, moved a reference to a Committee of the Whole.

Messrs. Dana, Tallmadge, and Story, urged a reference to a Committee of the Whole on account of the great importance of the subject, on which a full discussion would be proper; and Messrs. Macon, G. W. Campbell, and Holland opposed it, because the seamen proposed by the original bill were now wanted, and the subject of the amendment was already referred to a Committee of the Whole in a distinct bill. Motion lost, 58 to 55.

Mr. Macon observed, that the immediate expense of this arrangement, if agreed to, would be at least five or six millions of dollars, and but four hundred thousand were appropriated by the bill. When he compared this bill with the report of a select committee made to the House of Representatives, he said he was astonished. A part of that report was a letter from the Secretary of the Navy, in which the very number (two thousand) contained in the bill as it went from this House, was desired. Mr. M. adverted to the observation of Mr. Story, that it would cost Great Britain as much to keep one frigate as it would cost us to keep two. He thought the expense would be about equal. The expense of the transportation of provisions would be counterbalanced by the difference of expense between the pay of the British and American seamen, the latter being double of the former generally. He objected to this bill from the Senate because no estimate accompanied it. He thought they would go far enough if they gave the departments all that they asked. This House had indeed as much right to judge of the force requisite, as any other department; but he did not wish to be called upon to supply a deficit in the appropriation, which never failed to occur even in the ordinary appropriations for the Navy Department. Give the four hundred thousand dollars asked for, and the deficit in the appropriation will be at least ten times the amount of the sum appropriated.

Mr. Cook contended strenuously in favor of a naval force. He detailed the advantages which would accrue to the nation from a few fast sailing frigates. He said they were essentially necessary to defence. He expatiated on the difficulty with which any foreign power could maintain a force on our coast.

Mr. Holland did not profess to have much knowledge on this subject, but he said it did not require much to overthrow the arguments of gentlemen on the subject. What defence a few frigates would be to the extensive coast of this country, he could not understand. There certainly never had been a time when this country should rely on a maritime force as a sufficient protection. Indeed, he said, if we had fifteen or twenty or more sail-of-the-line, he should hesitate much before he would go to war with Great Britain, because these would undoubtedly be lost. Our power of coercion was not on the ocean. Great Britain had possessions on this continent which were valuable to her; they were in the power of the United States, and the way to coerce her to respect our rights on water, would be attacking them on land. He said he certainly did not undervalue the disposition and prowess of our seamen; and it was because he valued them, that he did not wish them to go into an unequal contest, in which they must certainly yield. Gentlemen might understand naval matters; but it was no reason that they should therefore understand the efficiency of a naval force. There was sufficient evidence in history to warn the United States against it.

Mr. Troup said he rose but for the purpose of stating facts which struck him as being applicable to the subject before the House. He referred chiefly to an extract of a letter written to himself and published in the paper of to-day. [Mr. T. then read the extract which appeared in the National Intelligencer on the 9th instant.] In addition to these facts, letters had been received, in the course of this morning, containing further particulars, which he begged leave to state to

the House. After the officer (commander of a British armed vessel) had been forced on board his vessel, and while lying in our waters and within our jurisdiction, he had fired several shots at pilot-boats, passing and repassing, had been very abusive, and threatened the town with what he called vengeance; and, in addition to these facts, letters had reached Savannah from Liverpool, giving satisfactory information that vessels of fifteen or twenty guns had been fitted out for the purpose of forcing a cotton trade with South Carolina and Georgia. This information, Mr. T. said, came from unquestionable authority. And it was because he was unwilling that the people of this country should longer submit to the abuse of British naval officers; because he was unwilling that they should be exposed to the insolence of every British commissioned puppy who chose to insult us; because he was unwilling that armed vessels should force a cotton trade, when every man knew that nine-tenths of the people of Georgia would treat as traitors the violators of the embargo; it was for this reason that he was disposed to vote for the amendments from the Senate. The great objection which had been taken to them was the expense which they would produce. Economy, Mr. T. said, was a good thing in time of peace; but if this contracted spirit of economy predominated in our war councils, if we were forced into a war, so help him God, he would rather at once tamely submit our honor and independence than maintain them in this economical way. If we went to war, we ought not to adopt little measures for the purpose of executing them with little means; neither should we refuse to adopt great measures, because they could not be executed but with great means. It was very true that, in war as well as in peace, calculation to a certain extent was necessary; but, if they once resolved on an object, it must be executed at whatever expense. He was no advocate for standing armies or navies, generally speaking; but, in discharging his duties here, he must be governed by the circumstances of every case which presented itself for his decision, and then ask himself, Is it wise, politic, and prudent, to do this or omit that? He said he would never go back to yesterday to discover what he had then said or done, in order to ascertain what he should now do or say. Political conduct must depend on circumstances. What was right yesterday might be wrong to-day. Nay, what was right at the moment he rose to address the House, might, ere this, be palpably wrong. Conduct depended on events, which depended on the folly or caprice of men; and, as they changed, events would change. It might have been a good doctrine long ago that this country ought to have a navy competent to cope with a detachment of the British navy; it might have been good doctrine then, but was shocking doctrine now.

At that time England had to contend with the navies of Russia, Denmark, France, Holland, Spain, &c. Now England was sole mistress of the ocean. To fight her ship to ship and man to man, and it was impossible that gentlemen could think of fighting her otherwise, if they fought her at all, we must build up a huge navy at an immense expense. We must determine to become less agricultural and more commercial; to incur a debt of five hundred or a thousand million of dollars, and all the loans and taxes attendant on such a system, and all the corruption attendant on them. He should as soon think of embarking an hundred thousand men for the purpose of attacking France at her threshold, as of building so many ships to oppose the British navy. It was out of the question; no rational man could think of it. But that was not now the question. It was, whether we would call into actual service the little navy we possessed. It was not even a question whether we would have a navy at all or not. If that were the question, he would not hesitate to say that even our present political condition required a navy to a certain extent, to protect our commerce against the Barbary Powers in peace, and in time of war for convoys to our merchantmen. He only meant a few fast-sailing frigates, such a navy as we have at present, for the purpose of harassing the commerce of our enemies also. He therefore thought our present naval force ought to be put in service. As far as the appropriation ($400,000) would go, it would be employed; but if Congress should hereafter see cause to countermand or delay the preparation, they would have it in their power to do so by refusing a further appropriation.

Mr. D. R. Williams said it was his misfortune to differ with gentlemen upon all points on the subject of the navy. He was opposed to it from stem to stern; and gentlemen who attempted to argue in favor of it as a matter of necessity, involved themselves in absurdities they were not aware of. When money had been appropriated for fortifications, there had been no intimation that it would be necessary to prop them up with a naval force. If our towns could not be defended by fortifications, he asked, would ten frigates defend them? The gentleman from Massachusetts (Mr. Story) had even gone so far as to say that a single gunboat could sweep one-half of our harbors. If a single gunboat could now sweep most of our harbors, Mr. W. said he should like to know what eleven hundred and thirty vessels of war could do, even when opposed by our whole force of ten frigates! The gentleman from Massachusetts had said it would be cheaper to keep these vessels in actual service than in their present situation. Mr. W. said he supposed that the gentlemen meant that they would rot faster in their present situation than if they were at sea. He said he was for keeping them where they were, and would rather contribute to place them in a situation where they would rot faster. Mr. W. combated the arguments that employing the navy would afford relief to our seamen, and that the maintaining a navy on our coast would be more expensive to an European power than the support of a larger naval force by us. And he said we should never be able to man any considerable fleet except the constitution were amended to permit impressments, following the example of Great Britain.

The gentleman from Massachusetts (Mr. Story) had said that except we begun with this bill, and got his fast-sailing frigates, we should never regain our rights. If that were really the case, Mr. W. said he was ready to abandon them. He considered that the sort of maintenance of our rights adverted to by the gentleman from Massachusetts, would be destructive to those rights. Gentlemen must have forgotten that when Hamburg was in the greatest state of prosperity, she did not possess even a single gunboat. Why! there was not wealth enough in this whole nation, if every one were to carry his all, thus to maintain our rights against the navy of Great Britain. If we were carried into a war, and every thing really seemed to be tending that way, we must rely upon the enterprise of our citizens; and that, when set at liberty, would be found more desperate than the navy of any country. When we arrived at the end of the Revolutionary war we had but one frigate, and the best thing we ever did was to give that one away. The State of South Carolina had not yet got clear of the curse. She embarked one frigate in the general struggle, and she had not rid herself of the debts incurred by it yet. Private enterprise must be depended upon. The people from the Eastward had shown in the last war what they would do. When vessels were loaded with sugar they would fight like bull-dogs for it. He recollected a story, he said, of one of our privateers being beat off by a Jamaica man, whom they attacked. The captain not liking to lose the prize, and finding his crew disheartened, told them she was full of sugar. "Is she?" said they, "by G – d; let us at them again." They scarcely ever failed in their enterprises.

In allusion to the case at Savannah, Mr. W. regretted that an insult should be offered to the people of the country. The insult at Savannah had by this time been redressed, he had no doubt. He had no information to induce him to believe so, but the knowledge that the sloop-of-war Hornet was stationed off Charleston, and of course cruised near the place. The Hornet was perfectly adequate to drive any vessel of twenty guns out of our waters. She was one of the best vessels of the United States, and as well officered as any. [Mr. Troup observed that the Hornet was off Charleston. Now, he wanted a frigate at Savannah.] Mr. W. said that Savannah was the very place where gunboats would be perfectly effectual. He meant to make no reflection against the proposer of the gunboat system, but he did against those who had only given one-half of the system, and omitted the other – the marine militia. And now, when an attack was menaced at Savannah, gentlemen wanted a frigate! If nine-tenths of the people were opposed to the evasions of the embargo law, Mr. W. said it would not be evaded. The evaders would be considered as traitors – as the worst of traitors. As to preparing a force for the protection of navigation, the gentleman from Georgia must well know that

the whole revenue of the United States would not be competent to maintain a sufficient number of vessels to convoy our merchantmen.

Mr. W. concluded by saying, that he wished the nation to be protected, and its wrongs to be redressed; but when he reflected that at Castine the soil had been most abominably violated, he could not view the insults in our waters as being equal to it; for, said he, touch the soil and you touch the life-blood of every man in it.

Mr. Durell considered the present subject as one of the most important which had been introduced at this session. It would indeed be difficult to reason gentlemen into a modification of a principle to which they were opposed throughout; but he trusted that this House was not generally so disposed. He believed that a large majority of the House were at the present moment in favor of embargo or war, because the House had been so distinctly told by a committee on our foreign relations, that there was no alternative but submission; and almost every gentleman who had the honor of a seat within these walls, had committed himself on the subject, either to persevere in the embargo or resort to war. What would be the object of a war? Not the right of the soil, not our territorial limits, but the right of navigating the ocean. Were we to redress those wrongs, those commercial injuries, on the land? Not altogether, he conceived. Would it be good policy, he asked, to let our means of carrying on war on the ocean rot in our docks, and not make use of them? These vessels would also be useful as a defence. Why then should they not be manned and put in readiness for service? It was said that we could not cope with the British navy. Mr. D. said this argument proved too much, if it proved any thing. If he did not feel perfectly comfortable in a cold day, should he therefore divest himself of all clothing? Why send out the sloop of war Hornet, alluded to by the gentleman last up – why rely upon it for redressing the insult at Savannah, if naval force was useless? It was no reason, because Great Britain had more vessels than we, that we should not use what we had. Indeed, those gentlemen who objected to naval force, appeared to be mostly from the interior, and of course could not properly estimate its value.

Mr. Sawyer was wholly opposed to the amendments from the Senate. The objection to this particular increase of naval force on the score of expense, was not to be disregarded. He called the attention of gentlemen to the state of the Treasury. The expense of this system would be three millions; and when this sum was added to other sums which would be requisite if measures now pending were adopted, it would render it necessary for Congress now to borrow money on the credit of posterity. The expedient of direct taxation would not be resorted to. It had already been the death-blow to the political existence of one Administration. This Government, he said, was founded on public opinion, and whenever the approbation of the people was withdrawn, from whatever cause, the whole superstructure must fall.

Mr. S. dwelt at some length on the disadvantage of loans. He said, if this nation was destined to raise a navy for the protection of commerce, it should have begun earlier, in the year 1793, when such outrageous violations had been committed on our commerce. The expense of such an establishment would have far exceeded the amount in value of captures made since that period. He concluded, from a number of observations which he made on this subject, that, on the score of the protection of trade, it would not be proper to fit out a navy. This proposition, he said, was the mere entering-wedge. The system was either unnecessary, or would be wholly futile in practice. Our seamen would cost us at least double of what is the expense of her seamen to Great Britain; and it required her utmost exertions to pay the interest of the enormous debt with which her unwieldy navy had saddled her. He therefore certainly thought that an attempt to justify it on the score of profit would not succeed. He deprecated the extension of Executive patronage, which would result from an increase of the Naval Establishment. Need he go back, he asked, to the time when the black cockade was necessary, in some parts of the country, to secure a man from insult from the officers of the navy? He wished to limit the Executive patronage; to adhere closely to the maxims of our forefathers. By sending out a navy, too, he said, we should volunteer to support the ascendency of

the British navy, become the mere jackals of the British lion. Mr. S. went at some length into an examination of the former Administration in relation to a navy. There was nothing, he observed, in the nature of our Government, or of our foreign relations, to require a navy. If we could not carry on foreign commerce without a navy, he wished to have less of it and more of internal commerce, of that commerce which the natural advantages of the country would support between different parts of it. If we were to build a navy for the protection of foreign commerce, we should throw away our natural advantages for the sake of artificial ones. He was in favor of the embargo at present. There was more virtue in our barrels of flour as to coercion than in all the guns of our navy; and we had lately given our adversaries a supplementary broadside, which he hoped would tell well. Mr. S. stated the origin and progress of navies at some length, commencing with the Republic of Genoa. Our chief reliance as to defence must be on our militia. So little did Great Britain now rely on her navy for defence of her soil, that she had called upon every man in the country to be at his post, if danger came. Other nations might be justified in supporting a naval force, because they had colonies separated from them by the sea, with whom they were obliged to have means of intercourse, but we had not that apology for a navy. Mr. S. concluded his observations, after speaking near an hour, not, he said, that he had gone through the subject; but, as it was late in the day, he yielded the floor to some other gentleman.

Mr. J. G. Jackson said, that gentlemen should not be influenced, in discussing the present question, by a belief that they were now discussing the propriety of raising a naval force for offensive purposes. This was not the question. It was only whether, at this crisis, the House would employ a little force for the purpose of resisting attacks made on our territory at home. The gentleman from South Carolina (Mr. Williams) had said that an attack on the soil touched the life-blood of every man in it. Yes, Mr. J. said, it did; whether the invasion was on our jurisdiction, on land or water, it touched equally the life-blood of the nation. He would as soon resist an attack on our territorial jurisdiction on sea as on land. It made no difference with him whether a foreign frigate came up to the piles of Potomac bridge and fired over into the town, or whether its crew came on shore and assaulted us with the bayonet. The territory, he said, was equally invaded in either case. Were we not to resist Great Britain because of her 1,130 sail of armed vessels? This would amount to a declaration that we must succumb to her, because she could at any time send a squadron sufficient to destroy our naval force at a single blow. This was the tendency of the argument. Mr. J. said it would be more honorable to fight, while a single gun could be fired, notwithstanding her overwhelming force. This mode of reasoning had a tendency to destroy the spirit of the people. He would never consent to crouch before we were conquered; this was not the course of our Revolutionary patriots, and he trusted it was one which we should not follow. He would rather, like the heroic band of Leonidas, perish in the combat, although the force of the enemy was irresistible, than acknowledge that we would submit. This naval force was not, however, intended to cope with the navy of Great Britain, but to chastise the petty pirates who trespassed on our jurisdiction; pirates, he called them, because the British Government had not sanctioned their acts. It had not justified the murder of Pierce, or asserted the right of jurisdiction claimed by an officer within the length of his buoys, &c., because, if she had, it would have then been war. For this reason he wished our little pigmy force to be sent on the ocean, notwithstanding the giant navy of Great Britain. Some gentlemen had opposed this on the score of expense. Our most valuable treasure, Mr. J. said, was honor; and the House had almost unanimously declared that it could not submit without a sacrifice of that honor.

Saturday, January 21

Extra Session

On motion of Mr. Smilie the House resolved itself into a Committee of the Whole on the bill to alter the time of the next meeting of Congress.

Mr. J. G. Jackson moved to strike out the "fourth" Monday in May, and insert the "last," stating as a reason, that as the Virginia elections took place in April, the Representatives could not arrive here in time.

Mr. Macon wished a division of the question so as first to strike out, with a view to insert "September," instead of May. The motion to strike out was negatived – 62 to 35. It was supposed that this question tried the principle of the bill.

The committee rose and reported the bill.

Mr. D. Williams moved to strike out May for the purpose of inserting "September."

Mr. Milnor hoped the motion would not be agreed to. If the new Congress could commence its session on the 4th day of March next, he said he should think it extremely proper that it should do so. And, if he could think that the majority would fix an earlier day than the fourth Monday of May for the meeting, he should vote for the present motion. He agreed with gentlemen that this was a momentous crisis; that the country was in a situation of extreme difficulty and danger. It appeared to him, therefore, that Congress, who were the guardians of the public welfare; to whom were confided the destinies of the nation, so far as the nation could control them, should be constantly in session, till a more favorable state of affairs took place. It was possible, but was it probable that any event would occur to alter our situation for the better? There was no hope that the belligerents would recede from their injurious restrictions on our commerce. It was not probable that any thing would occur which would do away the necessity of an extra session. The present Congress having determined to persevere in the embargo and the present system of measures a while longer, the peace and welfare of the country required that a different system should be adopted. The present had been sufficiently tested, and would never produce those effects anticipated from it. It was proper that an early opportunity should be given to the next Congress to approve the present system, or give it up and adopt some other in its stead.

Mr. D. R. Williams said he was opposed to Congress coming here at the time proposed. Why should they come here then? He wished some one to answer, and let him understand why they were coming. In his opinion there was every possible objection to such a procedure. On the fourth day of March, a new President comes into power. Is it not presumable that the President would choose to have some communication with our Ministers abroad before the meeting of Congress? Could any man say that it was not proper that he should have it? Mr. W. said he hoped that the President would send special messengers, unfashionable as that policy was. If you are willing to wait for a declaration of war till the fourth Monday in May, will there be any necessity of declaring it before the first Monday in June or July? You have suffered the public mind to assuage in its resentment, and I very much doubt, that before a full experiment be made of the embargo, it will be wholly allayed. It has been said through the nation, and indeed avowed on this floor, that the Administration does not wish for peace. Having failed to take hold of the affair of the Chesapeake for a declaration of war, you have nothing now to give the people that interest which I hope they always will have in a declaration of war. Suppose you were to send special Ministers, and they were to be treated as our Ministers to France were under a former Administration, would not this treatment make every man in the nation rally around you? Would it not prove beyond doubt that the Administration was sincere in its wishes for peace? Undoubtedly it would. Why are your Ministers now loitering in

foreign Courts? With a hope of accommodation, sir, I would send other Ministers there, and if they failed of immediate accommodation, would order them all home. If they are compelled to return, you will have the whole nation with you, which you must have when you go to war.

Mr. J. G. Jackson replied to Mr. Williams. The gentleman had asked emphatically why Congress should convene here in May. Occurrences of every day, said Mr. J., are presenting themselves in such a way as to render it highly important and necessary that some other ground should be taken. Are we to adhere to the embargo forever, sir? I have said, and again say, that a total abandonment of the ocean would be submission. I think, by passing this bill, we give the nation a pledge that it shall be the *ne plus ultra*, which shall give to foreign nations time to revise their conduct towards us, and will give them time to consider whether or not they will have war with us. The gentleman wants a special mission. Sir, are we to continue in this state any longer? Shall negotiation be spun out further? No man can doubt the capacity of our Ministers abroad, and their disposition to represent their Government correctly. The doors are shut in the face of our Minister at the Court of St. James, and worse than shut at the Court of St. Cloud – for, from the latter, contemptuous silence is all the answer we have received, if indeed silence can convey an answer. Are we to renew negotiation, then, when every circumstance manifests that it would be useless? Need I refer to what took place the other day – I allude to the publication of a letter by Mr. Canning, in a highly exceptionable manner, through Federal presses, or presses more devoted to the interests of that country than any other? One universal burst of indignation accompanied the publication of that letter in this House. And are we, under such circumstances, to renew negotiation by extra missions? I conceive that the cup of negotiation and conciliation is exhausted to the dregs, and that we should but further degrade ourselves by sending further extra missions. It has been stated to me that a proposition had actually been reduced to writing by a member of this House the other day for sending away foreign Ministers and calling our Ministers home, and I am sorry that the proposition was not offered to the House, for, under present circumstances, it might not have been improper to have adopted it.

Mr. Smilie said, if there were no other reason, the present suspension of commerce, and discontents at home, were sufficient reasons for calling Congress earlier than the first Monday in December. When the new Administration should come into office, it was proper that they should have an opportunity of meeting Congress as early as possible. It was his opinion that, at the next session, a change of measures would take place. What would be the substitute for the present measure he could not say; but, at this time, he must say that he could see no way of avoiding war. With regard to extra missions, he really had no idea of a measure of that kind. If there should be any other means to secure the interest and honor of the nation but war, he hoped in God that it would be adopted, but he did not now see any such prospect.

Mr. Rhea, of Tennessee, said it was of no importance in the consideration of the present question what the next Administration should think or do. He wished that there could be an understanding with foreign nations for our good, but he much doubted such a result. He would not undertake to say whether war, or what other measure, ought to be adopted at the extra session; but, it was his opinion, that Congress ought to meet, and he should vote against every proposition going to defeat the object of the bill. Although this nation had not immediately retaliated the attack on the Chesapeake, would any man rise on this floor and say that the act of dishonor was done away because the House refused immediately to avenge it? He believed not; and, as long as it remained unatoned, it was cause for this nation to act. The only question for the House now to determine was this: Are there reasons to induce gentlemen to believe that a meeting of Congress is necessary on the fourth Monday of May next? As it appeared to him that such reasons did exist, he said he was bound on his responsibility to vote for the bill.

Mr. Durell asked if gentlemen meant to continue the embargo forever. He believed somewhat in the doctrine that an explosion might take place under it in a certain portion of the country.

Gentlemen said an extra session was, therefore, necessary to save the nation. Mr. D. asked if the nation was to be saved by long speeches? He had seen almost two whole sessions of Congress pass away, the one of six months, the other of three, and the nation in the same situation still, and still told, in long stories, from day to day, that it was in a critical situation. He had no idea that the nation was to be saved by much speaking. He did firmly believe, that more than forty-eight hours would not be necessary to pass all laws to meet the impending crisis. If a declaration of war was thought proper, this would be sufficient time for it; if an extraordinary mission, as suggested by the gentleman from South Carolina, forty-eight hours would be time enough for the House to decide on recommending it. The present was a state of suspense, from which the nation ought to be removed, and he was unwilling to prolong this state by the passage of the bill.

Mr. Burwell said he was one of those who would vote for an earlier meeting of Congress than usual. In Great Britain, in whose government there were some features approximating to ours, there was always an uneasiness, lest the Parliament should not meet often enough. Whence could be the objection to Congress meeting at an earlier day? If the public sentiment was not then prepared for war, it would not be adopted. It appeared to him that an early session, instead of producing mischief, would essentially contribute to tranquillize the minds of the people. If peace was attainable, we must have peace; but if not, we have no choice but war. The gentleman from South Carolina suggests the propriety of sending a special mission, said Mr. B. Let me ask him, if Administration should not take this course, whether it would not be perfectly proper that Congress should be in session? Certainly it would. With respect to a special mission, Mr. B. said he was perfectly at a loss to conceive what could be the nature of any proposition which could be made to Great Britain. A proposition had already been made to her, in effect, to go to war with her against France, and insultingly refused; for no other interpretation could be made of the offer to suspend the embargo, if she would rescind her Orders in Council, except Mr. Canning chose to misunderstand everything that could be said. Unless gentlemen would point out some new proposition, which could be made to Great Britain or France, he could not see the propriety of the course recommended. As to the continuance of the embargo, Mr. B. said it seemed to be perfectly well understood by every man, that when the Government determined on that course, it did not determine to persevere in it eternally. If it could be made manifest to him that any particular favorable consequence would be produced by postponing the session beyond the fourth Monday in May, he might be induced to accede to it. As to the disposition of the Administration to preserve peace, could the gentleman conceive it possible to remove the impressions of those who were determined not to be convinced? This nation had sued for peace, but in vain; they had offered to give up almost every thing in contest, if Great Britain would yield a thing which neither Mr. Canning nor any other member of the British Government ever said they had a right to do, and which was only justified on the ground of necessity. There was therefore no plausibility in the assertion that peace had not been earnestly sought for.

Mr. G. W. Campbell said that if nothing occurred between this time and the time proposed by the bill for the next meeting of Congress, which would particularly render a change necessary, he was yet of opinion that it would be then necessary to change our situation; for this reason: that at that period, time sufficient would have elapsed to give us information as to what ground Great Britain would take, after she had heard of the position which Congress had maintained. After that ground was taken, Congress would know how to act. I never voted for the embargo as a permanent measure, said Mr. C., nor did I ever use an expression which would authorize such a supposition; nor do I suppose that any other gentleman entertained such an idea. As to a special mission, I should as soon think of sending a special messenger to the moon as to Great Britain or to France, for the cup of humiliation is exhausted already, and I will never put it in their power to offer us another cup.

Mr. Macon said he had not intended to have said any thing, but that the gentleman from Virginia (Mr. Burwell) had broached a doctrine which he did not approve – that this Government was like that of Great Britain.

Mr. Burwell explained that he had said that the Governments were, in some of their features, alike.

Mr. Macon said that the reason of the fear in Great Britain that the Parliament would not meet often enough, was extremely obvious. The only voice which the people had was in the House of Commons, and they wanted them to be always in session, to keep the King and nobility off from them. In Great Britain the King dissolved Parliament at his pleasure. Here, he said, there was no power to dissolve Congress. Indeed, there was no similarity in the two Governments. He said he had no fear of any mischief being done by Congress meeting earlier; but he was opposed to their meeting earlier, because they would do more good by staying away. Could any man say what would take place between this day and the third of March? And yet the House were now called on to determine on an extra session. He was for giving such time, after the deliberations of the present session closed, as that Great Britain might see what we had done, and consider whether she would retract or go to war, for if she did not retract, war must be the consequence. Mr. M. said he would give every opportunity for peace; he would not be for hurrying the matter. He had no opinion that Congress being in session would have any effect on the people. The cry of an intention to destroy commerce was not to make him do a single thing which he would not otherwise do. No man can believe that we who raise produce should wish it to lie on our hands, as is now our situation. It is maritime rights for which we contend. For these we planters are making sacrifices, and we know it. As to the grower it is immaterial in point of interest into what ship or wagon his produce goes; but he is contending for the interests of his mercantile brethren. A great deal has been said about repealing the embargo to put an end to discontents. Let gentlemen beware of it, lest in trying to please everybody, they please nobody. Let us do what is right, that is the only ground for us to take. Whenever we begin to temporize, that principle is abandoned. I disagree with the gentleman from Tennessee as to the expediency of continuing the embargo; I do not believe that it would be inexpedient to try it beyond May. I believe we ought to try it beyond September. This is my opinion. What effect do gentlemen expect that the embargo will have had in May? Not more than at this moment. While every day from that time till September, it will be more and more effectual. I never voted for it as a permanent measure; but my opinion was, as I stated it, that it might be necessary to hold on to it for one, two, or three years. I might be wrong, but this was my opinion then, and I have not changed it. As to an extra session, I have never thought of it; but I am willing to leave it to the Executive. It has been so suddenly suggested, however, that I would not undertake to decide positively on the subject. I should rather incline to let them send to us now; we have sent to them long enough. As to the people being tired of the embargo, whenever they want war in preference to it, they will send their petitions here to that effect. When gentlemen from the Eastern States say, that the people there are tired of it, perhaps they speak correctly. As to all the talk of insurrections and divisions, it has no effect on me. When the sedition law was passed under the former Administration, it was said that the people would not bear it. I thought then as now, that the elections would show their disapprobation, and that they would manifest it in that way alone. When the people are tired of the embargo, as a means of preserving peace, they will tell you so, and say, "Give us war!" But none have said so; and yet, sir, I know well that myself and some others are blamed for our adherence to this measure. I can only say, that it is an honest adherence. I do believe that the continuance of that measure, with the addition of a bill now on your table, (non-intercourse bill,) is the best thing you can do; and if I thought that Congress would declare war in May, I should be much more averse to meeting then than I am now; but I do not believe it will.

The question was now taken on the motion of Mr. D. R. Williams to strike out the words "fourth Monday in May," and lost.

No other amendment being offered to the bill, it was ordered to be engrossed for a third reading. The bill being brought in engrossed, a motion was made that the same be read the third time to-morrow: and the question being put thereupon, it passed in the negative.

A motion was then made by Mr. Smilie, that the bill be now read the third time; and the question being taken thereupon, it was resolved in the affirmative.

The said bill was, accordingly, read the third time: Whereupon, Mr. Speaker stated the question from the chair, that the same do pass? And, the question being taken, it was resolved in the affirmative – yeas 80, nays 26.

Monday, February 6

Presidential Election

Several petitions having been presented, in addition to those heretofore stated, against the mode in which the late election in the State of Massachusetts was conducted —

Mr. Bacon offered the following resolution:

> *Resolved*, That the Clerk of this House do carry to the Senate the several memorials from sundry citizens of the State of Massachusetts, remonstrating against the mode in which the appointment of Electors for President and Vice President has been proceeded to on the part of the Senate and House of Representatives of said State, as irregular and unconstitutional, and praying for the interference of the Senate and House of Representatives of the United States, *for the purpose of preventing the establishment of so dangerous a precedent*.

Mr. J. G. Jackson said he saw no objection to the resolution, or even to going farther than it proposed. The constitution had declared that the election of Electors in each State should be held in such manner as the Legislature should direct; and, he said, he never could consent to the doctrine that any set of men, without the authority of law, could make an election of Electors. He believed that the case was not provided for; and as the present case could not vary the general result of the Presidential election, gentlemen appeared not to be disposed to interfere in it. But, he hoped it would operate on the House to induce them to consider the propriety of providing some mode of hereafter distinguishing between legal, and illegal or surreptitious election.

Mr. Van Horne moved to strike out the words in *italic*, as he understood them as committing the House to express an opinion on the subject of the petitions. Motion lost – yeas 18.

Opening and Counting the Electoral Votes for President and Vice President

Mr. Nicholas offered the following order:

> *Ordered*, That a message be sent to the Senate to inform them that this House is now ready to attend them in opening the certificates and counting the votes of the Electors of the several States, in the choice of a President and Vice President of the United States, in pursuance of the resolution of the two Houses of Congress of the 7th instant; and that the Clerk of the House do go with the said message.

Mr. Randolph said it had sometimes been the case, he did not say it had been the practice, that this House had met the other branch of the Legislature in their Chamber, for the purpose of counting the votes; in which cases, very properly indeed, this House being in the Chamber of the Senate, the President of that body had taken the chair. Mr. R. said he now understood that it was proposed, without any vote of this House for the purpose, that the President of the Senate was to take the chair of this House; that the Speaker was to leave the chair, to make way for the President of another body. To this, he, for one, could never consent. I conceive, said he, that such a proceeding would derogate, very materially, from the dignity, if not from the rights of this body. I can never consent, Mr. Speaker, that any other person than yourself, or the Chairman of the Committee of the whole House, should take the chair, except by a vote of the House. I hope, therefore, that this matter may be well understood. I conceive it to be a respect which we owe to ourselves, and to

the people, whose immediate representatives we are, never to suffer, by a sort of prescriptive right, the privileges of this House to be in anywise diminished, or its dignity to fade before that of any other assembly of men whatever.

Mr. Nicholas said he was as unwilling as any other gentleman to surrender the privileges of the House. When assembled as the House of Representatives, he agreed that none but the Speaker should take the chair; but, on the occasion of counting out the votes, he did not consider the House of Representatives to be formed as a distinct body. In meeting on this occasion, he said, it always had been usual, since the establishment of the Government, for the Vice President of the United States, or the President *pro tempore* of the Senate, to take the chair. There was, also, a propriety in this course, because, by the constitution, the Vice President is to open the votes. For twenty years the practice had been that the President of the Senate presided in joint meeting.

Mr. Nicholas moved, in order to do away any difficulty in this case, that when the members of the Senate were introduced, the Speaker should relinquish the chair to the President of the Senate.

Mr. Davenport supported this motion. He had no doubt of the propriety of the President of the Senate presiding at a joint meeting, more especially, as he was the person designated by the constitution for counting out the votes.

Mr. Randolph said that if this course were taken, the Senate ought to be notified of this act of courtesy on the part of the House; if not, it might appear that the President of the Senate took the chair as a matter of right. He said he knew that, to many persons, matters of this sort appeared to be of minute importance, but in every thing touching the privileges of this House, as it regarded the claims of the other co-ordinate branches of the Government, he would stickle for the ninth part of a hair. It was well known that, in England, the privileges of the Commons had been gained inch by inch from the Kings and Nobles by a steady perseverance; and that man must have very little knowledge of mankind, indeed, who was not persuaded that those privileges might be lost, as they were gained, by gradual and imperceptible encroachment on the one hand, and tacit yielding on the other. This was not a matter of great consequence in itself; but power always begot power. It was like money, he said; any man could make money who had money. So any man, or body of men, who had power, could extend it. I have no objection, said Mr. R., very far from it, to the constitutional exercise of the powers and privileges of the Senate. Let their President count the votes, sir; there is a very good chair for him in which the Clerk now sits. But, on what principle is he to come into the House with the consciousness that he has a right to throw you out of the chair, sir, and take possession of it? I have no idea of suffering a man to come through those folding-doors with such a sentiment. If he comes into this House, he comes from courtesy, and cannot assume your chair, Mr. Speaker, as a matter of right, but as a favor. And, if the President of the Senate takes possession of your chair as a favor, it ought to be announced to the Senate as such; for, the mere vote on our side amounts to nothing, provided that he, and the body over whom he presides, come into this House under the knowledge, (without an intimation from us,) that you are to leave your chair, and he is to take possession of it.

Mr. Smilie observed that there was no fear of the privileges of this body being encroached upon by any other, for there was a written constitution, prescribing the powers of each body; and, at the same time that it was proper to be careful of their own rights, he said the House should be careful not to infringe on the rights of the other body. In respect to this question, there was a case in point. In one instance while Congress sat at Philadelphia, the Senate had come into the Representatives' Chamber to count out the votes, and the President of the Senate had taken the chair as a matter of right. We, said Mr. S., are sitting as a convention of the two Houses, for a special purpose, viz: to count out the votes. Who is properly the presiding officer in this case? Unquestionably the officer directed by the constitution to open the votes. And I consider the Speaker of the House, on this occasion, as acting in the same capacity as any other member of the House.

After some further observations on the subject from Messrs. Masters, Lyon, and Macon, the motion of Mr. Nicholas was agreed to – yeas 98.

Mr. Randolph then moved that the Senate be acquainted, by message, of this arrangement. Agreed to – yeas 73.

The resolution first offered by Mr. Nicholas was then agreed to.

On the suggestion of Mr. Van Dyke, it was agreed that the members should receive the Senate standing and uncovered.

The time for counting the votes having arrived, the members of the Senate, preceded by their Sergeant-at-Arms, entered the Representatives' Chamber, Mr. Milledge, the President *pro tempore*, took the Speaker's chair, and the members took their seats on the right hand of the chair. The tellers were ranged in front, and the Clerks of each House on the right and left of the tellers. The President of the Senate opened the electoral returns, one copy of which was handed to the teller of the Senate, Mr. S. Smith, who read it; the tellers of the House, Messrs. Nicholas and Van Dyke, comparing the duplicate returns handed to them.

When this business, which occupied about two hours, was concluded, the tellers handed their report to the President of the Convention, who was proceeding to read it, when

Mr. Hillhouse observed that the returns from one of the States appeared to be defective, the Governor's certificate not being attached to it. He thought that this might be as proper a time to notice it as any.

Nothing farther being said on the subject, however, the President of the Senate read the following statement of the votes, as reported by the tellers:

(For the statement of the votes see Senate proceedings of the same day, *ante*, p. 27.)

Thursday, February 9

Non-Intercourse

Mr. Taylor said it would be recollected that, in the course of the public business of this session, a resolution reported by a committee on our foreign relations arising out of a motion of a member from North Carolina, for the purpose of interdicting commercial intercourse with such belligerents as had in force decrees or edicts against the lawful commerce of the United States, had been agreed to and referred to the same committee, who had reported a bill for non-intercourse. This bill in fact, however, comprised but one-half of the whole subject embraced by the words "non-intercourse." The bill as reported to this House provided for the non-importation of the goods, wares, and merchandise, the growth and manufacture of these particular countries. That (said he) may be readily accounted for, from the circumstance that the House was then actually engaged in passing a law for the enforcement of the embargo, the committee therefore having only in view the other part of the question, so as to complete a non-intercourse. After that bill was reported, a gentleman from Tennessee, (Mr. Rhea,) in order that the whole might be incorporated into one, offered a resolution for that purpose. I did think it unnecessary at that time; but as the course of business seems to look towards a repeal of the embargo, in order that the whole subject of non-intercourse may be incorporated in the bill before the House, I move that the Committee of the Whole be discharged from the consideration of the bill, and that it may be referred to a committee, in order that it may be made in fact what the title imports it to be, completely, a bill for non-intercourse between this country and those nations having in force decrees affecting our neutral rights.

The Committee of the Whole was discharged from the further consideration of the bill, ayes 72.

The effect of the votes of this day, is to refer to the Committee on Foreign Relations, composed of Messrs. G. W. Campbell, Nicholas, Bacon, Taylor, Fisk, J. Montgomery, Mumford, Champion, and Porter, the several propositions for the repeal of the embargo, for arming the merchant vessels, for non-intercourse, for excluding armed vessels from our waters, and for declaring the first capture made in violation of the neutral rights of the United States to be a declaration of war, &c., with leave to report by bill.

The chief argument in favor of this general reference was, that these propositions might be merged in one bill which should present a general system, and thus render less complicated the proceedings of the House on these resolutions. The main arguments against it were, that it would destroy all that had already been done in Committee of the Whole, and probably present a system at length to the House which would not be approved, and thus produce no other effect at this late period of the session than to protract discussion; and also that it would encourage that speculation now going on in the mercantile towns, and be ruinous to many men of moderate capitals who had embarked their all in the purchase of produce, in the certainty that the embargo would be raised on the 4th of March.

Tuesday, February 14

Additional Duties

The House resolved itself into a Committee of the Whole on the bill for imposing additional duties on all goods, wares, and merchandise imported into the United States.

[This bill provides "that an additional duty of – per centum on the permanent duties now imposed by law upon goods, wares, and merchandise, imported into the United States from foreign ports or places, shall be laid, levied and collected upon all goods, wares, and merchandise, which shall, after the thirty-first day of January, 1809, be imported into the United States from any foreign port or place; *and a farther addition of ten per centum shall be made to the said additional duty in respect to all goods, wares, and merchandise, imported in ships or vessels not of the United States*; and the duties imposed by this act shall be levied and collected in the same manner, and under the same regulations, mode of security, and time of payment, respectively, as are already prescribed by law, in relation to the duties now in force on the importation of articles imported from any foreign port or place. That this act shall continue in force until the first day of April, 1810, and no longer: Provided that the additional duties laid by this act, shall be collected on such goods, wares and merchandise, as shall have been imported previous to the said day."]

Wednesday, February, 15

Non-Intercourse

On motion of Mr. Nicholas, the House resolved itself into a Committee of the Whole on the bill for interdicting commercial intercourse between the United States and Great Britain and France, and for other purposes.

Mr. Milnor moved to strike out the first section of the bill, with a view to try the principle of the non-intercourse system. In support of this motion, he alleged the impossibility of carrying the system into effect; for he conceived that the embargo had been ineffectual from the impossibility of carrying it into complete effect, and the proposed system would be as difficult to enforce. He thought that it would be impossible to carry a non-intercourse system into effect, as long as vessels were permitted to go to sea. He had many other objections to this bill, among which were these: that, although it raised the embargo only in part, the permission to vessels to go out, would render the provision for a partial embargo nugatory; that, if the bill were to pass in its present shape, it was to be doubted whether any revenue officer of the United States would understand the duty enjoined on him by it; that a time only two days previous to the meeting of the next Congress was fixed upon as the day upon which the non-importation should go into operation, and thus the bill appeared to manifest a distrust of that Congress, who certainly would be more competent than the present Congress to decide on its propriety at that time; that a non-intercourse between these countries, would but compel our citizens to pay a double freight to and from the entrepôt, without producing any other effect than injuring our own citizens; that goods from these countries, although their importation were interdicted by law, would be introduced nevertheless; that the extent of the territory and seacoast of the United States was so great that all efforts to interdict the importation of goods must be ineffectual, for they would be introduced contrary to law; thus depriving the United States of the revenue which would be derived from them, if their importation were permitted by law. Rather than accept this system, Mr. M. thought it would be better that this country should remain yet longer under the pressure of the embargo, which he had no doubt must be repealed early in the next session.

Mr. Quincy entered at considerable length into an examination of the system of coercion on foreign nations, by means of commercial restrictions. The idea of the efficacy of this system, he traced to a deeper root than any Administration under this Government. It was an error of the American people, originating in a period antecedent to the Revolution; it grew out of our colonial regulations. It began to be a favorite belief with the people, antecedent to the year 1760, and was then fostered by the patriots of that day, the idea being also encouraged by the patriots of England. Mr. Q. entered into a comparative statement of the exports from and imports to Great Britain from America at two different periods, viz: the nine years preceding the year 1775, and the nine years succeeding it, with a view to show that the average imports into Great Britain from all the world, during the nine years' peace with this country, amounted to about one-thirteenth more than the average imports during the same period of war; and the exports diminished, nearly in the same proportion. From his statements on this head and a comparison of the present relative situation of the two countries, Mr. Q. drew the inference that this supposed means of coercing the European powers, did not exist. He deemed it peculiarly unfortunate that a confidence in this power of coercion had so long existed, as it had prevented the United States from making preparations which they otherwise might have made. He hoped the idea would now cease. In relation to our present situation, he recommended a plain remedy, comprised in two words: "Follow nature." What did she first dictate for remedying any complaint? The removal of all obstructions on her operations. Mr.

Q. therefore recommended the removal of the embargo, the repeal of the non-importation act, and the abandonment of the non-intercourse system. He wished "peace if possible; if war, union in that war;" for this reason, he wished a negotiation to be opened unshackled with those impediments to it which now existed. As long as they remained, the people in the portion of country whence he came, would not deem an unsuccessful attempt at negotiation to be cause for war; if they were moved, and an earnest attempt at negotiation was made, unimpeded with these restrictions, and should not meet with success, they would join heartily in a war. They would not, however, go to war to contest the rights of Great Britain to search American vessels for British seamen; for it was a general opinion with them that if American seamen were encouraged, there would be no occasion for the employment of foreign seamen. A removal of the embargo, without adopting any other measure, until the event of negotiation had been tried, Mr. Q. said, would first prevent any collision with the belligerents which might tend to embarrass negotiation; and, secondly, would give an opportunity to the country to ascertain what would be the practical operation of these orders and decrees, on our commerce; and give an opportunity to the next Congress to shape its measures according to their actual effect. If commerce did not suffer, the knowledge of this fact would supersede the necessity of any other measure, and peace would follow of course; if, on the contrary, a general sweep was made of all the property afloat, it would unite all parties in a war. Mr. Q. concluded a speech of two hours in length, by lamenting the state of the country, and invoking the spirit which "rides the whirlwind and directs the storm," to guide the nation to a happy result.

Mr. Nicholas replied to the observations of Mr. Quincy on the subject of the legal opposition to the embargo laws in Massachusetts. He said if the laws of the nation were to be resisted in the manner in which he lamented to say that he saw it contemplated in one part of the community, it became the duty of this Legislature to meet it; it was not compatible with their duty to shrink from it. He could not consent that thirteen or fourteen States should submit to one. As men vested with certain powers by the constitution, Congress could not transfer the powers to any State Legislature or to any town. In relation to negotiating with measures of coercion in existence, Mr. N. asked, when did the violations of our rights commence? So long ago that the precise time could not be fixed. When did our coercive measures commence? In 1806. Mr. N. noticed the negotiators during whose Ministry abroad these injuries had commenced, and continued. Mr. King, Mr. Monroe, and Mr. Pinkney, all honorable men, had successively represented the United States in Great Britain. And could any thing be gathered from any thing they had ever written or said, to induce a belief that this Government had not acted with sincerity? There was the most conclusive evidence to the contrary. Mr. N. said, he would ask nothing of Great Britain or France that would tend to sacrifice their honor; and he wished, when gentlemen dwelt so much on the regard of foreign nations for their national character, that they would respect a little the character of our own country.

Mr. D. R. Williams said he had been decidedly in favor of issuing letters of marque and reprisal at once; he believed it would have cut off all that fungus matter now deteriorating the body politic – for the people of New England were as patriotic as any, and when the choice was between their own and a foreign country, they would cling to their own. It was the hot-bed politicians who stirred them up; and it was necessary to do something promptly to put an end to their intrigues. Mr. W. disliked the non-intercourse system throughout. If he could not get war, or a continuance of the embargo, he wished, inasmuch as Great Britain and France had each interdicted us from going to the other, to declare that neither their armed nor unarmed ships should contaminate our waters. This was a system which required no exertion of patriotism to carry into effect, which could excite no animosities between the North and South. In relation to the non-intercourse, he believed that it could not be enforced, and used a variety of arguments to show that it could not. If it could be enforced, he believed it would be prodigiously partial. If the embargo was to be taken off, and war not to be substituted; if the nation was to submit, he wished to do it profitably. If the embargo were raised as to a single spot, it was raised entirely to all effectual purposes. Then let your vessels go,

said he, without let or hindrance; let them go and be burnt; your merchants will then feel that the embargo was a shield spread over them, and will come back to your protection, like the prodigal son, and unite like brethren in the common cause. Mr. W. said, his plan was to interdict the entrance of our ports to belligerent vessels, armed or unarmed, and lay a tax of fifty per centum on their manufactures. Great Britain must, then, either go to war or treat with us. If she was inclined to go to war in preference to revoking her Orders in Council, let her do so. But he was inclined to believe that she would treat. If she seized our vessels, however, the effect would be inevitable. Division amongst us would be done away, all would unite heart and hand in war. Mr. W. replied to a number of the observations of Mr. Quincy, particularly in relation to his position that all obstructions ought to be removed with a view to negotiation. He asked, what security had the United States, if they did all this, if they submitted to such abject humiliation, that Great Britain would treat? Was it to be expected that she would treat more liberally with us, when we solicited as slaves, than she would while we magnanimously contended for our rights? The gentleman from Massachusetts, when repeating his creed, had forgotten a part, viz: "Unfurl the banners of the Republic against the imperial standard!" This would complete a project he had lately seen proposed from the East; and, as to its application, coinciding with the wishes over the water, would be just such a project as Mr. Canning might dictate. "Revoke your proclamation, remove the embargo," and "unfurl the republican banners against the imperial standard." Mr. W. concluded a speech of an hour and a half in length, with giving notice that he should move to amend the bill, when the present motion was decided, by striking out all that part of it relating to non-intercourse, and inserting a provision interdicting the entrance of our harbors to any vessels of Great Britain and France, and imposing an additional duty on all goods imported from those countries.

When Mr. W. concluded, the committee rose, and obtained leave to sit again.

Thursday, February 16

Additional Duties

The House resolved itself into a committee of the Whole, on the bill for imposing additional duties on all the goods, wares, and merchandise, imported into the United States.

The bill was amended so as to take effect "from and after the passage thereof."

The proposition offered by Mr. D. R. Williams, when the bill was before under consideration, was withdrawn.

Mr. Cook renewed the proposition, viz: to confine the duties to be increased, to goods imported from Great Britain and France, and the colonies of either; and spoke an hour and a half in support of his motion, and in opposition to the non-intercourse system. He was in favor of discriminating duties, because he was opposed to the non-intercourse, which he considered the best means of depressing our navigating interest and advancing that of Britain; because the produce of the United States would be carried to some place of depot in the vicinity, and thence be carried to Europe in British bottoms, while a large proportion of American shipping would be inactive. He thought that, under the arming system, we could trade with at least as much honor and with much more profit than under the non-intercourse system. He contended that the non-intercourse system was precisely calculated to destroy that moral principle which had heretofore so strictly enforced our revenue laws; that the system of restriction was partial, operating so equally on the people of the South, that no individuals particularly suffered from it, while in the North and East individuals were ruined by it, and thus a general distress produced; that it would be the most discouraging act to the mercantile interest, ever passed by the Government, for it would throw the trade in all the produce kept in the country by the embargo into foreign hands at the expense of the American merchant; that the system could not be enforced with so extensive a frontier and seacoast as we possess; that it was a measure calculated to produce irritation on foreign nations, without having the least coercive effect; that it was a political suicide, without the consolation of company in it. Mr. C. was, with his constituents, in favor of further negotiation, and a firm assertion of our rights, which, if refused to be acknowledged, he would maintain. It was high time to abandon visionary schemes and impracticable projects, and to pass good, plain, common sense laws. He believed that this discrimination of duties and arming our merchant vessels would be such a law. He spoke more than an hour and a half.

Mr. C.'s motion was negatived by a very large majority. The committee then rose, and reported the bill.

The amendments made in Committee of the Whole were severally agreed to by the House; and, on the question that the bill be engrossed for a third reading, Mr. Livermore called for the yeas and nays. There were for it 85, against it 27.

Non-Intercourse

The House again resolved itself into a Committee of the Whole, on the bill for interdicting commercial intercourse.

Mr. Milnor's motion for striking out the first section being under consideration —

Mr. Nicholas rose and addressed the Chair as follows:

Mr. Chairman: I shall not conceal or disguise my opinion; it has been and continues to be, that when the embargo shall cease, war will be the only proper and honorable course for this country

to pursue, if reparation shall not have been made for the injuries we have received. Under this conviction, I proposed a resolution limiting the duration of the embargo, and authorizing, at the same time, the issuing of letters of marque and reprisal. I trust, sir, I shall be pardoned for expressing the deep regret and affliction I feel for the failure of a measure so important in my judgment, to the best interests of my country. I voted for the embargo as a precautionary and as a coercive measure. In its first character, its wisdom must be admitted by all. Its effects as a coercive measure would, I believe, have been equally certain, if the misconduct of some of our own people, and the revolution in Spain, had not impeded its action. Unless we were determined to persevere in our claims for redress, and to assert our rights, the embargo, even as a measure of precaution, was unnecessary. It gave no protection to our property abroad, it gave it no security on its way home, it only preserved it after its return. When the injuries of which we complain were inflicted, our choice was between submission and resistance. We determined to resist, and commenced our resistance by laying an embargo, with the hope that it might of itself induce the belligerents to do us justice; and if this expectation were disappointed, that we might prepare for war, by preserving in our own possession our essential resources – men and money. If resistance was not our determination, I do not hesitate to say, that the embargo was unwise and unnecessary. If we intended ultimately to abandon our rights without another effort, we should have suffered less both in reputation and in property, by immediate submission, than by now receding from the ground we have taken. I do not believe that a single supporter of the embargo looked to it as the last resort of this country. For myself, I disclaim the impression, and declare that I was ready to abandon it for war, when its primary objects should be attained, and its coercive power fairly tested. I have stated that I considered the return of our citizens, the security of our property, and the employment of time in preparation for war, as the great and more certain effects of the embargo. All these advantages we have derived from it. I believe it is time to change our measures, and to place our future reliance upon Providence, and upon the energies and valor of our citizens. Upon this point, however, I think with a minority. There has been a vote of this House against immediate war. Under these circumstances what ought I to do? I must either vote against every expedient which falls short of what I deem the most proper course, or assent to that which accords most with what I think right. If it were my individual concern, I should certainly rely upon my own judgment: but when every thing dear to my country is at stake, I cannot justify to myself a pertinacious adherence to a proposition already rejected by a great majority, which would hazard the loss of a measure, the best, in my opinion, that can be obtained. After having offered what I thought the best, and seen it rejected, I think with the gentleman from South Carolina, that I am at liberty, and that it is my duty, to unite with others in support of attainable measures which appear to me to be conducive to the interest of the country. The bill upon your table appears to me to be such a measure. It maintains our attitude towards the belligerents better than any measure which I have heard proposed, and if it be not the most effectual resistance, at least, it is not submission. It continues our solemn protest against their violations of our rights; it takes new, and in some respects, stronger grounds against them. It excludes from our waters, ports, and harbors, all their vessels, public and private; it excludes from our country all their products and manufactures; and forbids our citizens to debase and degrade their country by a commercial intercourse which would stain and pollute them with the payment of an ignominious tribute to a foreign nation. It reserves the great question to be decided by the next Congress, which will be informed of the wishes of the American people; who can best determine how far they will submit to have their rights trampled on, at the will and pleasure of foreign nations. By keeping the question open for their discussion, I have the utmost confidence that our rights, honor, and independence, will be maintained. The gentleman from Pennsylvania asked yesterday, why not repeal the embargo laws, and provide for the enforcement of this system by a new law? In addition to the reasons I have stated, I will mention another, which has great weight. We are told that one of the States of this Union is about to pass a law, imposing penalties on persons employed in the execution of those

laws within that State. I will never consent, under these circumstances, to adopt any measure which might wear the aspect of yielding to a threat like this. No man laments more sincerely than I do, that the Legislature of any State should take such a step, but I think it of the utmost importance that the Government of the United States should maintain its authority, and that it should be ascertained whether its measures may at any time be embarrassed by the Legislatures of one or more States, or its laws annulled by their authority. Such could not, I believe, have been the impression either of the people or of the States when the General Government was formed; and if this conduct be persevered in or submitted to, it will, in effect, supersede the Government, and must speedily terminate in its dissolution. I hope and trust that the wisdom and patriotism of the Legislature of Massachusetts will not permit such a law to be enacted. Otherwise, I do not doubt that the people at the Spring elections, will choose men solicitous to heal, by every means within their power, the wounds inflicted on the constitution. It is a painful duty to notice this subject. I have ever been devoted to the Union of the States. I would cherish and support it at every hazard, and would sacrifice to its preservation every thing but the rights and liberties of one section, in compliance to the wishes of another. On such conditions it would be vassalage, not union. To yield in the present instance, would be yielding the Government to a minority. It is not practicable, however, to act upon the subject during the present session, nor do I wish it. I have the utmost confidence in the people of Massachusetts, and have no doubt but that their good sense will apply the proper corrective. If they do not, it will then remain for the other States, after giving to the subject the solemn and deliberate consideration which it merits, to decide whether they have a Government or not, whether it is compatible with their happiness and interests to preserve a Government whose acts are binding on them only who are willing to obey them; whether they will submit that the public officers of the United States shall be punished for the faithful performances of their duty.

I have confined my observations within as narrow limits as possible. It is not now necessary to speak of our injuries, of the necessity of resistance, nor even of the superior advantages of any particular mode of resistance; for it is, I believe, a very prevalent opinion in this House, as well as with the nation, that we have already deliberated enough, and that it is incumbent on us to act. I will, therefore, very briefly notice some objections I have heard to the bill. It is urged that our products will find their way to Great Britain and France, but certainly to Great Britain, by circuitous routes, and that we shall derive less profit from them on that account, than if a direct intercourse were permitted. This cannot be denied, nor is there a man who would not prefer a free trade with the whole world, if it could be enjoyed upon equal and honorable terms, to a commerce so limited and shackled as ours is at this time by the belligerent edicts. The question is not now how we can most advantageously avail ourselves of a momentary commerce, but how we can assert the national sovereignty, and best secure the permanent interests of the United States. No gentleman, I presume, will contend that it is better for us to permit a disgraceful intercourse with any nation, than to endure a temporary privation, until we can trade on fair and honorable terms. Gentlemen cannot delude themselves with any expectation of advantage from the commerce now allowed to us. The two most valuable products of this country must ruin and beggar those interested in their culture – I mean cotton and tobacco. It is well known that the quantity of tobacco annually produced, is fully equal to the annual consumption, and that we have now two crops on hand; while the edicts of Great Britain and France are continued, it would be folly to cultivate this plant, and it is more or less true of every other product of our soil. If we were at war with these nations, our products would reach them through the same circuitous channels into which they will be forced by this law, but certainly that consideration would not be deemed a good argument for permitting direct intercourse with our enemies. As to the difficulty of excluding their products and manufactures, it is very possible that we may not be able to do it entirely, but I am satisfied that we shall do it essentially. The great avenue through which British goods can be most easily smuggled into this country is Canada, and that, I doubt not, will soon be closed if the edicts be not rescinded. The present state

of things cannot long continue; I have no hesitation in saying that it ought not, and that the next Congress must either abandon the contest, or resort to more effectual means for the maintenance of our rights than commercial restrictions and prohibitions. The gentleman from South Carolina, whose eloquence I admire, and whose patriotism I honor, speaks of this measure as submission, and considers that which he proposed as resistance – not indeed as the measure of his choice, but as the one which is next to it in his estimation. It must be obvious to the House, and I am sure it will be equally so to the gentleman himself, that if his system would be resistance, the course indicated by the bill has in that view superior merit. The gentleman acknowledges the principal advantage of his plan to consist in this, that it would deprive British vessels of the transport of our produce; if it can be shown that this object will be accomplished more effectually by the bill in its present form than by the proposed alteration, it is fair to expect for it his support. If this plan were adopted, Great Britain would regain her full share of the transport of our produce by augmenting the duties in favor of her own bottoms to an amount that would be an indemnity for a short voyage, by opening the port of Halifax, and another port at St. Mary's, to our vessels, and all that would then remain to our own vessels would be the profits of the coasting trade from our harbors to those ports of deposit. If I believed this course the most honorable and effectual mode of resisting, I would willingly embrace it; but, sir, I can never consent to any plan by which a direct commercial intercourse is to be produced between this country and Great Britain and France, while their edicts continue in force. Nor will I ever abandon the hope and belief that my countrymen possess the manly spirit of independence, the honorable pride and character which will disdain to barter for gold, or for a miserable fragment of commerce, those rights which were purchased by the valor and the blood of their fathers.

The question was taken on striking out the first section of the bill and negatived – yeas 24.

Saturday, February 18

Another member, to wit, Marmaduke Williams, from North Carolina, appeared and took his seat in the House.

Clarkson's History of Slavery

The Speaker laid before the House a letter from Thomas P. Cope, offering to the acceptance of Congress, in behalf of the American Convention for promoting the abolition of slavery and improving the condition of the Africans, lately assembled in the city of Philadelphia, a book, entitled "Clarkson's History of Slavery," which is requested to be deposited in the Library of Congress. The said letter was read; whereupon a motion was made by Mr. Milnor, that the House do come to the following resolution:

> *Resolved*, That the Speaker be requested to acknowledge the receipt and acceptance of "Clarkson's History of Slavery," presented by the American Convention for promoting the abolition of slavery, and improving the condition of the Africans; and that the said work be deposited in the Library.

And the question being put thereupon, it was resolved in the affirmative – 64 to 16.

Non-Intercourse

Mr. Clopton said: Mr. Chairman, being one of those who are not willing to exchange the embargo for the system of non-intercourse now proposed, I move you to strike out this section of the bill. In making this motion, sir, I cannot say that I entertain much hope of success, although indeed I do sincerely wish that the motion may prevail. It has been uniformly my opinion, sir, and still is, that the embargo ought to be adhered to until a majority of the great body of the people of the United States should prefer war itself to a longer continuance of it. I cannot perceive any middle course between those two alternatives, which can truly maintain the honor of the nation; and shall this nation descend from that ground to any degree of submission, either openly or covertly, to any nation on earth? God forbid, sir. Forbid it every thing that is dear and valuable to us as members of a free and independent nation!

Long indeed has our country sought the establishment of neutrality, but sought it honorably. The great and prominent object with the United States, as to their exterior relations, always has been to maintain peace – but to maintain it honorably and consistently with the rights of the nation. In pursuit of this object Great Britain will receive the principal benefit of the trade, notwithstanding the prohibitions of this bill. If American vessels are permitted to go out at all, most of them will go, if not to British ports, to some particular ports, as has been observed, from whence Great Britain will finally receive their cargoes; and in a short time, perhaps, upon cheaper terms than they could be obtained for in our own ports; and I do not know what is to secure them from capture when bound to other ports, if they fall in with British cruisers, unless indeed they should go into British ports, pay the detestable tribute and accept licenses; and the law will be abundantly evaded by smuggling into the country articles of British manufacture – and no doubt, many of French manufacture too. Besides, sir, the consequence of this measure very probably will be war at last, and at no distant period; a war, too, which will commence under great disadvantages to our own country.

In this situation of things, Mr. Chairman, under this accumulation of injuries, the measure of embargo was resorted to – a measure having in view a counteraction to the whole system of aggression carried on against the United States – a measure which has been pursued as a means

of bringing about a relinquishment of that atrocious system on the part of the belligerents, and a redress of injuries inflicted on us, together with the preservation of peace. This measure has been thus far pursued for these great purposes; and it has been patiently borne with to this day, by the nation at large, the partial discontents which have appeared in some particular parts of the country only excepted. The nation at large has cheerfully acquiesced in the privations, the inconveniences, and the difficulties incident to such a state of things. It has exhibited a memorable example of self-denial in sustaining this situation, with a view to obtain redress of wrongs and recognition of its maritime rights, without a sacrifice of peace. With this object, fair and honorable negotiation has been resorted to from time to time for a series of years. By this means redress of wrongs has been repeatedly sought, and sought in vain. By this means the Government of the United States has exercised itself to procure relinquishment of outrages and violation of our neutral rights; but as often have all its efforts proved unavailing. No wrong redressed – no cessation of outrage yet appeared: on the contrary more numerous and more aggravated ones followed in quick succession. A long series of injurious acts, the offspring of new and (if possible) more atrocious principles than what constituted the pretended ground of former outrages, were pressed with accumulating weight into the train of former outrages, insomuch that those which followed after, taken along with those which had preceded, made up a combined system which threatened to sweep from the ocean almost every particle of canvas, and all the floating property of this great Republic.

These, sir, are the objects for which this measure has been thus far and so patiently pursued. Great and momentous objects, and worthy of a great and magnanimous nation! Why, then, should it be now determined at all events to abandon this measure? Why should it be so determined, at a period of all others most propitious to the embargo, if continued and executed – a period, of all others, I think, best calculated to give it effect by this House manifesting a firm disposition to adhere to it? For, sir, I consider this as the most critical period, which could possibly arrive, as to the real effect of the embargo. I consider it as the most important period, at which the conduct of this House might render that measure effectually coercive, if it ever can be made so at all – and why, sir, do I think so? Because, in the first place, I conceive it cannot even be a question whether the British Government has not calculated on the discontents, which appeared in some particular parts of the Union, so as to derive at least some expectation therefrom that those discontents might make such impression on Congress as to induce them to raise the embargo in the course of this session. Those discontents, no doubt, excited grateful expectations of its removal. It is perfectly natural to suppose that such events taking place in any part of this country must have produced calculations of that sort. I cannot but believe, sir, that they have looked forward to the period of this session, with anxious solicitude, to mark the temper of Congress in relation to this very interesting subject; and, as they must have presumed that Congress could not view such serious events with indifference, some expectation that the effect might be so strong as to induce a repeal of the system could scarcely fail to be the conclusion. Such conclusion was to be expected, even if the extent of dissatisfaction had been fairly reported to them – even had it been in no degree misrepresented. But, sir, there are a thousand chances to one that the reports, which conveyed the information to that country, greatly exaggerated the facts – that the picture was drawn in much stronger colors than were consistent with the real truth – that the instances of discontent were stated not only to have been deeper in their nature than they really were, but that a much larger number of persons had partaken of it than really did – that a spirit of disaffection had spread itself far and wide. Not a shadow of doubt rests on my mind, sir, that, in all respects whatever, the unpleasant occurrences to which I have alluded, were greatly magnified. With these circumstances others have combined to render the embargo inefficacious as yet, or at least to prevent it from having its full effect. It is to be recollected, sir, that very soon after the law laying an embargo was passed efforts were made to render it unpopular and to excite dissatisfaction. Dissatisfactions were not only excited; but many unprincipled persons found means to evade the law and make exportations contrary

to its provisions. Under a combination of circumstances, then, so encouraging to the hopes of the British Government as those must have appeared to them, the continuance of their Orders in Council until the temper of Congress, during this session, could be known to them, is not much to be wondered at. The hope of ultimate success in rendering our commerce tributary to them, which those circumstances, no doubt, contributed not a little to inspire, with such a government, was of itself sufficient ground to induce a continuance of those orders. Long experience of British policy, which the United States have had, justifies this opinion. Long experience of a systematic design in that government to shackle our commerce and subject it to their arbitrary restrictions, leaves no room to doubt of their disposition to pursue that design until the conduct of this Government should convince them of its total inefficacy to produce the object sought for. The slightest prospect of succeeding in their design, however delusive that prospect might be, keeps up their hopes until the delusion vanishes. It remains, then, for the Congress of the United States, at this very interesting crisis, to dispel that delusion by a firm adherence to this measure, and thus to disperse every gleam of hope which may have resulted from the circumstances of discontent which had appeared, and the evasions of the law which took place in the country. At this truly critical period, to which their anxious attention has been directed, let this body manifest an inflexible perseverance, and demonstrate to them that all their hopes, founded on those or any other circumstances, are vain indeed. Let it be demonstrated to them that this Government cannot only resolve upon, and carry into effect, measures of energy, though attended with inconveniences and difficulties, but that it can pursue such measures so long as they shall be deemed expedient for the object in view. Let every declaration and every conception concerning the American character, as a nation, in respect to its cherishing an overweening attachment to gain, so as to be willing to submit to indignities for the sake of it, be completely falsified. Let it be demonstrated, beyond a possibility of doubt, that there exists not in the great body of the people of this country any love of gain comparable to the love of real national independence and freedom; that this love of national independence and freedom animates the true American soul far beyond any other sentiment, and that, in support of it, the greatest sacrifices of interest are cheerfully acquiesced in. But, sir, what will be the inference drawn from this measure proposing a repeal of the embargo, as it does, after it shall have been adopted. Will it not justify assertions, that this Government has not stability or firmness enough to carry into effect energetic measures, or such as check the current of wealth for any considerable time from flowing into the country? Such assertions, or assertions to that effect, have, I believe, been frequently made; and they have been often repelled by words as slanderous reproaches on the Government. Sir, let us not take from them the demerit of being slanderous, by affording any ground for the justification. But I fear, sir, I greatly fear, that a repeal of the embargo laws, as now proposed, will go far towards justifying such assertions.

This is a period of our political existence, Mr. Chairman, which renders firmness in the councils of the nation peculiarly requisite. The crisis is vastly momentous and trying, and attended with circumstances, both from within and from without, which strongly call for decision in the Legislature. The existence of the Government seems almost to depend upon their firmness and decision. Whilst the members of this body respect the rights of individuals, let them consider the consequence of being driven from a measure of great importance by the conduct of a small part of the community. It is the duty of each part equally to respect and obey the laws; and if apprehension of the consequence of a faction, clamoring against the acts of the Government, should deter it from pursuing its course, such would be an alarming manifestation of its weakness. Sir, I fear for the Government, almost to trembling. I feel emotions which I cannot express. It is at a point of awful trial and responsibility. The system which, it appears, is about to be abandoned, will be exchanged for a miserable one, which, on our return to our homes, will not draw on us many smiles.

The motion of Mr. Clopton was negatived, 59 to 35.

Mr. Milnor moved to amend the same section so as to strike out the exception, and making the repeal of the embargo total.

Mr. Varnum supported this motion. If the non-intercourse system was to prevail, he thought it made much more intelligible to the revenue officers by repealing the embargo laws, and enacting the non-intercourse as a new system throughout. He spoke in favor of the repeal of the embargo laws, stating the evasions which had taken place, and that these evasions had not been confined to any particular section of the Union. He observed that a partial repeal of the embargo would destroy all the coercive effects of the measure, inasmuch as produce would be let out, and would find its way to every quarter of the world. Mr. V. observed that were the amendments agreed to, he should be ready to go with gentlemen in any other practicable measure which they would select for maintaining our rights.

The motion of Mr. Milnor was negatived, 57 to 53.

The committee then rose and reported the bill; and the House adjourned without considering the report.

Friday, March 3

Adjournment

A message was received from the Senate, stating that they had appointed a committee in conjunction with such committee as should be appointed by the House, to wait on the President of the United States, and inform him that they had concluded the business pending before them, and were ready to adjourn. A committee was appointed on the part of this House to join the committee of the Senate.

Mr. Smilie offered the following resolution:

> *Resolved*, That the thanks of this House be presented to Joseph B. Varnum, in testimony of their approbation of his conduct in the discharge of the arduous and important duties assigned to him whilst in the Chair.

Mr. Rowan moved that it be postponed indefinitely. Messrs. Rowan and Lyon supported the motion; and Messrs. Eppes and Jackson opposed it.

The resolution passed, 68 to 9.

The Speaker returned his acknowledgments to the House for this tribute of their approbation, as follows:

> *Gentlemen of the House of Representatives:*
>
> The kind expression of your approbation of my conduct, in the discharge of the duties which you have been pleased to assign me as Speaker of the House, affords me that consolation which an approving conscience alone can surpass. You will please, gentlemen, to accept my thanks for the liberality and candor which you have uniformly manifested towards me: and be assured, that the friendly aid which I have experienced from you in the discharge of my official duty, has made a deep impression on the affections of my heart, which length of time cannot eradicate.

Mr. Cutts, from the committee appointed to wait on the President, reported that they had performed that duty, and that the President had informed them that he had no further communication to make.

And the House adjourned *sine die*.[4]

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[4] This was the end of Mr. Jefferson's administration; and, notwithstanding the purchase of Louisiana, (the annual interest on the cost of which had to be paid,) and the greatly extended frontier which required to be guarded, the system of order and economy which he cherished enabled him to carry on the government (until the privations of the embargo and non-intercourse) without increase of duties, and with a moderation of cost which should form the study and the imitation of succeeding administrations. The duties remained at the same moderate rates as before – the *ad valorems*, 12½, 15, and 20 per centum; the specifics (increased in number) were not increased in rate; the free list not only remained undiminished, but was happily augmented by the addition of salt. The average of the *ad valorems* was still about 13 per cent., and almost all fell upon the 12½ per centum class – the importations under the other two classes being inconsiderable, *to wit*, only about half a million, ($520,000,) subject to the 20 per centum; and only a little over nine millions under the 15 per centum; while the imports under the 12½ per centum class amounted to above thirty-six millions of dollars. The articles used by the body of the people fell into this class, (the other two classes embracing articles which might be called luxuries,) so that 12½ per centum upon the value may be considered as the duty which fell upon the country. The expenses of collection still remained at about 4 per centum, and the revenue cutter service (there being but little temptation to smuggle under such low duties) cost but a trifle; and the specific list being considerable, the number of custom house officers and agents was inconsiderable. The revenue collected from the *ad valorem* duties was about seven millions of dollars; that from specifics about nine millions – leaving sixteen millions for the net revenue. Of that sum the one-half (just eight millions) went to meet the interest, and part of the principal, of the public debt. Of the remainder there went to the military and Indian departments about two and three-quarter millions; to the navy about one million; to tribute to Algiers, (masked under the name of foreign intercourse,) two hundred thousand dollars; and to the civil list, embracing the whole machinery of the civil government, with all its miscellaneous expenses, about nine hundred thousand dollars – leaving some two millions surplus after accomplishing all these objects. It was

a model administration of the government. Mr. Jefferson's administration terminated the 3d of March, 1809, but its fair financial working ceased two years before – with the breaking up of our commerce under the British orders in council, and the decrees of the French emperor, and the measures of privation and of expense which the conduct of Great Britain and of France brought upon us. The two last years of his administration were a strong contrast to the six first, and a painful struggle against diminished revenue and increased expenses, injuries and insults from abroad, and preparation for war with one of the greatest powers in the world, while doing no wrong ourselves, and only asking for what the laws of nations and of nature allowed us – a friendly neutrality, and exemption from the evils of a war with which we had no concern. Preparation for war was then a tedious and expensive process; embargo, non-intercourse, fortifications, ships, militia, regular troops. All this is now superseded by railroads and volunteers, ready at any moment to annihilate any invading force; and by privateers, ready to drive the commerce of any nation from the ocean.

ELEVENTH CONGRESS. – FIRST SESSION. BEGUN AT THE CITY OF WASHINGTON, MAY 22, 1809. PRESIDENT OF THE UNITED STATES, – JAMES MADISON. PROCEEDINGS IN THE SENATE. [5]

Monday, May 22, 1809

Conformably to the act passed at the last session, entitled "An act to alter the time for the next meeting of Congress," the first session of the eleventh Congress commenced this day, and the Senate assembled in their chamber, at the city of Washington.

PRESENT:

George Clinton, Vice President of the United States, and President of the Senate.
Nicholas Gilman and Nahum Parker, from New Hampshire.
Timothy Pickering, from Massachusetts.
James Hillhouse and Chauncey Goodrich, from Connecticut.
Elisha Mathewson and Francis Malbone, from Rhode Island.
Jonathan Robinson, from Vermont.
John Lambert, from New Jersey.
Andrew Gregg and Michael Leib, from Pennsylvania.
Samuel White, from Delaware.
Samuel Smith, from Maryland.
William B. Giles, from Virginia.
Jesse Franklin and James Turner, from North Carolina.
John Gaillard, from South Carolina.
Buckner Thruston, from Kentucky.
Return Jonathan Meigs, jr., from Ohio.

Joseph Anderson, appointed a Senator by the Legislature of the State of Tennessee, for the term of six years, commencing on the fourth day of March last; and Obadiah German, appointed a Senator by the Legislature of the State of New York, for the term of six years, commencing on the fourth day of March last, severally produced their credentials, which were read; and the oath prescribed by law having been administered to them, they took their seats in the Senate.

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

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

[5] LIST OF MEMBERS OF THE SENATE.• *New Hampshire.*– Nicholas Gilman, Nahum Parker.• *Massachusetts.*– Timothy Pickering.• *Connecticut.*– James Hillhouse, Chauncey Goodrich.• *Rhode Island.*– Elisha Mathewson, Francis Malbone.• *Vermont.*– Jonathan Robinson, Stephen R. Bradley.• *New York.*– John Smith.• *New Jersey.*– John Lambert, John Condit.• *Pennsylvania.*– Andrew Gregg, Michael Leib.• *Delaware.*– Samuel White, James A. Bayard.• *Maryland.*– Samuel Smith, Philip Reed.• *Virginia.*– William B. Giles, Richard Brent.• *North Carolina.*– Jesse Franklin, James Turner.• *South Carolina.*– John Gaillard.• *Georgia.*– William H. Crawford.• *Kentucky.*– Buckner Thruston, John Pope.• *Tennessee.*– Joseph Anderson, Jenkin Whiteside.• *Ohio.*– Return Jonathan Meigs, jr., Stanley Griswold.

at the usual rate for the annual charge of such papers: and, provided also, that if any Senator shall choose to take any newspapers other than daily papers, he shall be supplied with as many such papers as shall not exceed the price of three daily papers.

Resolved, That James Mathers, Sergeant-at-Arms and Doorkeeper to the Senate, be, and he is hereby, authorized to employ one assistant and two horses, for the purpose of performing such services as are usually required by the Doorkeeper to the Senate; and that the sum of twenty-eight dollars be allowed him weekly for that purpose, to commence with, and remain during the session, and for twenty days after.

Messrs. Anderson and Gilman were appointed a committee on the part of the Senate, together with such committee as may be appointed by the House of Representatives on their part, to wait on the President of the United States and notify him that a quorum of the two Houses is assembled and ready to receive any communications that he may be pleased to make to them.

A message from the House of Representatives informed the Senate that a quorum of the House is assembled, and that the House have elected Joseph B. Varnum, Esq., one of the Representatives for the State of Massachusetts, their Speaker, and are ready to proceed to business. The House of Representatives have appointed a committee on their part, jointly with the committee 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 that he may be pleased to make to them.

Tuesday, May 23

Mr. Anderson reported, from the joint committee, that they had waited on the President of the United States, and that the President of the United States informed the committee that he would make a communication to the two Houses at 12 o'clock this day.

James Lloyd, jr., appointed a Senator by the Legislature of the State of Massachusetts, for six years, commencing on the fourth day of March last, attended and produced his credentials; which were read.

President's Message

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

Fellow-citizens of the Senateand House of Representatives:

On this first occasion of meeting you, it affords me much satisfaction to be able to communicate the commencement of a favorable change in our foreign relations, the critical state of which induced a session of Congress at this early period.

In consequence of the provisions of the act interdicting commercial intercourse with Great Britain and France, our Ministers at London and Paris were, without delay, instructed to let it be understood by the French and British Governments that the authority vested in the Executive to renew commercial intercourse with their respective nations would be exercised in the case specified by that act.

Soon after these instructions were dispatched, it was found that the British Government, anticipating from early proceedings of Congress, at their last session, the state of our laws, which has had the effect of placing the two belligerent powers on a footing of equal restrictions, and, relying on the conciliatory disposition of the United States, had transmitted to their legation here provisional instructions, not only to offer satisfaction for the attack on the frigate Chesapeake, and to make known the determination of His Britannic Majesty to send an Envoy Extraordinary, with powers to conclude a treaty on all the points between the two countries; but, moreover, to signify his willingness, in the mean time, to withdraw his Orders in Council, in the persuasion that the intercourse with Great Britain would be renewed on the part of the United States.

These steps of the British Government led to the correspondence and the proclamation now laid before you, by virtue of which the commerce between the two countries will be renewable after the 10th day of June next.

Whilst I take pleasure in doing justice to the councils of His Britannic Majesty, which, no longer adhering to the policy which made an abandonment by France of her decrees a prerequisite to a revocation of the British orders, have substituted the amicable course which has issued thus happily, I cannot do less than refer to the proposal heretofore made on the part of the United States, embracing a like restoration of the suspended commerce, as a proof of the spirit of accommodation which has at no time been intermitted, and to the result which now calls for our congratulations, as corroborating the principles by which the public councils have been guided during a period of the most trying embarrassments.

The discontinuance of the British orders, as they respect the United States, having been thus arranged, a communication of the event has been forwarded in one of our public vessels to our Minister Plenipotentiary at Paris, with instructions to avail himself of the important addition thereby made to the considerations which press on the justice of the French Government a revocation of its decrees, or such a modification of them as that they shall cease to violate the neutral commerce of the United States.

The revision of our commercial laws, proper to adapt them to the arrangement which has taken place with Great Britain, will doubtless engage the early attention of Congress. It will be worthy, at the same time, of their just and provident care, to make such further alterations in the laws as will more especially protect and foster the several branches of manufacture, which have been recently instituted or extended by the laudable exertions of our citizens.

Under the existing aspect of our affairs, I have thought it not inconsistent with a just precaution, to have the gunboats, with the exception of those at New Orleans, placed in a situation incurring no expense beyond that requisite for their preservation and conveniency for future service, and to have the crews of those at New Orleans reduced to the number required for their navigation and safety.

I have thought, also, that our citizens, detached in quotas of militia, amounting to one hundred thousand, under the act of March, one thousand eight hundred and eight, might not improperly be relieved from the state in which they were held for immediate service. A discharge of them has been accordingly directed.

The progress made in raising and organizing the additional military force, for which provision was made by the act of April, one thousand eight hundred and eight, together with the disposition of the troops, will appear by a report which the Secretary of War is preparing, and which will be laid before you.

Of the additional frigates required by an act of the last session to be fitted for actual service, two are in readiness, one nearly so, and the fourth is expected to be ready in the month of July. A report which the Secretary of the Navy is preparing on the subject, to be laid before Congress, will show, at the same time, the progress made in officering and manning these ships. It will show, also, the degree in which the provisions of the act relating to the other public armed ships have been carried into execution.

It will rest with the judgment of Congress to decide how far the change in our external prospects may authorize any modifications of the laws relating to the Army and Navy Establishments.

The works of defence for our seaport towns and harbors have proceeded with as much activity as the season of the year and other circumstances would admit. It is necessary, however, to state that the appropriations hitherto made being found to be deficient, a further provision will claim the early consideration of Congress.

The whole of the eight per cent. stock remaining due by the United States, amounting to five millions three hundred thousand dollars, had been reimbursed on the last day of the year 1808. And, on the first day of April last, the sum in the Treasury exceeded nine and a half millions of dollars. This, together with the receipts of the current year on account of former revenue bonds, will probably be nearly, if not altogether, sufficient to defray the expenses of the year. But the suspension of exports, and the consequent decrease of importations, during the last twelve months, will necessarily cause a great diminution in the receipts of

the year one thousand eight hundred and ten. After that year, should our foreign relations be undisturbed, the revenue will again be more than commensurate to all the expenditures.

Aware of the inconveniences of a protracted session, at the present season of the year, I forbear to call the attention of the Legislature to any matters not particularly urgent. It remains, therefore, only to assure you of the fidelity and alacrity with which I shall co-operate for the welfare and happiness of our country; and to pray that it may experience a continuance of the Divine blessings by which it has been so signally favored.

JAMES MADISON.

The Message and papers accompanying it were read and five hundred copies thereof ordered to be printed for the use of the Senate.

Wednesday, May 24

John Condit, appointed a Senator by the Executive of the State of New Jersey, in the place of Aaron Kitchel, resigned, took his seat, and his credentials were read; and the President administered the oath to him as the law prescribes.

John Pope, from the State of Kentucky, attended.

Mr. Giles submitted the following motion for consideration:

> *Resolved*, That so much of the President's Message as relates to a revision of our commercial laws, for the purpose of adapting them to the arrangement which has taken place with Great Britain, be referred to a select committee, with instructions to examine the same and report thereon to the Senate; and that the committee have leave to report by bill or otherwise.

Friday, May 26

Jenkin Whiteside, appointed a Senator by the Legislature of the State of Tennessee, for two years, commencing on the fourth of March last, in place of Daniel Smith, resigned, took his seat, and his credentials were read; and the President administered the oath to him as the law prescribes.

Richard Brent, from the State of Virginia, attended.

Monday, May 29

Senator Samuel Smith, of Maryland

DURATION OF A PRO TEM. APPOINTMENT

The President laid before the Senate a letter from Mr. Smith of Maryland, stating that being appointed by the Executive of that State a Senator in conformity with the constitution, until the next meeting of the Legislature, which will take place on the 5th day of June next, he submits to the determination of the Senate the question, whether an appointment under the Executive of Maryland, to represent that State in the Senate of the United States, will or will not cease on the first day of the meeting of the Legislature thereof? and the letter was read; and, after debate, it was agreed that the further consideration thereof be postponed until to-morrow.

Wednesday, May 31

Stephen R. Bradley, from the State of Vermont, attended.

Batture at New Orleans

Mr. Giles presented the memorial of Edward Livingston, of New Orleans, stating that, for a long time prior to the 25th January, 1804, he was in peaceable possession of a parcel of land called the Batture, in front of the suburb of St. Mary's, in the city of New Orleans. That, on the 25th of January, he was forcibly removed by the Marshal of the district, under the orders of the President of the United States, notwithstanding an injunction had been granted by the superior court against the execution of the warrant; and praying that the possession may be restored to him, and that such measures may be pursued as the wisdom of Congress may devise, for providing a legal decision on the title of the United States, if it shall be supposed they have any, to the property in question; and the memorial was read, and referred to Messrs. Giles, Anderson, Hillhouse, White, and Whiteside, to consider and report thereon.

Thursday, June 1

Non-Intercourse Act – Extended to all public armed Vessels

Mr. Giles offered the following amendment to the first section, to be inserted after the word "assembled:"

> "That the provisions of the two first sections of the act, entitled 'An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes, shall extend to all public armed ships and vessels of all foreign nations, and the same shall be, and are hereby, continued and made permanent, subject, nevertheless, to any modifications and regulations which may hereafter be made by treaty."

Mr. G. said he felt himself constrained to move this amendment at this time, because he found it impossible to avoid a consideration of the subject involved in it, although he had heretofore hoped that it would not necessarily pass in review during the present session. He said this necessity arose from the limitation of these sections of the act at the last session. The connection of these sections with the commercial non-intercourse system, was contrary to his opinion at that time; he then wished the subject to be taken up and acted upon in a separate bill, and made the permanent law of the land. His opinion then gave way to the respect he felt for the opinion of others. This will appear from the resolution he then moved, "to extend the interdiction to the public armed ships and vessels of all foreign nations." In consequence of connecting that subject with the general commercial non-intercourse, and limiting its duration with that act, it was now rendered a very delicate question. His proposition, however, was, to do now, what it was right to have done at the last session. He said that the proposition was founded upon the principle, that the United States had as absolute and unqualified a right to exclusive jurisdiction over the marine leagues usually attached to independent nations, as to their territorial jurisdiction, and as a consequence from that principle, foreign nations had no more right to send armed ships within our acknowledged marine jurisdiction, than they had to send an army within our territorial jurisdiction. This proposition is, therefore, merely municipal, formed upon an unquestionable right, and it is dictated by the same spirit of impartiality as that which dictated the original non-intercourse law. Indeed, it appeared to him the only impartial course now left us, as it respects the belligerents. It ought to preserve the most perfect impartiality, which, Mr. Canning so justly tells us, "is the essence of neutrality."

Mr. G. said it could not escape observation, that, in the overtures made by the British Cabinet for the revocation of the Orders in Council of the 7th of January and the 11th of November, the obligation to protect our neutral rights against France, heretofore offered on the part of our Government, in case of her perseverance in her hostile edicts, had been entirely overlooked, or unconditionally dispensed with. He said he derived much satisfaction from this liberal conduct on the part of the British Government, because it manifested a confidence in the honor and firmness of our Government, which must be peculiarly gratifying to every American; but it rather increased than lessened the obligation to persevere in protecting our neutral rights against French aggressions, if they should be persevered in, contrary to his expectation.

The motive or ground of resisting the aggressions of France cannot, under this overture, be mistaken. In the former case, it might have seemed as if the resistance was dictated by a stipulated obligation to Great Britain to make it in this; it can only be dictated by a just sense of our own honor, character, and interests, which is left perfectly uncontrolled by the British overture. As this latter motive is the more honorable, it ought to be the more scrupulously adhered to and enforced.

He had no hesitation in saying he had uniformly been influenced by this motive alone, entirely disconnected with any stipulated obligation to Great Britain; and under this influence, alone, he would be found at all times as ready to resist the aggressions of France, as he had at any time been those of Great Britain, if they should, unfortunately, be persevered in; but, at the same time, he wished to take away every pretext for such perseverance, by persevering in a conduct of the strictest and most scrupulous impartiality toward all the belligerents.

At the last session he had supposed, under the general interdiction of all foreign armed vessels, some regulations and modifications, as exceptions from the general rule, might be made by law, but further reflection had satisfied him that the preferable mode was by treaty.

He would state two or three reasons for this preference:

1. It will tend to avoid collisions with all foreign nations. Regulations made by law might not suit the views of foreign nations, whereas their consent would be necessary in treaties.

2. It will give us the aid of a stipulated obligation on the part of the foreign nation making the treaty, to enforce the arrangement. In the case of Great Britain this consideration is of great importance. Its importance results from the strength of her navy, compared with the weakness of ours.

3. By treaty we may obtain what the lawyers call a *quid pro quo*. We may want, at some future time, the use of some British ports, which she would readily give for the use of ours. He said he would act liberally with her in this respect; and, he believed, considering Great Britain now at war, and the United States at peace, it would rather accelerate than retard the expected negotiation. He said he was as much opposed to throwing any impediment in the way of the expected negotiation as any gentleman in the United States.

Great Britain cannot, and will not complain. The municipal right now proposed to be carried into effect, is admitted by Great Britain in its broadest extent, and will not be disputed by Mr. Canning at the present moment. This will appear from Mr. Canning's declarations in the debates of the last session of Parliament. He said he did not know whether it was correct to read newspapers in evidence, to ascertain the opinions and expressions of the speaker, but if the Senate would be content with this species of evidence, contained in a Ministerial paper, he would read it for their information. Mr. G. then read the following extract of Mr. Canning's speech, taken from a British Ministerial paper:

Extract from Mr. Canning's speech in Parliament

"At the time the application for a compromise had been made by the American Government, there was an order in force excluding British ships of war from the American ports, while French ships of war were admitted into them; and, consequently, if the terms offered by America had been accepted, our commerce would have been permitted to America without a ship of war to protect it, while the French commerce would be excluded, at the same time that French ships of war would be admitted if they could succeed in getting there. The ports of America would become nests for French privateers against British commerce. As to the tendency of the measures in agitation in America, he could afford the right honorable gentleman some consolation, by assuring him that they would not have all the ill consequences he seemed to apprehend. A circumstance appeared by the report of the committee of Congress, though clothed in hostile language, which, if made known to His Majesty's Government in amicable terms, might have led to the acceptance of the terms proposed. The circumstance he alluded to was the resolution for excluding from American ports the ships of war not of Great

> Britain, but of the belligerents. The Americans, in their character of neutrals, had unquestionably a right to exclude the ships of war of both belligerents from their ports, but could not confine them exclusively to those of one of the belligerents without a violation of that impartiality which is the essence of the neutral character. Yet, when that proposition should be disposed of, the whole of the difficulty would not be surmounted, as much would still remain to be accommodated. Another point, in which fault had been charged upon his conduct with respect to America, was his having stated that the system would not be given up while the smallest link of the confederation against Great Britain existed."

It will be observed that two important conclusions may be deduced from these observations: 1. That the exercise of this municipal right is unquestionable. 2. That Mr. Canning's objection to its former exercise by proclamation was to its limitation, not its extension.

His objection is to its exercise against Great Britain exclusively and not against her enemies. At the time of making his speech, Mr. Canning thought the interdiction was extended to all the belligerents; in which case, so far from complaining of its exercise, he says it would furnish an inducement to an accommodation, and his instructions to Mr. Erskine were, no doubt, given under this expectation. This was the ground taken by the report of the committee of the House of Representatives, in the last session, and the Senate went further, by extending the interdiction to the public armed ships of all foreign nations; those of peace as well as those of war. This gave the transaction more strongly the character of a mere municipal regulation. This principle was narrowed down, in this bill, to apply merely to Great Britain and France, and left out altogether the other belligerent powers. Mr. Canning will probably be much surprised at this limitation; and conceive hostility more pointed than he had anticipated; some of the points may, however, be a little blunted by including France, the most operating and unmanageable of her enemies. He said he did not wish to go one atom beyond Mr. Canning's opinion upon this occasion. He took great pleasure in concurring with Mr. Canning upon this point. It was the first instance in which he had concurred in opinion with the gentleman; but he hoped it would not be the last, especially when the opinion favored the rights and promoted the interest of the United States.

Mr. Canning must have acted under this impression when he agreed to make the honorable reparation he had done for the unauthorized attack upon the Chesapeake, without requiring a previous revocation of the interdiction of British ships. As this revocation was not demanded nor promised, the arrangement now ought to be made on general principles of justice. He said, without feeling or expressing any regret at any thing he had said or proposed at the last session, he was now as willing as any gentleman to reciprocate the temper lately manifested by the British Government, so opposite in its character and tendency from that manifested by the Cabinet for several years preceding. He said that no gentleman had yet manifested an intention of removing the interdiction upon British armed ships, until she had actually executed her promise of reparation; and, if the execution of the promise were to precede the revocation of the interdiction, the mode of revocation by treaty, as pointed out by his proposition, would be nearly contemporaneous with that proposed by gentlemen, if now enacted into a law, and it would have an evident advantage, as it respected the feelings of Great Britain. The mode recommended by gentlemen is founded upon a want of confidence in the promise of Great Britain, and an ungracious demand for its execution, as preliminary to the revocation, while the mode pointed out by treaty, is founded upon a confidence in the promise; and, without requiring its execution, will insure our own safety by the mere exercise of municipal right; a right which is unquestionable; vouched to be so by Mr. Canning, and the exercise of which is impartial toward all nations, by extending its provisions equally to all. He said that almost all the injuries and insults sustained by the United States from public armed ships of the belligerents within our waters, were attributable to an inattention to the exercise of this right, and,

relax the interdiction when you may, without a stipulated obligation on the part of the belligerents, to respect your neutrality, and your marine jurisdiction, they will be renewed and continued.

The principle contended for is not new. It has been before the Senate several times, and was adopted at the last session in its broadest extent, as will appear from the following resolution, which he then had the honor of moving. It does not appear from the Journals of the Senate, that there was any opposition to the following resolution, which was adopted on the 15th of February last:

> "The Senate resumed the consideration of the motion made on the 8th instant, that provision ought to be made by law for interdicting all foreign armed ships from the waters of the United States; and having agreed thereto, ordered that it be referred to Mr. Giles, Mr. Smith of Maryland, Mr. Crawford," &c.

He said he was extremely happy to find the spirit of harmony and conciliation which had hitherto characterized the Senate, and he should endeavor to preserve and continue it; and, while he was strongly impressed with the propriety and policy of the amendment, yet he was willing to listen to any other which might be more agreeable to gentlemen, provided it was founded upon a principle of strict impartiality toward the belligerents, which he could not be induced to depart from under any circumstances.

When Mr. G. had concluded, the further consideration of the subject was postponed until to-morrow.

Friday, June 2

Philip Reed, from the State of Maryland, attended.

Stanley Griswold, appointed a Senator by the Executive of the State of Ohio, to fill the vacancy occasioned by the resignation of Edward Tiffin, was qualified, and took his seat.

John Smith, from the State of New York, attended.

Monday, June 5

Death of Senator Malbone

Mr. Mathewson announced the death of his colleague, Francis Malbone, who deceased yesterday morning.

On motion of Mr. Lloyd,

> *Resolved*, That the Senate will attend the funeral of Francis Malbone, this afternoon, at five o'clock, from his late residence; that notice thereof be given to the House of Representatives, and that a committee be appointed for superintending the funeral.

Ordered, That Messrs. Lloyd, Gilman, and White, be the committee.

On motion, by Mr. Lloyd,

> *Resolved, unanimously*, That the members of the Senate, from a sincere desire of showing their respect to the memory of Francis Malbone, 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; and that a sum not exceeding one hundred and fifty dollars be applied out of the contingent fund for placing a neat slab or monument, with a suitable inscription, over his tomb.

On motion of Mr. Lloyd,

> *Resolved*, That, as an additional mark of respect to the memory of Francis Malbone, the Senate now adjourn.

And the Senate adjourned.

Tuesday, June 6

Senator Smith's pro tem. Appointment

Mr. Giles submitted a resolution, which was amended, and is as follows:

> *Resolved*, That the Honorable Samuel Smith, a Senator appointed by the Executive of the State of Maryland to fill the vacancy which happened in the office of Senator for that State, is entitled to hold his seat in the Senate of the United States during the session of the Legislature of Maryland, which, by the proclamation of the Governor of said State, was to commence on the 5th day of the present month of June; unless said Legislature shall fill such vacancy by the appointment of a Senator, and this Senate be officially informed thereof.

On motion, by Mr. Anderson, to amend the motion, by striking out all after the word "Resolved," and inserting:

> "That any Senator of this body, who holds a seat under an Executive appointment, cannot, according to the provisions of the Constitution of the United States, be entitled to continue to hold his seat as a member of this body, after the meeting of the Legislature of the State from which such Senator may be a member."

And a division of the motion for amendment was called for, and the question having been taken, on striking out, it passed in the negative; and the motion for amendment having been lost, the original motion was agreed to – yeas 19, nays 6, as follows:

> Yeas. – Messrs. Anderson, Brent, Franklin, Gaillard, German, Giles, Gilman, Goodrich, Griswold, Hillhouse, Lambert, Mathewson, Meigs, Pope, Robinson, Smith of New York, Thruston, White, and Whiteside.
>
> Nays. – Messrs. Bradley, Leib, Lloyd, Parker, Pickering, and Turner.

Wednesday, June 7

James A. Bayard, from the State of Delaware, attended.

Thursday, June 8

William H. Crawford, from the State of Georgia, attended.

Monday, June 12

Exiled Cubans, with their Slaves

On motion, by Mr. Giles,

> *Resolved*, That a committee be appointed to inquire whether it be expedient and proper, at this time, to make any provision by law for remitting the penalties and forfeitures incurred by the violations of some of the provisions of the act, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight," so far only as relates to the introduction of slaves into certain ports of the United States, who were lately forcibly expelled from the island of Cuba with the French inhabitants thereof; and that the committee have leave to report by bill or otherwise.

Ordered, That Messrs. Giles, Bradley, Anderson, Crawford, and Franklin, be the committee.

Monday, June 19

Exiled Cubans

On motion, by Mr. Giles,

> *Resolved*, That the President of the United States be requested to cause to be laid before the Senate such information as he may deem proper to communicate respecting the unfortunate exiles lately expelled from the Island of Cuba, and who may have arrived, or are expected to arrive within the jurisdiction of the United States; and, also, respecting any propositions which may have been made to him by the Minister Plenipotentiary of France, for the purpose of facilitating the removal of any of the said exiles, with their slaves, and other effects, from the United States, to any place within the dominions of France.

Friday, June 23

Foreign Armed Vessels

Mr. Leib, from the committee, appointed on the 20th instant, to inquire into the expediency of providing by law for the exclusion of foreign armed vessels from the ports and harbors of the United States, made report; which was read, as follows:

> "That, in the opinion of this committee, such an interdiction is within the just and neutral rights of the United States, and, under other circumstances, would be highly expedient and proper. So long as a neutral nation shall confine itself to strict measures of impartiality, allowing no benefit to one belligerent, not stipulated by treaty, which it shall refuse to another, no cause whatever is afforded for exception or complaint. The right to admit an armed force into a neutral territory belongs exclusively to the neutral; and when not guarantied by treaty, as is oftentimes the case, such admission compromises the neutrality of the nation, which permits to one belligerent alone such an indulgence.
>
> "As a measure of safety as well as peace, it is incumbent upon the United States to carry into effect such a provision. So long as we are without a competent force to protect our jurisdiction from violation, and our citizens from outrage, and our flag from insult, so long ought no asylum to be given, but in distress, to the armed vessels of any nation. The committee will not bring into view the many injuries and insults which the United States have sustained from the hospitable grant of their ports and harbors to belligerents; nor the facility which has thereby been afforded to them to lay our commerce under contribution. It is sufficient to remark, that great injuries have been sustained, and that imperious duty requires arrangements at our hands to guard our country in future from similar aggressions.
>
> "The United States are, at this moment, under no obligation to withhold restraints, within their power, upon the admission of foreign armed vessels into their ports; but the committee are too strongly impressed with the propriety of avoiding any legislative interference at this time, which, by any possibility, might be construed into a desire to throw difficulties in the way of promised and pending negotiations. They are desirous that a fair experiment may be made to adjust our differences with the two belligerent nations, and that no provisions be interwoven in our laws which shall furnish a pretext for delay, or a refusal to yield to our just and honorable demands.
>
> "Calculating that the overtures which have been made by Great Britain will be executed in good faith, the committee are willing to believe that the stipulated arrangements will be of such a character as to guard our flag from insult, our jurisdiction from aggression, our citizens from violation, and our mercantile property from spoliation. Under these impressions, which the committee have stated as briefly as possible, they beg leave to submit to the consideration of the Senate the following resolution, viz:
>
> "*Resolved*, That the further consideration of the subject be postponed until the next session of Congress."

Saturday, June 24

The bill freeing from postage all letters and packets from Thomas Jefferson, was read the second time, and considered as in Committee of the Whole; and no amendment having been proposed, on the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

Monday, June 26

The Vice President being absent, the Senate proceeded to the election of a President *pro tempore*, as the constitution provides; and the honorable Andrew Gregg was elected.

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 Andrew Gregg President of the Senate *pro tempore*.

Tuesday, June 27

Public Credit

The bill, entitled "An act supplementary to the act, entitled 'An act making further provision for the support of public credit, and for the redemption of the public debt,'" was read the third time as amended.

On motion, by Mr. Hillhouse, to postpone the further consideration thereof until the first Monday in November next, it was determined in the negative – yeas 9, nays 15.

Wednesday, June 28

On the question, Shall this bill pass as amended? it was determined in the affirmative – yeas 17, nays 9, as follows:

Yeas. – Messrs. Anderson, Brent, Condit, Franklin, Gaillard, Giles, Gregg, Lambert, Leib, Mathewson, Meigs, Parker, Pope, Robinson, Smith of New York, Turner, and Whiteside.

Nays. – Messrs Bayard, Crawford, German, Gilman, Hillhouse, Lloyd, Pickering, Reed, and White.

Six o'clock in the Evening

Adjournment

Resolved, That Messrs. Pope and Brent 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.

Ordered, That the Secretary acquaint the House of Representatives therewith, and request the appointment of a committee on their part.

A message from the House of Representatives informed the Senate that the House have appointed a committee on their part, to wait on the President of the United States, and notify him of the intended recess of Congress.

Mr. Pope, from the committee, reported that they had waited on the President of the United States, who informed them that he had no further communications to make to the two Houses of Congress.

A message from the House of Representatives informed the Senate that the House, having finished the business before them, are about to adjourn.

Ordered, That the Secretary inform the House of Representatives that the Senate, having finished the business before them, are about to adjourn.

The Secretary having performed that duty, the President adjourned the Senate, to meet on the fourth Monday of November.

ELEVENTH CONGRESS. – FIRST SESSION.
PROCEEDINGS AND DEBATES
IN
THE HOUSE OF REPRESENTATIVES. [6]

Monday, May 22, 1809

This being the day appointed by law for the meeting of the present session, the following members of the House of Representatives appeared, produced their credentials, and took their seats, to wit:

From New Hampshire– Daniel Blaisdell, John C. Chamberlain, William Hale, Nathaniel A. Haven, and James Wilson.

From Massachusetts– Ezekiel Bacon, William Baylies, Richard Cutts, William Ely, Gideon Gardner, Barzillai Gannett, Edward St. Loe Livermore, Benjamin Pickman, junior, Josiah Quincy, Ebenezer Seaver, William Stedman, Jabez Upham, Joseph B. Varnum, and Laban Wheaton.

From Rhode Island– Richard Jackson, junior, and Elisha R. Potter.

From Connecticut– Epaphroditus Champion, Samuel W. Dana, John Davenport, Jonathan O. Mosely, Timothy Pitkin, junior, Lewis B. Sturges and Benjamin Tallmadge.

From Vermont – William Chamberlin, Martin Chittenden, Jonathan H. Hubbard, and Samuel Shaw.

From New York– James Emott, Jonathan Fisk, Barent Gardenier, Thomas R. Gold, Herman Knickerbacker, Robert Le Roy Livingston, John Nicholson, Peter B. Porter, Ebenezer Sage, Thomas Sammons, John Thompson, Uri Tracy, and Killian K. Van Rensselaer.

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[6] LIST OF REPRESENTATIVES.*New Hampshire.*– Daniel Blaisdell, John C. Chamberlain, William Hale, Nathaniel A. Haven, James Wilson.*Massachusetts.*– Ezekiel Bacon, William Baylies, Richard Cutts, Orchard Cook, William Ely, Gideon Gardner, Barzillai Gannett, Edward St. Loe Livermore, Benjamin Pickman, jr., Josiah Quincy, Ebenezer Seaver, Samuel Taggart, William Stedman, Jabez Upham, Joseph B. Varnum, Laban Wheaton, Ezekiel Whitman.*Rhode Island.*– Richard Jackson, jr., Elisha E. Potter.*Connecticut.*– Epaphroditus Champion, Samuel W. Dana, John Davenport, Jonathan O. Mosely, Timothy Pitkin, jr., Lewis B. Sturges, Benjamin Tallmadge.*Vermont.*– William Chamberlin, Martin Chittenden, Jonathan H. Hubbard, Samuel Shaw.*New York.*– James Emott, Jonathan Fisk, Barent Gardenier, Thomas E. Gold, Herman Knickerbacker, Robert Le Roy Livingston, Vincent Matthews, John Nicholson, Gurdon S. Mumford, Peter B. Porter, Ebenezer Sage, Thomas Sammons, Erastus Root, John Thompson, Uri Tracy, Killian K. Van Rensselaer.*Pennsylvania.*– William Anderson, David Bard, Robert Brown, William Crawford, William Findlay, Daniel Heister, Robert Jenkins, Aaron Lyle, William Milnor, John Porter, John Rea, Benjamin Say, Matthias Richards, John Ross, George Smith, Samuel Smith, John Smilie, Robert Whitehill.*New Jersey.*– Adam Boyd, James Cox, William Helms, Jacob Hufty, Thomas Newbold, Henry Southard.*Delaware.*– Nicholas Van Dyke.*Maryland.*– John Brown, John Campbell, Charles Goldsborough, Philip Barton Key, Alexander McKim, John Montgomery, Nicholas R. Moore, Roger Nelson, Archibald Van Horne.*Virginia.*– Burwell Bassett, James Breckenridge, William A. Burwell, Matthew Clay, John Dawson, John W. Eppes, Thomas Gholson, jr., Peterson Goodwyn, Edwin Gray, John G. Jackson, Walter Jones, Joseph Lewis, jr., John Love, Thomas Newton, Wilson Carey Nicholas, John Randolph, John Roane, Daniel Sheffey, John Smith, James Stephenson, Jacob Swoope.*North Carolina.*– Willis Alston, jr., James Cochran, Meshack Franklin, James Holland, Thomas Kenan, William Kennedy, Archibald McBride, Nathaniel Macon, Joseph Pearson, Lemuel Sawyer, Richard Stanford, John Stanley.*South Carolina.*– Lemuel J. Alston, William Butler, Joseph Calhoun, Robert Marion, Thomas Moore, John Taylor, Robert Witherspoon, Richard Wynn.*Georgia.*– William W. Bibb, Howell Cobb, Dennis Smelt, George W. Troup.*Kentucky.*– Henry Crist, Joseph Desha, Benjamin Howard, Richard M. Johnson, Matthew Lyon, Samuel McKee.*Tennessee.*– Pleasant M. Miller, John Rhea, Robert Weakley.*Ohio.*– Jeremiah Morrow.*Mississippi Territory.*– George Poindexter.*Orleans Territory.*– Julian Poydras.

From New Jersey– Adam Boyd, James Cox, William Helms, Jacob Hufty, Thomas Newbold, and Henry Southard.

From Pennsylvania– William Anderson, David Bard, Robert Brown, William Crawford, William Findlay, Robert Jenkins, Aaron Lyle, William Milnor, John Porter, John Rea, Matthias Richards, John Ross, George Smith, Samuel Smith, and Robert Whitehill.

From Maryland– John Brown, John Campbell, Charles Goldsborough, Philip B. Key, Alexander McKim, John Montgomery, Nicholas R. Moore, Roger Nelson, and Archibald Van Horne.

From Virginia– Burwell Bassett, William A. Burwell, Matthew Clay, John Dawson, John W. Eppes, James Breckenridge, Thomas Gholson, junior, Peterson Goodwyn, Edwin Gray, John G. Jackson, Walter Jones, Joseph Lewis, junior, John Love, Thomas Newton, John Randolph, John Roane, Daniel Sheffey, John Smith, James Stephenson, and Jacob Swoope.

From North Carolina– Willis Alston, junior, James Cochran, Meshack Franklin, James Holland, Thomas Kenan, William Kennedy, Nathaniel Macon, Archibald McBride, Lemuel Sawyer, Richard Stanford, and John Stanley.

From South Carolina– Lemuel J. Alston, William Butler, Joseph Calhoun, Robert Marion, Thomas Moore, John Taylor, and Robert Witherspoon.

From Georgia– William W. Bibb, Howell Cobb, Dennis Smelt, and George M. Troup.

From Kentucky– Henry Crist, Joseph Desha, Benjamin Howard, Richard M. Johnson, Matthew Lyon, and Samuel McKee.

From Tennessee– Pleasant M. Miller, and John Rhea.

From Ohio– Jeremiah Morrow.

Election of Speaker, &c

A quorum, consisting of a majority of the whole number, being present, the House proceeded, by ballot, to the choice of a Speaker.

Messrs. N. R. Moore, Cutts, and Porter, were appointed tellers of the votes.

Mr. N. R. Moore reported that the result of the ballot was, that there were —

For Joseph B. Varnum, 60; Nathaniel Macon, 36; Timothy Pitkin, junior, 20; Roger Nelson, 1; C. W. Goldsborough, 1; blank ballots, 2.

Mr. Varnum having 60 votes, it was submitted to the decision of the House by the tellers whether the blank ballots could be considered as votes; if not, there being but 118 votes, Mr. Varnum having 60, had a majority.

Mr. W. Alston conceived that there could be no doubt on the subject; that blank pieces of paper could not be considered as votes. He instanced the case which occurred in the famous balloting for President in the year 1801; at which time, after a number of ballotings, the State of Maryland, which was divided, gave in four blank votes, and thus decided the election.

Mr. Macon thought there could be no question on the subject; he also recollected the case of the Presidential election instanced by his colleague, and was of opinion that blank ballots could not be counted. He hoped that the gentleman from Massachusetts (Mr. Varnum) would be conducted to the Chair.

Mr. Randolph said this was no ordinary question which the House were about to determine, at the instance of his friend, (Mr. Macon,) in his opinion, in a very irregular manner; and Mr. R. said that he was certain, if his friend were not himself implicated in the question, he would have

been one of the last men in the House to give such a decision against himself; but perhaps this was a peculiarity in his friend's character. Are we, gentlemen, (said Mr. R.,) to have a Speaker of the House of Representatives without any election? The committee have not reported that one of the persons voted for had a majority of the whole number of votes even; on the contrary, they have expressly reported that no one had a majority. And will the House consent in this manner to choose a Speaker to preside over this body, and perhaps eventually over the destinies of this nation? – for perchance the Speaker might become President of the United States. With respect to the precedent in the case of the election of the President of the United States, there was not, he said, the smallest analogy between the two cases. What was that case? It was on a question whether or not there should exist in this country a Government, that this device had been used, after some forty or fifty ballotings. In order to give a President to the United States, certain gentlemen had thought proper not to vote at all. But, said Mr. R., is time now so precious? Is the Secretary of the President of the United States knocking at the door for admittance? Is the enemy at the gate? Is there not time, I beseech you, gentlemen, to proceed in the regular mode to the election of our officers? Or, shall we, to avoid the trouble of writing a name twice, establish a precedent, which, if established, may put an end to this Government, which is founded on the principle that the majority shall govern? Mr. R. said he was more free in expressing his ideas, because he believed that a second ballot would not affect the result; and he put it to his friend (Mr. Macon) to say whether he himself would consent to take the Chair on the vote of a minority. He said he knew him too well; he would not consent to it. He conceived that there was no question before the House, that they had not elected their Speaker; and that it was their business to proceed to an election. They were certainly competent, he said, to elect the officers of their own body; and he hoped they would do it *more majorum*– after the fashion of their ancestors.

Mr. Stanford denied that the case which had been cited from the Presidential election in 1801 had any bearing on the present question. That was a case in which, a State being divided, one-half the representation voted blank, and left to the other half of the representation the right of voting for the State. As, at the same time, a gentleman now from Kentucky, (Mr. Lyon,) then the only representative present from Vermont, had, by his single vote, his colleague being absent, decided the vote of that State, he thought there was no analogy.

Mr. Randolph moved that the House proceed to ballot a second time for Speaker.

The Clerk having put the question, it was carried – 67 to 43.

Mr. Macon said he certainly felt a sense of gratitude towards those who had voted for him; but he should be obliged to them to vote for some other person. He had rather remain on the floor of the House than be placed in the Chair. He had experienced the difficulties of the situation; besides, by an illness during last winter, his lungs had been so affected that he did not feel himself adequate to the task. As his declining the situation might be unexpected to some gentlemen, to accommodate them he would ask a postponement of the ballot for a time. He considered the office of Speaker of the House as one of the most honorable in the nation. Perhaps none was more so, after that of President and Vice President. Notwithstanding this, were there a probability of his being chosen, he must decline being placed in the Chair.

The House then proceeded to a further ballot; and Mr. N. R. Moore reported the result to be:

For Mr. Varnum, 65; Mr. Macon, 45; Mr. Pitkin, 6; Mr. Howard, 1; Mr. Nelson, 1, and Mr. Goldsborough, 1.

Mr. Varnum having a majority of votes was declared elected, and conducted to the Chair; whence he addressed the House as follows:

> "*Gentlemen of the House of Representatives*:
>
> "The continued manifestation of the national confidence in me, expressed by the Representatives of the people on this occasion, fills my heart with grateful sensibility. In obedience to the call of my country, I accept the office assigned me,

> and will endeavor to discharge the duties of it according to the best of my abilities, and agreeably to the wishes of the House."

The Speaker having been sworn, the oath to support the Constitution of the United States was by him administered to the members, by States.

The House then proceeded to the choice of a Clerk, by ballot. The votes having been counted, there were —

For Patrick Magruder, 63; Daniel Brent, 38; Nicholas B. Van Zandt, 14; William Lambert, 7, and Mr. Scott, 1.

Mr. Magruder having a majority of votes, was declared to be re-elected.

Mr. George Poindexter having appeared and produced his credentials, as the Delegate from the Mississippi Territory of the United States, the oath was administered to him by the Speaker.

Mr. Macon, from the joint committee appointed to wait on the President of the United States, reported that the committee had performed the service assigned to them, and that the President signified that he would make a communication to Congress, to-morrow at twelve o'clock.

A message was received from the Senate, informing the House that that body was formed, and ready to proceed to business; and that they had appointed a committee to wait on the President of the United States, in conjunction with such committee as the House should appoint, to inform him that they were ready to receive any communication he might have to make.

On motion of Mr. J. G. Jackson, a committee was appointed to act with the committee of the Senate. Messrs. Macon and Jackson were named as the committee.

The House, after hearing a memorial from Joseph Wheaton, stating his services, and praying a reinstatement in the office of Sergeant-at-Arms, from which he had been ejected, proceeded to the choice of a Sergeant-at-Arms. The whole number was 122, of which Thomas Dunn had 80. He was therefore declared to be re-elected.

On balloting for a Doorkeeper, the whole number of votes was 116, of which Thomas Claxton had 115. He was therefore declared re-elected.

On balloting for an Assistant Doorkeeper, there were —

For Benjamin Burch, 68; Jesse Edwards, 50.

Mr. Burch was therefore elected.

Mr. Dawson. – Before we adjourn, it will be necessary to fix on some hour at which we shall meet; that hour heretofore has been eleven; but, as the mornings are now long, as some of the reasons which caused the present sessions have probably ceased, as the select committees will have but little to do, and every gentleman must be anxious to end the session and return home, I would prefer an earlier hour, and therefore offer the following resolution:

> *Resolved*, That unless otherwise directed, the hour of meeting during the present session shall be at ten o'clock in the forenoon.

Agreed to, 52 to 39; and the House adjourned.

Tuesday, May 23

Several other members, to wit: From Massachusetts, Samuel Taggart; from New York, Vincent Matthews; from Pennsylvania, Daniel Heister; and from North Carolina, Joseph Pearson, appeared, produced their credentials, were qualified, and took their seats.

The Journal of yesterday's proceedings having been read —

Mr. Randolph moved to amend it, so as to record the precise state of the two ballots for a Speaker, with a view to a correct understanding of the case, if it should ever be drawn into precedent hereafter.

After a discussion of nearly two hours on the subject of the decision of yesterday, and the analogy betwixt it and the case of the Presidential election of 1801, Mr. Randolph's motion was agreed to – ayes 70.

President's Message

The Message of the President of the United States was received, agreeably to the intimation given by the President yesterday to the committee appointed to wait on him. The Message having been read, was referred to a Committee of the whole House on the State of the Union, and 5,000 copies ordered to be printed of the Message, with the documents accompanying it. [See Senate proceedings of this date, *ante* page 117, for this Message.]

Thursday, May 25

Swedish and Portuguese Vessels

Mr. Newton offered a resolution to instruct the Committee of Commerce and Manufactures to inquire into and report on the expediency of permitting vessels of those nations with whom intercourse was permitted, to take cargoes, &c. He stated to the House that at present vessels of Sweden and Portugal, with whom intercourse is permitted, could not load and depart; and on this subject a letter was read from the Secretary of the Treasury to the Committee of Commerce and Manufactures.

Mr. Burwell said there was another subject connected with the resolution, which ought to be taken into consideration. The proclamation of the President declares that on the 10th of June next, the operation of the non-intercourse law, as relates to Great Britain, shall cease. It went into operation on the 20th of this month. Of course there were many vessels on the coast which could not get in before the 20th of May. He submitted it to the Chairman of the Committee, whether it would not be proper at once to do away all restriction, because the policy of its existence had ceased in relation to Great Britain from the restoration of harmony with her; and if the goods on our coast were not permitted to be regularly landed, they might be smuggled in, and injure the revenue. He thought it would be proper to inquire into the expediency of doing away at once, by law, all interdiction of commerce.

Mr. Newton said he had no objection to act on the subject mentioned by his colleague, but he did not conceive it to be connected with the present motion.

Mr. Newton's motion having been agreed to, he immediately reported "a bill respecting the ships or vessels owned by citizens of foreign nations with whom commercial intercourse is permitted." – Twice read, and referred to a Committee of the whole House to-morrow.

Non-Intercourse Act

Mr. Livermore said that he did not distinctly hear all that fell from the gentleman from Virginia, (Mr. Burwell,) but, from what he had heard, he apprehended that it was on a subject of great importance. There were many vessels on the coast, which, were they to enter our harbors, would fall within the description of the 4th, 5th, and 6th sections of the non-intercourse act. From the happy commencement of the settlement of our differences with Great Britain, he did not believe it was the design of any gentleman that the non-intercourse should be enforced in this particular. He therefore offered a resolution for suspending the act, as follows:

> *Resolved*, That it is expedient that the operation of so much of the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies," as inhibits the importation of goods from Great Britain and its dependencies, be suspended until the tenth day of June next.

Friday, May 26

Another member, to wit, Robert Weakley, from Tennessee, appeared, produced his credentials, was qualified, and took his seat.

Vote of Approbation

Mr. Randolph said that for the last eight years or thereabouts an alteration had taken place in the manner of doing business at the commencement of each session of Congress. He said he recollected when the first Congress under the administration of Mr. Jefferson had met at this place, instead of Congress being opened as heretofore by the President in person and by a speech, a note in these words had been received by the Speaker, enclosing a Message from the President:

> "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 a 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." &c.

It is unnecessary, I believe, (said Mr. R.,) to state that the hint contained in the Message that no answer was to be expected, was taken by the House; and from that day no answers have been given to the Message of the President at the opening of Congress. It would ill become me, sir, who so highly approved then, and who so highly approve now the change introduced by communicating to the two Houses by message instead of by speech, to say any thing that might imply a disapprobation of it. I like it, sir. To tell the truth, the style of communicating by speech was more in the style of the opening of the British Parliament by the king. I therefore like the mode of communication by message. But I am not so clear, though we were then half-right, that we were wholly right; though on this subject I do not mean to give a definite opinion. No man can turn over the journals of the first six Congresses of the United States without being sickened, fairly sickened, with the adulation often replied by the Houses of Congress to the President's communication. But nevertheless the answer to an address, although that answer might finally contain the most exceptionable passages, was in fact the greatest opportunity which the opposition to the measures of the administration had of canvassing and sifting its measures; and, in my mind, whatever goes to take away this opportunity, goes so far to narrow down the rights of the minority or opposition, commonly so called, and in fact to enlarge the rights of the majority and the administration party so called; and I beg leave not to be understood as speaking of the state of parties at this time, but of that which has always existed. This opportunity of discussion of the answer to an address, however exceptionable the address might be when it had received the last seasoning for the Presidential palate, did afford the best opportunity to take a review of the measures of the administration, to canvass them fully and fairly, without there being any question raised whether the gentlemen were in order or not; and I believe the time spent in canvassing the answer to a speech was at least as well spent as a great deal that we have expended since we discontinued the practice. I do not say that any answer is proper or ought to be given; but I do believe that when this House goes into a Committee of

the Whole on the state of the Union, it is for purposes a little more elevated than to dissect the Message of the President of the United States, or to strip it up and transfer it to select and standing committees. If that be the whole object of going into a Committee of the Whole on the state of the Union, I can see no reason for having any such committee, nor why the Message should not be taken in the first instance, dissected by the knife of the operator most in the fashion of the day, and referred to different committees. And it has a tendency to cast a sort of ridicule on our proceedings, when this august assembly resolves itself into a Committee of the Whole on the state of the Union, and resolves that the Message shall be referred to such and such committees; and would induce shallow observers to believe that in fact there is little or no use for such a committee. But whatever may be my opinion on the subject of opening the two Houses by message, I do think that there are occasions, and that this is one, on which it behooves this assembly to express its opinion on the state of public affairs. I will not recall to your recollection, sir, because perhaps, and most probably it passed over your mind without making any impression, that some time during the last session of Congress, I stated that if the gentleman in whose hand the reins of Government were about to be placed did not even tolerably perform the task assigned to him, some allowance ought to be made for the state in which he found the nation. And, sir, when I see the situation of the country so materially changed for the better, am I and is this House to sit still and regard it but as newspaper talk of the day, and express no opinion on it? And what is our opinion? It is either in approbation or disapprobation of the conduct of the Executive. In my opinion it is due to the Executive that he have an expression of sentiment on this subject. In the part of the country in which I live, dinners have been given, feasts have been held, and the song and toast have passed round in commemoration of the event: and is this House to be insensible, and to leave the President of the United States in ignorance or doubt whether his conduct has or has not received the sanction of their approbation? Or is he to get that information from inofficial sources? I hope not. I hope he will get it from ourselves. I therefore move you —

> "That the promptitude and frankness with which the President of the United States has met the overtures of the Government of Great Britain, towards the restoration of harmony and free commercial intercourse between the two nations, meets the approbation of this House."

Mr. Findlay said that this proposition contemplated a novelty in the legislative proceeding of this country. Where would it end if the House were now to make a solemn resolution approving of the conduct of the President? The answer returned to the speech of the King in monarchical Governments committed the House making it to all that was contained in it. The practice in this country had been long considered an evil; indeed, he thought he could show by the journals one instance in which the discussion of a single section in an answer occupied the House fourteen or fifteen days. It was a practice, too, which introduced at the very opening of the session all that irritation that commonly arose in the course of a session. Mr. F. said he supposed there was not a member in the House but did approve of the President's exercise of the authority vested in him. He presumed that they approved equally also of the same offer heretofore made to the Court of London. If the House were to approbate the conduct of one President, they must approbate that of others; and the conduct of the different administrations under the constitution might be brought into view. Mr. F. was totally against this motion, or any other of the kind.

Mr. Dana said that at the present time he should certainly not be for adopting the resolution. The adopting it at this time would certainly not comport with the object professed by the mover, which he had understood to be, to present a question on which there might be a general view of the conduct of the Executive in relation to the object in question. If the object was to bring up the question in a regular form, that gentlemen might express themselves fully in relation to our affairs, it was very proper that this subject should be discussed in Committee of the Whole on the state of

the Union. For himself, Mr. D. said that he thought the mode of answering speeches might do very well in such a Government as this, and whatever might be said of economy of time, by an attention to the actual expense, it would be found that in fact very little time was lost by it. At the last session of Congress a committee had reported a resolution to which there was but two dissentients; the discussion occupied nearly three weeks. All agreed as to the result, but gentlemen combated each other's arguments. And undoubtedly, Mr. D. said, the rapidity with which the Message was shot through a Committee of the Whole, was rather a farcical piece of business – and, indeed, it was not without some little surprise that, when he had come to the House this morning, he found the whole subject disposed of.

Mr. W. Alston said, that when a resolution like the one proposed was presented to him, the substance of which met his approbation, if he was compelled to vote directly upon it, he would rather vote for it than against it. But if it were the object to bring before the House a discussion upon the Message of the President, and to return an answer to his Excellency's most gracious Message, he should certainly be opposed to it. If ever there had been one particular part of the conduct of the former administration which had met the approbation of the Republicans of this country generally, it was the discontinuance of this practice. The result of the alteration was, that although more was done during the sessions of the Republican Congresses, they terminated them three or four weeks sooner than ever had been done before. As to the opportunity which the answers afforded for debate, could any one say that sufficient latitude had not been taken in debate? Had not gentlemen even called others by name, and introduced every subject on any question? Mr. A. said he was pleased with what had been done, and he could not vote that he was not pleased; but he was certainly opposed to entering into a full discussion, at the opening of each session, of every thing which was to come under the consideration of the House. If they were to take up this resolution, they might as well take some abstract act of Mr. Adams's, he being still living, and discuss his political life. Washington, at least he hoped, having departed from us, would be permitted to rest in peace.

Mr. Bacon said that with other gentlemen, he could not but regret that this proposition had been brought forward. If he were brought to vote upon it, he need not tell the House that he should cordially vote for it; but it was really one of the last observations which he had expected to have heard from any gentleman that we wanted field for debate. He had thought that the grievance was the other way; that the cause of complaint was, that they consumed too much time in debate. He said he should certainly vote for the resolution, were it brought to a direct vote; but, for the purpose of placing before the House the view of the subject which he entertained, he should take the liberty to move an amendment to it, and then move to refer it to a Committee of the Whole. The amendment was in these words, proposed to be added to the motion: – "And furnishes an additional proof of the spirit of accommodation on the part of the Government of the United States, which has at no time been intermitted."

Mr. J. G. Jackson moved that the whole subject be postponed indefinitely.

Mr. Randolph said that as an indefinite postponement was considered as tantamount to a rejection – for it prevents a renewal of the subject during the session, and a rejection does nothing more, as the House had heretofore had a woful experience in the case of certain very pertinacious petitioners; and, as he was afraid, they would again have from a certain body of petitioners, who, he presumed, had not entirely given up their hopes of quartering themselves on the public property – an indefinite postponement, then, being equivalent to a rejection, he certainly was opposed to the rejection of his own motion. He could not have believed that this motion would have been rejected by the House, though he said he had certainly calculated on its being opposed by those who condemned the promptitude and frankness with which the President had proceeded to restore, as far as depended on him, the intercourse between the two nations. It is this part of the conduct of the President of the United States, said Mr. R., on which I mean to give an opinion – "By the President of the United States, a proclamation" – and in that proclamation, in my opinion, he has

deserved well of his country. I ask the gentleman from Pennsylvania, (Mr. Findlay,) if he is near enough to hear me in this vast room, when have I proposed bringing in review the whole measures of former administration; when have I proposed an answer to an address to the two Houses? I have proposed no such thing, sir, although my motion is nearly tantamount to it; because it so happens that the only act of which we have any knowledge, except the laying up the gunboats in dry dock, which I also most cordially approbate, is this very thing. Now, I have not the slightest objection, if the gentleman chooses, that the honorable and worthy gentleman from Massachusetts should insist on a *venire* on the conduct of any former President of the United States, but I beg myself to be excused from serving on it. As an unqualified juror, I choose to except myself; for, really, as to one of those Presidents, his career does not yet seem to be finished. It would seem as if he meditated another batch of midnight judges, and another midnight retreat from the Capital. I do, therefore, except to myself as a juror as to him or any other President. *De mortuis nil nisi bonum.* Agreed, sir. Let the good that men do live after them, and the evil be interred in their graves. But, I would ask the gentleman from Connecticut, and the gentleman from Pennsylvania, also, if this be one of their abstract propositions? How abstract, I pray you? Or, if it be one of those unmeaning propositions, the discussion of which could answer no good to this House? It would be idle in us now to be trying Mr. Adams on the merits of the sedition law, the eight per cent. loans, or any other such act. It would answer no purpose; and it would be equally idle and futile to pass any opinion on the merits or demerits of the first four or last four years of the late administration, for this plain reason, the question bolts upon you, *cui bono*? What earthly good can result from it? But is that the case in relation to the Executive, on whose future dispositions rest the best interests of this nation? Is that a mere idle discussion? And is it come to this? Is this House so sunk in the Executive opinion, (I trust not, sir; I abhor the idea,) that its approbation of a great course of national policy is to pass for nothing; is it to have no influence on the conduct of the Executive of the United States? This, sir, is taking higher doctrine than was ever advanced by those who wished to see the President open Parliament by a speech from the throne. It is taking higher ground than the Minister of that country from which the precedent was derived. The weight of the House of Commons is felt too sensibly there for their inclinations not to be sounded by motions from their Chancellor of the Exchequer, and their members of opposition, in relation to the great course of foreign affairs. And, sir, shall we now be told that it is a mere matter of moonshine, a thing of no moment, whether this House really does approve the conduct of the Administration of the Government of the United States, or disapproves it? Praise, in my opinion, properly and not prodigally bestowed, is one of the best resources of a nation. Why is this House called upon, and I am sorry to say it is, too often, and too lightly, to give its sanction to the conduct of individuals in the public service, if its approbation is estimated so trivially? No, sir; this is a great question which I have presented to you, and gentlemen may hamper it with as many amendments as they please; they cannot keep the question out of sight. Some may be *against* it because they are *for* it; some because it does harm, and some because it does no good. The question cannot be kept out of sight; it has been presented to the American people and they have decided it, decide you how you may.

With respect to the gentleman's amendment, I need not tell him, I presume, that I shall vote most pointedly against it, because, in my opinion, it does not contain the truth. The gentleman from Massachusetts (Mr. Bacon) will be among the last of the members of this House to attribute to me an improper sentiment in regard to him, when I say that it does not contain the truth. If the gentleman from Massachusetts chooses, in imitation of another Eastern nation – not those who tried their Kings after they were entombed, but those who consigned to one common grave the living and the dead; if he be willing to attach the sound, healthy body of the present Administration – healthy so far, and, I trust, fortifying itself against contagions – to the dead corpse of the last, let him. He shall not have my assistance in doing it; nor have I the least desire to draw a marked distinction between the two Administrations. The gentleman will hardly suspect that I am seeking

favor at court. My object is plain. It is to say to the President that, in issuing that proclamation, he has acted wisely, and we approve of it. I know, sir, that there are men who condemn the conduct of the President in issuing the proclamation; and why? They say he was precipitate. Where was the necessity, they will tell you, of declaring that the Orders in Council will *have been* withdrawn? This is the language of objection. There *is* a difference of opinion subsisting in this country on these two points. There *are* men who condemn this proclamation, and men who condemn the construction given by the Executive to the non-intercourse law. I approve both. I wish the President of the United States to have the approving sentiment of this House, and to have that approbation as a guide to his future conduct; and I put it to the gentleman from Massachusetts whether it be fair to mingle it with the old, stale, refuse stuff of the embargo? No, sir; let him not put his new wine into old bottles. There *is* a difference of opinion in this country. The President of the United States stands condemned by men in this nation, and, as I believe, in this House, for having issued that proclamation, and put that construction on the non-intercourse law. I wish to see by how many he is thus condemned. I do not wish to see the question shirked – to see it blinked. If there be a majority of the House, as I believe there is, in favor of the conduct of the President, I wish him to have that approbation expressed as a guide to his future, and a support to his present conduct. It is due to him. Sir, have I moved you a nauseous, sickening resolution, stuffed with adulation? Nothing like it; but, a resolution that the promptitude and frankness with which the President of the United States has met the overtures of the British Government towards a restoration of the ancient state of things between the two countries – the state prior to the memorable non-importation act of 1806 – meets the approbation of this House. Either it does, or it does not. If it does, let us say so. If it does not, let us say so. If gentlemen think this House never ought to express an opinion, but leave the President to grope in the dark as to our views, or get them through inofficial channels, I presume the previous question will be taken, or motion made that the resolution lie upon the table. The gentleman from Pennsylvania says, shall we go back, and approve of what he conceives to be similar conduct of the late President of the United States in relation to the embargo? I hope not, sir. But if a majority of this House choose to do so, let them. I shall say no. But, why mingle two subjects together, on which there does exist – and I am afraid it will leak out on this very vote of indefinite postponement – so very material a difference of opinion in different parts of the House? For example: I do not think of the offer about the embargo as the gentlemen from Massachusetts and Pennsylvania think; and I think it probable that those two gentlemen do not think of this proclamation and the construction given to the non-intercourse law, as I think. And why should we make a sort of hotch-potch of two subjects, on which we do not think alike, for the purpose of getting us all united against both? It is an old adage, and a very homely one, perhaps too much so for the delicate ears of this assembly, that if you put one addled egg into a pudding, you may add fresh ones, *ad infinitum*, but you can never sweeten it. And, sir, I defy the gentleman from Massachusetts, with all his political cookery, by pouring out of the jar of our present situation into the old mess, to sweeten it.

In the year 1806, we passed that miserable old non-importation act, which last session we repealed; and really, sir, we got rid of it with an adroitness which pleased me exceedingly. Never was an obnoxious measure more handsomely smothered by its avowed friends. Gentlemen said it was merged in the non-intercourse act, and therefore, as a matter of indifference, they would repeal it; and when the non-intercourse act shall expire by its own limitation, at the end of this session, or be suspended by the President's proclamation, as it is in relation to Great Britain, there is an end of both; and thus, the old measure, the old, original sin to which we owe our first difficulties, was as much gotten rid of as if a majority of this House had declared it an unwise measure, and therefore repealed it. I do recollect to have heard one gentleman (Mr. Eppes) say, that unless the section repealing this law were stricken out, he should be compelled to vote against the bill. He conjured the House to cling to the old non-importation act as the last vestige and symbol of resistance to British oppression; but the House was deaf to his call, and the non-importation act was plunged

beneath the wave, never, I trust, to rise again. When, therefore, the late President of the United States made an offer to Great Britain to suspend the embargo as to her, provided she would withdraw her Orders in Council, I will suppose that she had accepted that offer. In what situation would she have stood in relation to the United States? Her fine cloths, her leather, her watches, her this and her that, would have been prohibited admittance into this country under the old non-importation act of 1806, which would have been in force. That act, in point of fact, had no operation on her adversary. Her ships would have been prohibited the use of our waters, while the ships of war of her enemy were admitted. Did that make no difference? That, sir, would have been the situation of the two countries, provided she had accepted the offer to suspend the embargo as to herself – the old non-importation act in operation, her ships of war excluded, and her rival's admitted. I pray you, was not that the condition of the country when Mr. Rose arrived? Was there not some difficulty, under the proclamation, in the admission of the Statira frigate, bearing that Minister into our waters? And were not French ships of war then, and have they not since been riding quietly at Annapolis, Norfolk, and elsewhere? Has not, in fact, the gallant Captain Decatur taken our own seamen out of one of them? And yet, sir, the offer at that time made by us has been identified with the negotiation between Mr. Secretary Smith and Mr. Erskine. What then was her situation? The non-importation act in force, *her* ships *excluded* and those of France *admitted*, and nothing in force in relation to France except the embargo. What is now the situation of affairs? Trade with her is restored to the same situation, in point of fact, in which it stood when Congress met here in 1805 and 1806 – at the memorable first session of the ninth Congress, which generated the old non-importation act of 1806. Her ships of war are admitted into our waters, her trade is freed from embarrassment, while the ships of her adversary are excluded and the trade between us and her adversary forbidden by law. While, therefore, I am ready and willing to approve the conduct of the present Administration, it is not because I conceive that they have effected any thing so very difficult – that they have obtained any such mighty concession – but, because they have done their duty. Yes, sir; we all recollect that the objections made to the treaty negotiated by Mr. Monroe, and Mr. Pinkney, on two great leading accounts: 1st. That it contained no express provision against the impressment of seamen. Is there any provision now made? No, sir. The next objection to the treaty was the note attached to it by Lords Holland and Auckland. What, sir, did gentlemen on this floor say was the purport of this note? That its object was to put us in a state of amity in respect to Great Britain, at the expense of the risk of collision with France. On account of this note, the treaty and the treaty-makers have been politically damned. And yet, we are now, in point of fact, in that very situation, in relation to the two nations, in which it was said that the British Commissioners, by the note, aimed to place us, and which was a sufficient reason, according to the arguments of gentlemen, for rejecting the treaty. The note was a sort of lien, gentlemen said, that would put us in a state of hostility with regard to France, and amity with regard to England. We refused to give our bond, for such it was represented (however unjustly) to be, to be sure, sir; but we have paid the money. We have done the very thing which gentlemen say the note aimed to induce us to do. We have put ourselves in a situation endangering collision with France, and almost insuring amity with England. We have destroyed the old non-importation act. The non-intercourse act is suspended as to her. Trade is again free. There is nothing now to prohibit her ships, whether for commerce or war, from coming into our waters, whilst our trade with France is completely cut off, and *her* ships excluded from our waters. I cannot too often call the attention of the House to this fact, on which I am compelled to dwell and dilate to get rid of this merciless motion, which kills while it professes to cure. When Mr. Rose came into this country, French ships of war were freely admitted; English ships were excluded.

As "the physician, in spite of himself," says in one of Moliere's best comedies, *on a changé tout cela*– the thing is wholly reversed. We are likely to be on good terms with England, maugre the best exertions of some of our politicians. Trade with Great Britain is unshackled, her ships are

admitted, trade with France is forbidden; and French ships excluded, as far as it can be done by paper. Now, in the name of common sense, what more could Mr. Canning himself want, than to produce this very striking and sudden change in the relations between the two countries? For a long time previous, it was the ships of England that were excluded, while those of her adversaries were admitted. And we know that we could not have touched her in a more jealous point than in her navy. Things are now reversed – we have dexterously shuffled the non-importation act out of the pack, renewed trade with her, admitted her ships, and excluded those of France. And what, I ask this House, has the British Minister given us in requital for this change of our position in relation to him and his rival belligerent? The revocation of the Orders in Council – this is the mighty boon. For, with respect to his offer in relation to satisfaction for the attack on the Chesapeake, he made that offer to Mr. Monroe spontaneously, on the spur of the occasion, and there is not a doubt in my mind but that we had nothing to do but to receive it at that time, provided the instructions of our Minister had permitted him to receive it; but, perchance, sir, if he had received it, we might have been at this day discussing his message, and not the message of another President. All that Mr. Canning has given this country is a reiteration of his offer to make reparation for the affair of the Chesapeake, and his withdrawal of the Orders in Council; and to what did they amount? So soon as you, by your own law, cut off your trade with France, he agrees to revoke the orders interfering with it. Mr. Canning might as well have withdrawn blank paper. They had nothing left to operate upon. The body upon which they were to operate was destroyed by our own act, to wit, the trade of France. And, sir, while I compliment the present state of things, and the conduct on the part of our Government which has led to it, I cannot say that we have greatly overreached Mr. Canning in this bargain, in making an exchange of the old non-importation act with the admission of English, and exclusion of French ships and trade, for the Orders in Council. Mr. Canning obtained as good a bargain out of us as he could have expected to obtain; and those gentlemen who speak of his having heretofore had it in his power to have done the same, did not take into calculation the material difference between the situation in which we now stand, and the situation in which we before stood – to say nothing at all of Great Britain's having taken a stand against the embargo, having declared that she had nothing to offer in exchange for it; that we might keep it as long as we pleased. If she had accepted our offer, as I before stated, the old non-importation law would have been in operation, her ships of war would have been excluded, whilst those of France were admitted. Now, the non-importation act is not in force, her ships are permitted to enter our waters, and those of France excluded. And what has this sarcastic Minister of Great Britain given us in exchange? The Orders in Council, which had completely ceased to operate by the cutting off of the trade between us and France. Let me state this argument in a shape most favorable to ourselves, and least so to the British Government. I speak as to argument; for, as to friendship between nations, there is no friendship in trade. We ought to get the best bargain out of them that we could, and it was the duty of their Minister to get the best out of us. Let us throw out of view the exclusion of French ships and French commerce. Is the removal of the non-importation act, and the admission of British vessels, nothing? What has Mr. Canning given you in return? The Orders in Council – and what were they worth to him? Not a straw.

Mr. Holland said he had no doubt that the President had done his duty in the case referred to in the proposition under consideration; and as he had entertained no doubt but the President would, on this and every other occasion, do his duty, he said he felt no excessive joy on the occasion. It was only an ordinary act of duty well performed, and therefore he was not willing to distinguish it from those numerous acts which he trusted would be, as they had heretofore been performed, by the Executive. Were he the author of the proposition, he should have many scruples as to the propriety of offering such a one. Were the precedent to be set by the passage of this resolution, the House might hereafter witness a struggle on the floor to determine who should be first to come forward with a proposition expressive of approbation. The human mind might be so operated upon

that the Executive might feel himself under an obligation to promote the person bringing forward such a motion. I, said Mr. H., would be one of the last to introduce such a motion were I a friend to the President; and if I were not a friend to the President, I would not bring it forward, lest it should be thought that I was courting favor in his eyes. But why, sir, should this House give an expression of approbation of the President? Because, we are told, it may be a guide to him hereafter. Let this House be careful how it acts, and attend to its own duties. The President does not stand in need of this kind of support. I never will step forward as a member of this House, to excite him to his duty by a vote of this kind. I believe he possesses an attachment to his duty sufficient to induce him to perform it. I believe that the voice of the people of the United States is such, in relation to the present and late President, that they believe they were well disposed to do their duty, and that they have done their duty; but it does not follow that we ought to express our approbation as to any particular act. The gentleman himself says that the President has only done his duty. Is it not surprising, then, that we are called upon to give him the approbation of this House? What would be inferred from this procedure? Why, that it is so seldom our Presidents have done their duty, that, in the very first instance in which they have done it, the House of Representatives had discovered and applauded it. If the gentleman thinks so, I wholly disagree with him. If our officers do their duty properly, they will receive the thanks of the nation; and where is the propriety of singling out for approbation or disapprobation this particular act? I see none. It is asked, will you leave the President of the United States to grope in the dark, and not let him know whether he has received our approbation or not? And is the President to judge from the thanks of the House that he has done his duty? How is he to know that they have expressed their sense of his conduct from proper motives? Would he not be right to suspect those who vote for, and more especially those who bring forward such a proposition, of improper motives? He would be left still worse to grope in the dark. It has been said that former Presidents have been deceived in consequence of votes of approbation; and the same would again occur. On every ground I am opposed to the passing such resolutions on principle, and shall therefore vote for indefinite postponement. It was indefinitely postponed.

Saturday, May 27

Sedition Law

Mr. Stanford said he had risen to offer a resolution, which he wanted to have offered immediately after that which had been offered by the gentleman from Virginia, (Mr. Randolph,) and adopted by the House, on the subject of prosecutions for libel at common law; but not being able to get the floor, he would now beg leave to move his by way of instruction to the same committee. That committee, Mr. S. said, had been charged with an inquiry into what prosecutions for libel at common law had been instituted in the courts of the United States, which he hoped the committee would duly make, and lay before the House. Thus the House would see what system of persecution, if any, had been resorted to, and cherished by the late Administration or its friends, in any part of the United States; and he equally hoped some remedy might be devised at this time, the beginning of a new Administration, to obviate any like occurrence in future. But, said Mr. S., let it not be that any thing be done partially. While we are about to bring to our view all the cases of prosecution for libel under the common law, we are not likely to know any thing about prosecutions for libel which had occurred under the sedition law, and that too under a different Administration. We have not authorized any such inquiry. That abuses have occurred under both, is but too probable, and I think it will be liberal, as it is just and fair, to make the inquiry more general on the subject. If any citizen has been oppressed or injured by such prosecutions, let it be known, and let justice be done him; even now, if with propriety any way can be devised to do so. Inquiry, however, is all that is asked for the present.

It may be perceived, said Mr. S., and if not, I wish it should be understood when I speak of justice being done, that I speak with rather peculiar reference to a gentleman of this House, who has been a principal sufferer under the well-known sedition law. I think it never too late to do justice, under whatever circumstances or motives of policy it may have been withheld for a time. I trust no gentleman will, upon this occasion, suspect me of a design to excite any party feelings. It certainly is not my wish, whatever may be the effect. The resolution I am about to offer is not so framed, nor would it necessarily involve the question of the constitutionality of the law. I feel persuaded, therefore, that the different gentlemen of the House may, from a spirit of liberality and fair concession, indulge the inquiry asked for.

But, sir, said he, since the other inquiry has been gone into, it cannot be unfair to say that the majority of the House owe it to themselves to extend the inquiry, as well to cases of prosecution under the sedition law, as to those under the common law; and I shall be permitted to say also, they owe it as well to the feelings and sufferings of the gentleman to whom I have alluded. Whatever may be the aspect of political opinions and parties now, it is known to you, sir, and a few others on this floor, that to him much is due for the present ascendency of the majority; perhaps to no one more, to the extent of his sphere of action and influence. In the famous contested election for President in this House, eight or nine years ago, he gave the vote of a State, which sufficed to decide the contest; and more especially so, if the blank votes of the State of Maryland could have rendered that vote doubtful. But, however such considerations may or may not avail, nothing is more clear to me than that the inquiry should be indulged on the most liberal principles.

> *Resolved*, That the committee, appointed to inquire into what prosecutions for libels at common law have been instituted before the courts of the United States, be instructed to inquire what prosecutions for libels have been instituted before the courts of the United States under the second section of the act entitled

"An act in addition to an act, entitled 'An act for the punishment of certain crimes against the United States,'" passed the 14th day of July, 1798, and the expediency of remunerating the sufferers under such prosecutions.

Mr. Sawyer moved to amend the resolution by adding, at the end of it, the words "and that the committee also inquire whether any and what private compensation has been made to such suffering persons."

Mr. Macon said he did not know how the committee could go about to make such an inquiry as that contemplated by the amendment. The gentleman must be well satisfied that the Government could not rightfully inquire into transactions between individuals.

Mr. Dana said that he had no particular objection to meet this inquiry. As to the disclosure of facts as to the reimbursement by individual contribution, it might be amusing, if this House had authority to make it. He said he should like to know who contributed to the relief of James Thompson Callender, when he was prosecuted; but he had some doubt whether it was proper to enter into any inquiry or whether it was proper to pass the resolution pointing to the remuneration of sufferers under the sedition law. He should have supposed that it might be proper to leave it at large for the committee to report. He said he had certainly no objection to inquire, though he conceived that prosecutions at common law and under the sedition law were essentially different; because, supposing the Congress of the United States to pass such a law, the courts of the United States might take cognizance of it; but, without such a law, it did not belong to the judiciary to extend its care to the protection of the Government from slander. Such was the decision of Judge Chase, (said Mr. D.,) who decided that the court had no jurisdiction at common law in suits for libel; and the Supreme Court of the United States never did decide the question. The strong contrast is this: that while there was a description of men who said that no prosecution could be had at common law for libel, nor under the statute which modified the common law so as to allow the truth to be given in evidence – who, while they excited indignation against this statute, should afterwards undertake to institute prosecutions at common law where there was no limitation in favor of the defendant. There is this difference in the cases: that we find practice precisely different from professions. I do not say that the heads of departments were instrumental in instituting these prosecutions; but it marks some of the subordinate men who were active in making professions. I am very willing that the proposed inquiry should be made; but I cannot see the propriety of our undertaking to give any opinion as to remunerating those who suffered.

Mr. Stanford said: – Mr. Speaker, I would ask if my colleague's motion of amendment can be in order? It is no concern of this House, or of the Government, what private contributions may have been made to the gentleman from Kentucky; and, if it was, the inquiry is impossible. [The Speaker said, not being able to enter into the views of the mover of the amendment, he considered the motion in order.] Then, said Mr. S., if my colleague is anxious to know what he could not otherwise know, I will tell him I had contributed a small sum to the gentleman from Kentucky, as a sufferer in what was then considered a common cause; but, upon his return to his seat in the House, he could not brook the idea of such a contribution, and returned the amount to myself I know, and to others I believe. My colleague would do well to tell us how much he contributed. It was well known contributions were made in a quarter not far from him; and if he did not, I am well persuaded it was not for the want of sympathy on his part, or extreme zeal in the democratic cause; for I am confident I have seen as much or more seditious matter from under his pen, than I ever saw from under that of the gentleman from Kentucky. Be that, however, as it may, I am for one willing, if no constitutional difficulty can be shown, to remunerate the sufferers – at least to take such money out of the treasury, and restore it to its original, rightful owners; and if it cannot be consistently done, why the inquiry can do no harm. But, indeed, we have great examples in the case before us. Did not the late President, when he came into place, refuse to let such money come into the treasury in the case of the worthless Callender? As the proper authority, he thrust it from him as

unworthy the coffers of his country; and did not his doing so meet general approbation? I confess it met mine most cordially, and I believe it did that of my colleague also. Have we not, moreover, the best recorded proof that the present President holds similar opinions on this subject? His splendid opposition to the sedition law is the proof to which I allude, and is, in my mind, conclusive on this subject. But if it were not, where is the impropriety of an inquiry? The House will be better able to decide when the whole matter shall come fairly before them.

Mr. Quincy said this appeared to be a proposition to aid a single individual; and, by the amendment, gentlemen who had aided that individual were anxious to prevent him from gaining more than he had paid. It was a kind of application to the House to repay to those persons who relieved the sufferers under the sedition act, the sums which they had paid. If this were the object, Mr. Q. suggested whether it would not be proper for them to come forward and lay their claim in the ordinary form before the House.

Mr. Sawyer said he was, as he always had been, willing to contribute his mite to the relief of the sufferers; but he did not wish to see them remunerated from the public treasury.

Mr. Lyon. – I have for some time been in suspense whether I ought, or ought not to make any observations on the subject before the House; delicacy on the one hand bids me be silent, while a duty I owe to myself, to my family, and to the nation, requires (that since my particular case has been alluded to) the members of this House and the public should be made acquainted with many of the circumstances of that case, which have either never come to their knowledge, or have long been buried up among the consumed heap of political occurrences, disputations and publications of these days. Besides, sir, I have it in my power to throw much light on the subject of the inquiry wished for, by the gentleman from North Carolina, (Mr. Sawyer,) who has proposed the amendment under consideration, and I will assure the gentleman that I shall not be backward in doing so. It is true, sir, that I was unjustly condemned to pay a fine of one thousand dollars and to suffer an ignominious imprisonment of four months in a loathsome dungeon – the common receptacle of felons, runaway negroes, or the vilest malefactors – and this when I was the Representative of the people of Vermont in this House of Congress. It cannot be said there was no other room in the prison, there were rooms enough; yes, sir, one of my judges during my imprisonment, found another room in the same jail to be imprisoned for debt in, until he gave bonds for the liberty of the yard. To heighten the picture exhibited by official tyranny, and to add to the cruel vexation of this transaction, I was carried out of the county in which I lived, fifty miles from my family, kept six weeks without fire in the months of October and November, nearly the whole of which time the northwest wind had free admittance into the dungeon, through the same aperture that admitted the light of heaven into that dreary cell. And let it be asked, in these days of the mild reign of republicanism, for what crime was all this extraordinary, this ignominious punishment inflicted?

I hold a copy of the indictment in my hand, which includes the charge against me. I will not trouble the House with a recital of the technical jargon and tedious repetition of words, of course, which constitute the bulk of such instruments. No, sir, but I will read the identical words of the charge, which says, that on the 20th of June, 1798, Matthew Lyon wrote a letter to Alden Spooner of Windsor, Vermont, in which he said, "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 whenever I shall, on the part of the Executive, see every consideration of the public welfare swallowed up in a continual grasp for power, in an unbounded thirst for ridiculous pomp, foolish adulation, and 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 in their application for offices 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."

This is the whole of my crime, and what do those words amount to. Who is here that hears these words, but what approves the sentiment they contain? What do I say in these words, other, or more, or less, than that when the Executive is doing right, I will support him – when doing wrong I will not be his humble advocate? This ought to be the creed of every member who enters these walls. Was there to be an oath or abjuration added to the constitutional oath to be taken by the members of this House, can any person who hears me, devise a better, or one more proper? Could any person who really thought Mr. Adams quite clear from all those improprieties, as merely possible from the nature of man, mentioned in my letter, have thought of my libelling the President by this declaration? I presume not, sir. Yet this, my crime, received one of the condemnations which you are called upon by this motion to constitute an inquiry into – an inquiry I cannot persuade myself will be refused. The letter, sir, was an answer to a violent invective against me, published in the same paper a short time before, in which besides a number of other charges against me, it was imputed to me as a crime that I acted in opposition to the Executive.

I did not begin the altercation. A person who was a friend to the Adams Administration, in the act of libelling me, (one of the constituted authorities,) ushered the Executive into his performance. My character, ever dearer to me than life, was concerned. I deigned to answer him, after expostulating with him on my right as one of the constituted authorities of the nation to exercise my own judgment in my official conduct, and showing that my merely differing with the Executive proved no more than that the Executive differed with me. I incidentally proceeded in the words for which I was indicted, the very words I just now read. I was charged with neither more nor less as coming from my pen. As if to outrage every principle of law and every sentiment of decency and propriety, this indictment, founded on the sedition law passed on the 14th day of July, 1798, charges me with having in Philadelphia on the 20th of June prior, written a letter to Alden Spooner of Vermont, which contained those words I have been reciting. My letter was produced in court and carried the Philadelphia post-mark of some day in the same June, I do not recollect which day; Judge Patterson himself admitted this fact, and that it was out of my power and control in the June before the sedition law was passed. Thus the indictment, which was the foundation of the barbarous treatment I received, carried on its front its own condemnation; but this defect was remedied by the ingenuity of the party judge, who dexterously mingled his assertions that the crime was cognizable under the common law, with his admonitions to a pliant jury not to be deterred from finding a verdict where the man who wrote was a member of Congress, and knew the sedition law was about to be passed, and probably hurried his letter to evade the law.

It may be said, sir, that I was charged in the indictment with publishing a copy of a letter, from an American diplomatic character in France, to a member of Congress, commonly called the Barlow letter. I was so, and there was a third count in the indictment for aiding and abetting in the publication of said letter. The words selected as seditious were as follow: "The misunderstanding between the two governments has become extremely alarming: confidence is completely destroyed; mistrust, jealousy, and a wrong attribution of motives, are so apparent as to require the utmost caution in every word and action that are to come from 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 the second coming of Pinkney, had it guided the pens that wrote the bullying speech of your President, and the stupid answer of your Senate, in November last, I should probably have had no occasion to address you this letter; but when we found him borrowing the language of Edmund Burke, and telling the world that although he should succeed in treating with the French, there was no dependence to be placed on their engagements; that their religion or morality was at an end, and they had turned pirates and plunderers; and it would be necessary to be perpetually armed against them, though you were at peace, we wondered that the answer of both Houses had not

been an order to send him to a madhouse! Instead of this, the Senate have echoed his speech with more servility than ever George the Third experienced from either house of Parliament." No proof appeared on the trial of my printing, or aiding or abetting in printing, or circulating a printed copy of this famous letter. I had read the copy of the letter in company, but the advocates of the sedition law would never admit that such reading was punishable by that law. The printer who printed the letter, swore that he had been anxious to get the letter from me, and that I had refused to suffer it to be printed, and repelled every attempt to persuade me to the printing; that he had obtained the copy of the letter in my absence. The fact was, that my wife was persuaded by a gentleman who is now a member of this House, that the Republican cause and my election (which was pending) would be injured if the letter was not published; and, as I understood, she gave it to him, the letter was printed, and that gentleman had some of the copies before I came home. I suppressed the remainder of the edition. The judge, finding no proof to support this part of the charge, directed the jury to find a verdict of guilty generally, as there could be no doubt of my being guilty on the first count. I had acknowledged my having written the letter to Alden Spooner. They did so. I will not detain the House by going into a detail of the manner in which that jury was packed. After all the care and management in the original selection, there was one man on it whose honesty my persecutors feared; and, to get him off, a wretch falsely swore that the summoned juryman had expressed to him something like an opinion that I could not be found guilty. I will not here dwell upon the judge's denial to me of a challenge upon the jury – as great a crime as any Judge Chase was charged with. I look for an investigation of this business when all the features of it shall come fairly to public view. Should that investigation be refused at this time, I shall not fail to look for it at some future time. I can never forgive the unjust stigma that has been placed on my character; and should justice be refused me during my whole life, I will leave it with my children and theirs to seek it. When my enemies wounded my feelings, robbed me of my property, and affected temporarily my reputation, I consoled myself that my friends would soon be in power, and they would make every thing right. My wounded honor would be consoled; the wound would be healed – a share at least of the property of which I had been deprived, would be reimbursed. How cruelly have I been thus far disappointed! Generous men, at the time I suffered, said it is enough for you to bear the mortification of the temporary insult – we will share with you the loss of property. Under this impression much money was collected, the greater part of which went to relieve oppressed Republican printers – it has all been charged to me. I never asked, nor would I have received a cent of this gratuity, could I have avoided it without insulting the benevolent views of the good man (Gen. Stevens Thompson Mason, deceased) who set the subscription on foot. That good man gave me a list of those to whom he considered me beholden, and the amount; while the thing was fresh in every one's mind I made a compliment, which he considered ample, and more than ample, to every one of those on that list that was within my reach; to those few that remain on that list uncompensated, I feel beholden and much indebted. As the thing has grown old, and as I have come in contact with those gentlemen, I have felt myself in an embarrassed, awkward situation, from which I wished to be relieved by being able to say to them, the public have restored your money – here it is – it is yours, not mine. Judging other men to have feelings like myself, I am at a loss how to get rid of the obligation I feel, in any other way than the restoration of their money when it comes in a way they cannot refuse it. From this source my anxiety for the restoration of the money unjustly taken from me, arises more than any other; and on every review of the subject, I am bound to say that I have been more cruelly treated by the neglect of a duty to which my friends had pledged themselves, when they declared me innocent and patriotic, than by enemies who thought me guilty, and found me goading them in their progress toward the destruction of the liberty and republicanism of this country. As if to make their cruelty more insupportable, insult is added to the injury, by daily insinuations that I am bound by gratitude to stand by those who call themselves Republicans, in all their projects, right or wrong. Before I was elected a member of Congress from the State of Kentucky, I sent to

a member of this House, who had promised me to bring it forward, a petition to be laid before the House of Representatives for redress in this case. He returned the petition to my son in a letter, which I have in my hand – in which he says, "I am sorry and ashamed that I have not presented the petition. I have not wrote to your father, and confess I am ashamed; pray you, the first time you write to Colonel Lyon, do endeavor to make an excuse for me." Such I believe was the impression of most of those I had acted with in the reign of terror, as we called it; but that impression has been wearing off, it seems, while my feelings have been every day increasing in their poignancy at their neglect of a duty, to which they had solemnly pledged themselves, while they were struggling with their adversaries for pre-eminence and power. Happily the awful silence which surrounded this extraordinary business has been broken. I consider this a prelude to investigation and a correct issue; and, let the event of the vote now about to be taken be what it may, I shall not despair.

I shall at this time say no more on this subject than to declare I wish not to have my case singled out for reparation. I wish the investigation general; the provision for remuneration general, to all who suffered under the lash of that unconstitutional sedition law.

Mr. Sawyer's amendment was negatived without a division.

Mr. Ross rose to propose another amendment to the resolution. It was a fact, he said, well known in almost every part of the United States, that the people in the district from which he had just been returned, had suffered as much in the cause of democracy as that of any other; that they had presented as firm a barrier to Federal oppression, and perhaps had as just claims as any other people in the United States to remuneration for losses in the cause. It was well known that at the time that high-handed measures were taken in this country, an insurrection had taken place in Pennsylvania, commonly known by the name of the Hot-water Insurrection; that it occurred in consequence of the oppression of the law for the collection of a direct tax. Many persons who had opposed the law, under the idea of its being unconstitutional, were prosecuted, punished, and some of them, in consequence of those prosecutions and the sentence resulting from them, expired in prison. To some who remained after the aspect of the affairs of the country was changed, mercy was extended by the United States; but to those whose prosecutions and convictions were of an earlier date, lenity was not extended; they were compelled to pay their fines before they could be relieved from imprisonment. Mr. R. declared his object in rising to be, to move to amend the resolution in such a way as to instruct the committee to inquire whether any, and if any, what compensation and remuneration should be made to the persons who suffered and were punished in consequence of an act to lay and collect a direct tax in the United States.

Mr. Dana said the gentleman's amendment contemplated remunerating those who suffered by their opposition to a statute. He would propose an amendment to inquire into the propriety of remunerating those who had suffered by their submission (not by their opposition) to the several acts respecting the embargo, certainly so much more meritorious conduct than that of opposition. As respected the whole of this subject, he said he was very free to declare that as regarded those who had been prosecuted at common law in the State of Connecticut, who had certainly been at very considerable expense, their defence perhaps having cost them several thousand dollars, yet, on the principle of correct legislation, he had not the least idea of remunerating them. Where shall we stop, said Mr. D., if we tread back on the steps of each other? We shall have opportunity enough for censure in reviewing our conduct. Perhaps it might be as well to draw the veil of oblivion over past transactions, and learn from experience to err no more.

Mr. Johnson said, that however much the act laying a direct tax was disapproved, and arose from measures which were improper, yet he had never deemed it an unconstitutional law, as he had the sedition law. He should therefore vote against the amendment and for the resolution.

Mr. Gardenier suggested to the gentleman from Pennsylvania, since he had brought the subject before the House, the propriety of going the whole length of his principle. To my mind it is very clear, said he, that if those who oppose the law are to be remunerated, for what it cost them

in consequence of prosecution, you must go only on the principle that the direct tax never ought to have been laid at all. If the law was right, it was improper to oppose it. If it was improper, perhaps according to modern democracy, it might be proper to oppose it by force. That, to my mind, is a very dangerous doctrine for legislators to broach; it is a doctrine to which I myself can never agree, for it is making Government a nullity. The suggestion which I wish to make is this: that if those men who suffered in the Hot-water Insurrection are to be remunerated, it is no more than fair that those should be remunerated who have quietly paid this tax. They were at least respectful to the laws. The committee therefore ought to be instructed to inquire into the propriety of repaying to the several contributors in the various States the direct tax, collected from them, unless there be something so admirable, so lovely, so worthy of encouragement in insurrection, that those concerned in it have peculiar claims to encouragement by Government. If that be the case, the gentleman stopped at the proper point. If there was nothing in insurrection, however, which the Legislature would feel it proper to cherish, the gentleman should either go the whole length of his principle or not touch it at all.

Mr. Ross said he had not undertaken to state any principle at all. His object was to refer the subject to a committee to decide upon. He had not said that he considered the original resolution to contain a correct principle; it was a point left for the committee to consider and for the House to determine on. But if it was a correct principle that those who suffered under the sedition law should be remunerated, he said he had no hesitation in saying that his constituents, who had suffered as materially and as much as any for the democratic interest in this country, should be placed on the same ground as those who were asking for the favor of the House for no better reason; and when the gentleman calls upon me, said Mr. R., to go the whole length of a principle which he states, it is calling upon me to do that which is consequent on a principle which I have not assumed. The gentleman from Kentucky conceives that there is a difference between the cases alluded to in my amendment and the cases arising under the sedition law. Where is the difference, sir? In both cases they were laws of the United States: in both cases the judges of the courts of the United States were authorized to proceed. In neither of the cases did they decide the law unconstitutional. If, then, persons were punished by the sedition law in its full operation, carried into effect by the constituted authorities, where, I ask, is the distinction between that and any other law? To all the purposes of legality, that law is as much legal as that under which the direct tax was instituted. Whether the law under which a direct tax was collected, was constitutional or not, has it not as equally received the disapprobation of the Republicans of the United States as the sedition law? If then it was the object of the democratic party to rid the country of such a law as much as of the sedition law, I ask whether those who suffered under each law have not equal claims? There can be no legal claim upon the House under either law; but we know that it was the hardy yeomanry who presented a firm phalanx to the irresistible torrent of injurious laws of the Federal Administration, and who gave the present party the ascendency, and many of them have not, as the gentleman from Kentucky has been, compensated for their suffering by a long continuance in an honorable and lucrative office which he enjoys by the confidence of his constituents.

Mr. Potter declared himself at a loss to know whether the House was sitting here as a branch of the Legislature to pass laws, or as a body to remunerate those concerned in the violation of them. The House sit here to make laws and not to encourage those who resisted them; but if they determined to give premiums for the violations of laws, they had better depart home at once.

Mr. Rhea wished the House to get rid of this motion and the amendment as speedily as possible. If the House were to go on as it had commenced the session, the whole time of the House would be spent about nothing, discussing propositions which could not possibly produce good to the nation. He therefore moved to postpone the whole subject indefinitely.

Mr. Macon said he had been in hopes when this motion had been made, that it would be one of the happy days of the House; that the question proposed would occupy the whole day in debate,

and that all would agree in it at last. As to comparing this case with that of the direct tax, it was notorious that the discussion on the sedition law and the public opinion also took a very different turn from that which it took on any other law. The whole discussion (said Mr. M.) as well as I recollect, turned upon the constitutionality of the law. Then, if it is still believed that the law was unconstitutional, I leave it to gentlemen to say whether it can be viewed in the same light as a law, the constitutionality of which is not disputed. In the one case, trials took place for speaking and writing; in the other case for opposing the execution of a law. I wish this question to be settled for this reason: In all governments where liberty and freedom have existed, parties also have had existence. Thinking honestly produces parties. That those gentlemen who were in power when the sedition law was passed, should step a little too far, was not so much to be wondered at as that those who came after them should do so; because they were making the first experiment of the instrument. I then believed, and do still believe, that the law was unconstitutional. Taking up this question, the original resolution of my colleague is that remuneration should be made to those people who suffered under it; but seeing that the question with respect to the constitutionality of the law had always been matter of dispute, it proposes that a committee shall inquire into the subject. The House is no farther committed by passing this resolution, than to consent to the inquiry being made. I submit it to the candor and reflection of gentlemen of all parties, whether this thing, in a national point of view, can produce any evil – on the contrary, may it not produce good? All that has been said about the direct tax laws can have no other effect than to draw off the attention of the House from the true question before them. The question on this law, in my mind, is a different one from any other law which has been passed. I feel no hesitation in acknowledging that it is my opinion that all the sufferers ought to be remunerated, both those who suffered under the sedition law, and those who suffered under the common law. It is the business of all parties to settle amicably as they can any subject of contention between persons of different political persuasions. If this first resolution should be referred to a committee, and they report that the law was unconstitutional, I will venture to pronounce that no majority will ever again make a law of that kind. If, sir, the sufferers under the sedition law did suffer contrary to the constitution, ought not their expenses to be reimbursed? On the subject of contribution, I know that that party to which I was attached, did contribute, and did consider it an honorable cause. I was willing (and there are gentlemen in this House who know it) to open my purse when a man of a very different political creed from myself, Peter Porcupine, was oppressed. I care not of what party a man be, that is oppressed. I can prove that the party opposed to me in politics have also subscribed. It is all no more than the subscriptions for printing speeches which are occasionally made in the House, in which gentlemen of all parties unite. Suppose that the whole fine in any particular case had been paid by individual subscription, what has the Government to do with that? Will it be contended, because an old soldier who received a pension also received individual contributions, that the pension should be taken from him, or that the Government is thereby acquitted of what it owed him? Surely not; the Government has nothing to do with transactions between individuals. As to the particular gentleman brought into this discussion, I believe that every man that contributed any thing towards paying the fine levied on him, was remunerated to his satisfaction. I have thought proper to state these opinions of mine, and to avow myself in favor of reimbursing the sufferers. But before I sit down, I must say that my opinion of modern democracy is very different from that of the gentleman from New York. I consider it as neither leading to insurrection, rebellion, nor any such thing. I believe that the true principle of every modern democrat, is, that the law constitutionally made is supreme, and is to be obeyed; that it has nothing to do with riots, rebellion, and insurrection. I know very well, and shall not deny it, that there are times when insurrection is a holy thing, but it is not peculiarly attributable to democracy. With us, election puts every thing to rights; and on them every man of pure democratic principles depends. It is doubtful whether the question of the constitutionality of the sedition law can be settled in a more easy way, and in a mode less liable to irritation, than that

proposed by my colleague. If the committee report as I wish, it is well; if not, it settles the question forever; and it is surely desirable that the question should be settled. However gentlemen may differ, as to the principle proposed to be investigated, they might with propriety vote for the inquiry, as it is the ordinary course of every day. I do not consider this as proposing to give a premium to violators of the laws. I know that much depends in this world on names; and that if you give any man or thing a bad name, whether merited or not, it is difficult to get rid of it. I hope the House will not be deterred from this inquiry by any name attempted to be given to it. It is proper that this question should be settled; and if considered now, it will be settled by a body which did not partake of the heats of those times, and when, to say the least of it, there is a little division in the great parties of the nation; and it seems to me that the gentleman who moved it has been fortunate in the selection of his time. Eight years have elapsed, a new President is just inducted, and the question is now brought up for our decision. I am sorry that any member of this House should make a motion with no other view but for procrastination. I do not believe that my colleague who made this motion is more in the habit of procrastinating the public business than other members of the House; and I was in hopes that there would have been no dissentient voice to his motion. He only asks of you to let the inquiry be made. He does not ask a single member of the House to commit himself upon the question, but merely asks that a committee may be permitted to inquire into it; and this, it seems to me, is no extraordinary request. I hope that the resolution, without being trammelled with any extraneous matter, will be passed.

Mr. Key said he should vote for indefinite postponement of the resolution. What good purpose could its adoption answer, unless the House had the power to take money from the Treasury of the United States for the purpose of remunerating any person who had suffered? Had Congress that power? He apprehended not. He could see no such power amongst those delegated to Congress. The gentleman from North Carolina admitted the House were under no obligation to remunerate the sufferers; and if the gentleman would turn to the rules laid down for the definition of the powers of Congress, he would see that there was no authority to draw money from the Treasury for this purpose. Under that view of the constitution, Mr. K. said he must vote for indefinite postponement.

Mr. Macon asked under what clause of the constitution Captain Murray and others had been remunerated? Under what clause money paid into the Treasury had been returned in various instances? The right to take, gave the right to return that which was taken. In many instances this principle had been practised on. There was no law to authorize the punishment of a man for robbing the mail; but it was derived from the power of establishing post roads. The power of refunding money was one which had been often exercised.

Mr. Gardenier was in favor of an inquiry. It was not only proper that an inquiry should be made, but it was the bounden duty of the House to make it. A member of the House in his place had stated facts which if true undoubtedly entitled him to their interference. Our duty (said Mr. G.) is imperative. The case of the gentleman does not rest upon the question whether the sedition law was constitutional or unconstitutional, but upon the fact that he was not a proper object for the exercise of that law. For, if the statement made be correct, he was punished for uttering a creed which would not be improper for every member of the House; and I will say that subsequent events have shown the sincerity with which the gentleman did make it; that he had kept his promise most religiously; that it was not applicable to those men, or that time, any more than to the present, but was a creed on which he practised before and ever since, so far as his political course is known to me. It is a case in which the privileges of the members of this House are materially concerned. If under the sedition law for a letter written by a member of this House to his constituents, giving his view of public measures, he has been punished, it concerns the safety of this House that complete and perfect remuneration should be made. It is as important that every member should be permitted to speak freely to his constituents, as that he should without restraint address the Chair of the House. It was a case, therefore, which never ought to have been the subject of a judicial investigation, much

less considered as a crime. The gentleman at the time followed the dictates of his conscience. To his conscience and his God alone should he be responsible. Sir, should we refuse an inquiry into this case, when we know that the fine of James Thompson Callender, for one of the most atrocious libels ever written in the United States, was remitted? When we know that it was remitted by the President of the United States, after the money had been received by the proper receiving officer of the United States, when it had passed out of the hands of James Thompson Callender into the hands of the officer of Government, and was, to all intents and purposes, in the Treasury of the United States, because there is no such thing as a treasury in which money is actually deposited – for a libel, too, in which the great Father of his Country was treated with a shameless indignity, which could not but have gone to the heart of every man? When the President of the United States was in that libel called a hoary-headed incendiary, should that fine be returned, and shall a gentleman in this House be fined and imprisoned for that which was not even improper? Shall we not restore to him that which others have been suffered to retain, and for which we have not brought to question him who restored it after it was in possession of the receiving officer of the United States – in fact, after it was in the Treasury? Let us not be guilty of this inconsistency. If the sedition law has gone to the tomb of the Capulets, and I believe it has, I am not one who wishes to bear up against the people's voice; the Government is theirs, and when they speak we obey. If under that law the Government has received money for an act which really, if the statement of the gentleman be true, could scarcely be considered an offence within the purview of that law, will you not give it back to him? Either give back the money in the case, or take measures to recover that money which was given back in the other. I am not for making fish of one and flesh of another. Whilst on this subject I will declare that I never did consider the sedition law as unconstitutional. Congress were competent to pass it. But, that parties will sometimes in the ardor of their course exceed the limits of discretion, and do violence to the milder feeling of the community in which they live, has been proved in the Adams Administration, and in that which has lately disappeared; and when they have cooled down, it is but rendering justice to the sense of the country to acknowledge their errors. No, sir, I am satisfied that all prosecutions for libels on the Government should be at least very hesitatingly sustained. You cannot draw a precise line by which you shall limit the right of investigation. The two things are so blended together that you cannot separate them. You must either make the Government supreme or the people supreme. I am for the latter. As Dr. Johnson makes Lord Chesterfield say, liberty and licentiousness are blended like the colors in the rainbow; it is impossible to tell where one ends and the other begins. Licentiousness is a speck on the eye of the political body, which you can never touch without injuring the eye itself. I hope and trust that with this investigation will be connected an inquiry into the prosecutions at common law in Connecticut. I have seen in the State of New York, but not under the present Administration, a defendant coming into court, begging only to be permitted to prove that what he had said was true; I have seen also an Attorney-General rise to prevent it: I have seen the truth smothered on the trial by men who were as clamorous against the sedition law as any loud-mouthed patriot in the country. I have seen them bringing almost to the block the victim who may only wish to prove the truth of what he said – which was denied him. I mention this to show that where parties are contending against each other, where there is a majority on one hand and a minority on the other, that which appears on paper proper for the protection of the Government, turns out to be for the oppression of the minority. In the nature of parties it cannot be otherwise. Therefore, in my opinion, the Government of the United States cannot render a greater service than by declaring it will not be accessary to any diminution of the rights of the citizen; that free investigation shall in all cases be permitted. Mr. G. made some further observations on the particular case of Mr. Lyon, and concluded by expressing his hope that the resolution would pass.

The question that the resolution be postponed indefinitely, was decided by yeas and nays – yeas 69, nays 50.

Monday, May 29

Several other members, to wit: from Massachusetts, Orchard Cook; and from Pennsylvania, Benjamin Say and John Smilie, appeared, produced their credentials, were qualified, and took their seats.

Wednesday, May 31

Julian Poydras appeared, produced his credentials, was qualified, and took his seat, as the Delegate for the Territory of Orleans.

Mr. McKim presented a petition of thirty-five American citizens confined at Carthagena, in South America, under sentence of slavery, stating that, through means of falsehood and deception, they were induced to engage in the unlawful expedition of Miranda, fitted out from the city of New York, in the year one thousand eight hundred and six, and that they were captured by the Spaniards, and condemned to slavery, and praying that Congress will take their distressing case into consideration, and effect their release and return to their native country. – Referred to Mr. McKim, Mr. Say, Mr. Emott, Mr. Roane, and Mr. Cochran, to examine the matter thereof, and report the same, with their opinion thereupon, to the House.

Monday, June 5

Two other members, to wit: Ezekiel Whitman, from Massachusetts, and Richard Wynn, from South Carolina, appeared, produced their credentials, were qualified, and took their seats in the House.

A message from the Senate informed the House that the Senate, having been informed of the death of the Honorable Francis Malbone, one of the Senators from the State of Rhode Island, have directed the same to be communicated to this House.

On motion of Mr. Potter,

Resolved, unanimously, That this House will attend the funeral of Francis Malbone, Esquire, late a member of the Senate of the United States.

Resolved, unanimously, That this House do wear mourning on the left arm for the space of one month, in testimony of their respect for the memory of the deceased.

Tuesday, June 6

Another member, to wit, Wilson C. Nicholas, from Virginia, appeared, produced his credentials, was qualified, and took his seat in the House.

Wednesday, June 7

Another member, to wit, Erastus Root, from New York, appeared, produced his credentials, was qualified, and took his seat in the House.

Friday, June 9

Another member, to wit, Nicholas Van Dyke, from Delaware, appeared, produced his credentials, was qualified, and took his seat in the House.

Monday, June 12

Mississippi Territory

The Speaker presented a petition enclosed to him from a number of inhabitants of the district east of Pearl river, in the Mississippi Territory, praying for the division of the Territory.

Mr. Poindexter moved that the petition lie on the table. It would perhaps be disrespectful to the petitioners to reject it, although its contents would merit that course. There were three parties who must, by the ordinance for the government of the Territory, consent before the Territory of the Mississippi could be divided. One party was the Mississippi Territory, the other the State of Georgia, and the third the United States. Neither of these parties had consented. There was, therefore, an absolute interdiction to all legislation on the subject; and the House could, with as much propriety, refer a petition from a State to be exempt from general taxation, or to recede from the Union, as to refer this petition.

Mr. Burwell said he felt himself bound to oppose the motion for its lying on the table. If the request was wholly improper, the report of a committee to that effect would settle the question at once.

Mr. Bibb was in favor of the motion; though, had a motion been made to reject it, he should have voted against it.

Mr. Macon was in favor of a reference of the petition. No harm could arise from an inquiry into it.

Mr. Troup admitted the correctness of the remarks of the delegate from the Territory, but wished the petition to be referred to a committee for the purpose of an inquiry as well into the amount of population in that country as into its quality; whether it was lawful or unlawful. There were certain facts connected with this subject, perhaps not generally known to the House. In the course of last year, he had understood that a great many persons, amounting to perhaps three or four thousand, had crossed the Tennessee river, and fixed themselves on its banks, not only contrary to law, but the impression was that they had set out in defiance of the law, and had even gone so far as to organize themselves into military associations for the purpose.

Mr. Poindexter observed that there had been a settlement contrary to the existing law on Tennessee near about a year ago; but that they were ordered to be driven off by the military force, except they would take permission to reside as tenants at will. Some had done so, and some had been driven off.

Mr. Troup said he knew that orders had been given to remove them, but of their removal and dispersion he had not heard. He said he had further understood that there were, in the county of Madison alone, two or three thousand intruders, and many of them settled on Indian lands, whose owners they excited to hostilities. There was another fact, of which the House might keep possession. Among these intruders was one of the name of Harrison, he believed, who claimed under what was called the Tennessee Yazoo claims, and who settled on the land with his retainers, and deliberately began to apportion it among them. Whether he had been dispossessed, Mr. T. said he did not know. It was absolutely necessary to ascertain the situation of that country, and therefore he should vote for the reference of the petition to a committee.

The petition was ordered to lie on the table – 67 to 27.

Tuesday, June 13

Miranda's Exhibition

The House went into Committee of the Whole on the following resolution, reported by the committee appointed to consider the petition of thirty-six citizens concerned in Miranda's expedition, and now confined in the vaults of Carthagena, South America:

> "*Resolved*, That the President of the United States be requested to adopt the most immediate and efficacious means in his power to obtain the liberation of the prisoners, if it shall appear to his satisfaction that they were involuntarily drawn into the unlawful enterprise in which they were engaged; and that – dollars be appropriated for that purpose."

Mr. McKim observed, that he believed nothing further would be necessary for the attainment of this object than an application by the Government of the United States; he then moved to fill the blank in the resolution with such a sum ($3,500) as would defray the expense of sending a vessel there and clothing the prisoners previous to their return.

Mr. Randolph said he believed there would be no better time than on this motion to express the disapprobation which he felt of the report; for he was unwilling in his representative capacity, to give one cent of the public money for bringing back into the bosom of the body politic these unfortunate but guilty men. He knew how invidious a task it was to appear to lean to the side of inhumanity; he knew how very natural it was for the mind of man to relent after the commission of a crime, and to see nothing in a culprit but his misfortunes, forgetting his guilt; but there were occasions, and he took this to be one, where to lean apparently to the side of humanity is an act of as great injustice and cruelty to society as the Legislature can commit. What were the House about to do? To make an appropriation of money for an extraordinary purpose of foreign intercourse. Was not the President of the United States already invested with power to negotiate with the Spanish Government on this, as well as with any other Government on any subject? Was the President of the United States presumed to have turned a deaf ear to the cries of our suffering countrymen in captivity in a foreign nation? Mr. R. said this was not like a question of redeeming our countrymen from slavery in Barbary or Tripoli; but it was a question whether this Government would lend its countenance to that class of men who were concerned in the expeditions of Miranda and Aaron Burr. He for one said, that he would not consent to it; and that those persons who, above the dull pursuits of civil life, had enlisted under these leaders, might take for him, however he might feel for their situation as men, the lot which they themselves had selected. He said he considered them as voluntarily expatriated from this country, and among the articles of commerce and manufacture, which it might be contemplated to encourage by bounty and premiums, he confessed for one, that the importation of such citizens as these was not an article of traffic which would meet with any encouragement from him. So far from being afraid of any ill consequences resulting from the sparseness of our population, he was afraid that our population, (and experience has tested the fact,) sparse as it was in number, in quality was redundant. We have been told, said Mr. R., and I believe it, that but the other day the Foreign Office in Great Britain cast its eyes on Colonel Burr, and that they either did commit him – I understand that he was committed and stood so for some time, and was only released on condition of quitting the country – that they either did commit or threaten to imprison that unfortunate man. I want to know, sir, if he had stood so committed, in what respect his case, in a political point of view, would have stood contradistinguished from that of these petitioners? I can see no difference but such as, in my mind, would have operated to his

advantage. There is an equality of guilt, but on his part a superiority of intellectual character which would have rendered him, if there is to be an accession to the State by bringing back to its bosom those who have voluntarily thrown themselves out of the protection of the country, a more valuable acquisition, or rather a less valuable loss, than these unfortunate men.

It appears to me, sir, that in passing this resolution we shall hold up a premium to vice; for, if this proposition be agreed to, when some new Miranda or Burr comes forward with his project, he will tell his conspirators that they will have nothing more to do, should the matter turn out adversely, than to put up a face and tell Congress that they were involuntarily drawn into it. An extraordinary mode, to be sure, of volunteering to go against their will. These *involuntary* volunteers will be told they will have nothing to do but throw the whole weight of the blame on the original mover of the expedition, and Congress will tax their fellow-creatures – who, poor souls, had not enlarged and liberal minds, and were content with the dull pursuits of civil life – for redeeming them, clothing them, and bringing them back again to society. I wish the committee to take the thing into consideration. As men and Christians our conduct is to be governed by one rule; as representatives of the people other considerations are proper. There is, in the proposed interference, no justice; there may be much mercy, but it is a mercy which carries cruelty, if not deliberate, the most pernicious of all possible species of cruelty, along with it. Suppose these men had been arrested and tried in this country, what would have been their lot? It is difficult for me to say. I am no lawyer; but I suppose, under the mild institutions in some of our States, they would have been condemned to hard labor for life. In what do they differ, to their advantage from other felons? In nothing. Who would step forward to rescue them from that punishment due to their crime if convicted by our own courts? Nobody. Everybody would have said that they deserved it. Now, on the contrary, having escaped the hand of justice in this country, and fallen into the grasp of the strong hand of power in another country, we are not contented to let them reap what they have sown; we are not contented to leave them in the hands of justice. I believe that there exists a proper disposition in the Executive to interfere, where American citizens are wrongfully treated abroad. And, shall we come forward and open the public purse, and assume on ourselves the responsibility of that act which the President refuses to do, and thus share among us the imputation, such as it may be, which society chooses to cast upon us in consequence of it, instead of letting it fall singly and individually upon him, in case he chooses to incur it? No, sir. I have no disposition to pass this resolution to take the responsibility upon myself. In short, I should have been glad, if instead of telling us that these men are unfortunate and miserable, (for who are so unfortunate and miserable as the truly guilty?) that the members of that committee, or the respectable chairman himself, had come forward and shown the claim of these petitioners to the peculiar patronage of the country. So far from any disposition to bring them back, I would allow a drawback or bounty on the exportation of every man of similar principles.

Mr. Emott said, that as he had been a member of the committee whose report was now under consideration, he felt the propriety of making a few observations to show the expediency of adopting the resolution. In order to obtain the release of these miserable and deluded men, it was necessary that the Government should interfere, because the Spanish Government never would release them till such application was made. The only money necessary to be paid was not to the Spanish Government, but to defray the expense of bringing back the prisoners. It was not to buy their liberty, but to employ a person to go there to request it.

It had been said that the President had power to attempt the release of these persons without any resolution of the House. Mr. E. said he would not enter into that consideration. He knew, if the President had the power, that he had not chosen to exercise it; and if the House could find from the statement of the situation of these men that they ought to be relieved, they should not refrain from expressing their opinion, merely because the President had the power and would not exercise it.

It might be necessary, Mr. E. said, to call to the minds of the committee the situation of these men. They were persons employed by Miranda, in his expedition, who, he undertook to say, did not know that they were going on any expedition contrary to the laws of the country. When taken, they had been tried by the Spaniards on a charge of piracy, and condemned to lie in a dungeon for a term of years. They prayed the Congress for its interposition in their behalf.

It had been said that these men knowingly engaged in this expedition. Mr. E. said he believed that they did not; but, admitting, for a moment, that this was the case; that they did know the pursuit on which they were entering, they should not, for that reason alone, be suffered to lie in prison. Let it be understood, said Mr. E., that this expedition, whatever it was, was carried on, in the face of day, in the city of New York, and that equipments of the vessels and enlistments were made without interruption in the face of day. And would these persons believe that they were going on an unlawful expedition? They might have enlisted from the best motives; and, supposing that they had enlisted under the knowledge that they were going on an expedition, yet seeing that it was carried on in open day without interruption from the Government, he much doubted whether these poor men ought to be suffered to lie in prison.

But, putting motives aside, these men declare that they did not understand the nature of the service for which they were engaged; and this statement the committee who made the report had brought themselves to believe. Let it be recollected that these unfortunate individuals were lying in prison; and, although they had, by some means, forwarded a petition here, they could not attend in person to urge their claim to relief by proofs presented to the House. The persons who procured these men to go on this expedition certainly would not be very willing to come forward and give testimony; because, by so doing, they might criminate themselves and render themselves liable to the operation of the laws of their country. Considering that these persons were removed thousands of miles from us, that they were unfriended, and that the persons who alone could prove that their intent was innocent, would not come forward for fear of criminating themselves, he thought these men were entitled to commiseration, and he believed that it was in his power to show two or three circumstances which would convince the House that they had no knowledge of the nature of this expedition. The first circumstance was the extreme improbability that these men would have engaged in this expedition, if the nature of it had been explained. Had Mr. Smith or General Miranda gone to these men and said, "we are going on an expedition against the laws of the country, and, if taken, you will be punished under the laws of one country or the other," it is extremely improbable that they would have engaged. It is not likely that Miranda or Mr. Smith avowed their purposes, and told them that they were going on an expedition hostile in its nature, and against the laws of the country, because its object was to revolutionize a nation in amity with the United States. It is impossible that these men should have known the nature of the expedition, when it was not known to the Government here, however public. This circumstance, to me, is conclusive, to show that these young men did not know it. There might have been persons who did; if you please, Mr. Ogden, who furnished the ship, or others, but it is impossible to believe, that these men, who were mere soldiers for carrying on the expedition, knew the nature of it. I am convinced that these persons, all privates – for the officers were executed – did not know why they did enlist, or that the corps was for the purpose to which it was actually designed.

I have said, and perhaps every person here knows, that the whole of the business was carried on in the face of day. Here were General Miranda and Mr. Smith coming to the seat of Government, and back to New York, procuring clothes, enlisting men. Can it be conceived that all this could have been carried on, if General Miranda had not meant to conceal it from the Government? But it is in my power to furnish something more than mere conjecture on this subject. The committee will recollect that a greater part of this transaction took place at New York. There the men were to rendezvous, there the vessel was furnished, and to that State most of the young men who are now in South America did belong. In that State this matter was the subject of judicial investigation. Mr.

Smith and Mr. Ogden were indicted. I will read a part of the evidence given on the trial, which will satisfy any one, at least it has satisfied me, that these men had no hand in it. Mr. Fink, who was produced as evidence on the part of the Government to convict Mr. Smith, was the person who was intrusted with enlistments.

On the same trial there was one of the persons who has actually enlisted who deposed that the same information which Peter Rose received was given to others. This man also was a private in the expedition, and swears that the person who employed him told him that he was to be employed in the service of the Government; that he was to be carried to Washington by water and thence to New Orleans. The men who now petition Congress are persons who are placed precisely in the same situation. We find, in the course of the trial, that the person employed to enlist the men, declares that the person employing him refused to tell him for what purpose they were to be enlisted, and, of course, he could not inform those whom he enlisted.

Mr. E. said he had already remarked the extreme difficulty under which these persons labored, that they were at a distance of several thousand miles from this country, incarcerated, and friendless. He had satisfied his mind that they had engaged in this business unknowingly and unwillingly – and, what was now asked of the Government? That they should expend large sums of money for the purpose of buying them out? No. All that the Spanish Government wanted, he undertook to say, was, that a request should be made by the Government of this country for those men; and all the money required for this service, was money enough to send an agent there and facilitate his return.

Nothing had been said by him, Mr. E. remarked, of the peculiar sufferings of these men; but there were representations enough, to show that they were chained naked in a dungeon, without clothing, and without wood. Some had died and others must die. He hoped, therefore, for the reasons which he had given, that the committee would be satisfied that these men were not guilty of crime. If not guilty, he hoped there could be no doubt that they were a proper subject for the interference of the Government.

Mr. Bacon observed that the conclusion which the gentleman from Virginia (Mr. Randolph) had drawn, rested upon the idea that the men were guilty. If they were guilty, they certainly should not receive the benefit of the interposition of the Government of the United States. They had no claim on the United States when considered as criminals, or as men who had voluntarily engaged in this service. The report of the committee did not state this to be the case. I acknowledge, said Mr. B., that they are guilty in some respects, having innocently transgressed the laws. If they are guilty in the eye of justice, I contend they ought not to have relief. The report of the committee states, that, under a persuasion that the facts set forth by the petitioners were true, they were induced to submit this resolution. The committee had evidence, which they deemed competent, to prove that these men were not guilty men. In what respect, then, are they to be compared to Aaron Burr? No man will say that he did not proceed on his expedition with his eyes open, or that he could plead ignorance. The fact in relation to these men appears to be that they were inveigled; that their offence was involuntary, not as respected engaging in what they thought the service of the United States, but as to going abroad, for against their consent they were forced into the service. Therefore, with great truth, it might be said that they were scourged to the service. If this was the fact, as the committee appear to have believed, I ask, in what their case differs from that of men taken captives by the Algerines? Those men taken by the Algerines are engaged in lawful commerce; these poor men are engaged in an unlawful act, but not knowing it to be unlawful, and believing it to be correct, they are as innocent, in fact, as those who act innocently. The gentleman says, suppose they were to return to their country, would they not be punished? If the facts, as they state them, are correct, as I believe them to be, I do not believe that they would be punished. The law does not punish a man because he does not act, but for the *quo animo* with which he does it.

Mr. Taylor said if he could view this subject in the light in which it had been viewed by most of its advocates, and particularly by the gentleman from North Carolina, (Mr. Pearson,) he

should think it was the duty of this Government to make exertion for the release of these people; but even then he should inquire whether any exertion in their favor would not rather do them an injury than a service; for it would be recollected that every gentleman who had spoken seemed to consider the mercy which was asked to depend upon and to be bestowed by the United States. Were I a Spaniard, and attended the debate in this House, I should think that gentlemen in favor of the resolution contemplated an infraction of the rights of the nation before whose courts, and by whose laws, these men were condemned. These fine appeals to mercy and humanity would apply well before the power possessing the right to bestow mercy, but are not applicable to the feelings proper to be exercised on this occasion by this House. I say that it is one of the attributes of Government to punish those who have infringed or broken the laws of the country. These people have been condemned by a Spanish tribunal; it is by that Government alone that mercy is to be shown; and an exertion by this House in attempting to bestow mercy upon these people is an infringement of that right. I challenge gentlemen to show me an instance in the annals of diplomacy of a like nature with this proposition. I recollect one instance, but I have heard no gentleman propose to go so far. Oliver Cromwell, when a member of the British Commonwealth, was imprisoned by the inquisition, ordered his admirals to draw up before the harbor and demand his release. This is the only case I have met with in the course of my reading, of an attempt by one nation to relieve criminals condemned by another nation under its own laws. If this view be a just one, it certainly becomes a matter of great delicacy. If this Government had never been by the most secret whisper implicated (unjustly, as I firmly believe) in this transaction, still it would have been a subject of the greatest delicacy for the Government of the United States to interfere. What will the Government of Spain, Junta, King, or Governors of Spanish provinces to whom you apply, say to you on this subject? Why they will say – "We have long suspected, we have heard from your own quarter, that you were implicated in this expedition; you now give us proof; you have come forward in an unprecedented manner and interfered in a case with which you have no business, a case which is fully embraced by the sovereignty which we ourselves exercise over our own courts." Will it not at once be inferred that these assertions throughout the United States had been true, and that this Government was implicated or concerned, or, to use the words of yesterday, that this Government had connived at such an expedition? You will but render the sufferings of these people more rigorous. It is not to be conceived, although the gentleman from Massachusetts and others have acquitted the Government of participation, that the Spanish Government will do so also. Why, even in our cool and calm situation, you see that suspicion of the connivance of the Administration is not yet quite done away – and do you suppose, sir, that the Spaniards, against whom repeated expeditions have been made, at a distance from those sources whence conviction might flash upon their minds, will form the same opinion of the subject that we do? Fear forms a bias on their mind; and we form a conviction on the side on which we feel interested.

Gentlemen, in order to induce us to grant pardon to these men, which we have no power to do, have told us that they are innocent; because, forsooth, they themselves have said so. I recollect, sir, once in a conversation with a most eminent barrister in the State in which I live, who had often performed the duty of counsellor and advocate in our State, he informed me that in a practice of thirty years, in the course of which he had been concerned in the cases of many culprits, on many, nay, on all occasions, he put this plain question to his client: "I am your counsel; it is necessary for me, in order to make the best possible defence of your cause, to make the best statement in your favor, to know whether you are guilty or not." He declared that he had never yet met with a man who acknowledged that he was guilty. I believe that this disposition to appear innocent, is inherent in human nature. It is natural for these men to say that they are not guilty; they said so to the court before whom they were tried. Why were they not liberated? Why was not that mercy which is so pathetically called for bestowed on them by that tribunal before whom the case was examined? If they are the immaculate and almost sainted victims which they are described to be, why did not the

court which heard the testimony on both sides of the question bestow that clemency asked of us? I should presume, that when all the circumstances came out before the court, they were not favorable to the petitioners; and it is a respect due from this Government to the acts of that Government that such a construction should be put upon this matter. If we are to distrust the acts of the Spaniard, because, as we are told, he is vindictive and cruel, he might justly say that we have not done to others as we would be done by.

We should place the President of the United States in a very unpleasant situation indeed by requiring him to demand these men, if we would not also be willing to go to war for them. As our navy is now afloat I would propose as an amendment to the project, if gentlemen are serious in their determination to rescue these men, that our fleet shall sail before Carthagena and compel the Spanish Governor or Junta to give them up. This is the only mode of interfering with a matter of this kind, which is sanctioned by precedent, as I have before stated.

It would seem, sir, as if the passing scenes of this world were entirely forgotten. The British Government has been suspected of having connived at this expedition as well as the Government of the United States. They have received Miranda into their bosom; and on the examination on the trial of Sir Home Popham, it did appear that he had received orders to sail for a particular port of that continent to create a diversion of an attack expected to be made in another part of it. But what have the British Government done on the subject? Have they not considered it a delicate one? Have they not in their conduct given us the most sound and wholesome advice on the subject? Although I believe these men were employed to answer a purpose all-important to her, yet she has not extended towards these sufferers in her own cause that clemency which is asked at our hands. These men who were suffering in her employ, demonstrably acting in furtherance of her interest, have not met with the clemency of the Government; and the case is more strong when it is recollected that since the capture of these men, although previously at war with Spain, Great Britain was not only at peace but in alliance with that nation. With all these favorable circumstances, when but a hint from the British Ministry in favor of these people might have released them, yet being so delicate a subject that it has not been touched by them, shall we, who have been crusading and exerting every nerve for the releasement of our seamen, and with all our efforts have been unsuccessful, shall we start on a fresh crusade for these men, when the efforts of the Government in the other cause, in so noble, so just, and so humane a cause, have as yet proved unavailing? Shall we engage in a contest for these people, who are acknowledged justly to be in the power and under the sentence of the courts of another nation, whilst the honest American tar, guiltless of harm, is writhing under the lash of every boatswain on board a man-of-war? If you will go on and reform the whole world, begin with one grievance first; to use a homely phrase, do not put too many irons in the fire.

Sir, if the Spanish nation has any feeling for its sovereignty, it would spurn your request. Only suppose that nation to possess the same feelings which actuate every breast in this House; which actuate the American people. Suppose the claim of Mr. Burr to citizenship in Britain, on the ground of once a subject always a subject, had been recognized by the British Government. Suppose that he was suffering in chains in some of your prisons, and because they had heard that Mr. Burr might have been innocent, the British Government had asked his release, would not the people of America have spurned the request as an indignity to the nation? And may we not suppose that these proud Spaniards, as they are called, may have feelings of a like nature? I believe, sir, that the course proposed would only add rigor to their sufferings, weight to their chains.

Mr. Livermore asked if the committee which made this report had not before it evidence that certain British subjects concerned in Miranda's expedition had been liberated on the application of some officers of that nation? If they had it would be a fair answer to the eloquent speech of the gentleman from South Carolina.

Mr. Randolph said he did not think that the information asked for by the gentleman was at all material to this case. It was a matter of no consequence at all, as respected the statement made

by the gentleman from South Carolina on (he had no doubt) very good grounds. What, said Mr. R., has been the situation of Great Britain in relation to Spain? Great Britain, at the time the expedition was undertaken, was an enemy of Spain – was at actual war with Spain – and therefore in a subject of Great Britain it might have been highly meritorious to annoy Spain, either at home or in her colonies to the utmost extent in his power, without any direct authority from his Government. Subsequently to that time, however, Great Britain has become the ally of Spain in consequence of the revolution; and at that time Great Britain obtained from persons exercising the authority of government in Spain the release of these prisoners, which it is perfectly natural Spain should then have granted. But suppose, instead of that change having taken place in the relations between Great Britain and Spain, Bonaparte had quietly succeeded in putting King Joseph on the throne of Spain and the Indies, and applications had then been made; or suppose that the application had been deferred until now, and the power of the House of Bonaparte was as complete over the colonies in South America as we have every reason to believe it is over the European possessions of the mother country, would the British subjects in that case have been released? It is an unfortunate circumstance that no question can be agitated in this House and tried upon its own merits; that every thing which is, has been, or may be, is to be lugged in on the question before us, to the total exclusion of the merits of the case, and in this way, instead of a session of three and six months for doing the business of the nation, if every question is to be tried in the manner in which it appears to me this has been, we may sit to all eternity and never get through it.

I lay no claim to greater precision than other men; but really I cannot perceive what kind of relation, what kind of connection exists between most of what I have heard on this subject, and the true merits of the case. Gentlemen get up and abuse the Spanish Government and people, and what then? Why, it appears all this is preliminary to our making an humble request of this Government and people that they shall grant us a particular boon. To be sure, sir, all this time we do plaster ourselves unmercifully – we lay it on with a trowel – and gentlemen seem to think that if we sufficiently plaster ourselves, our President, and people, and be-devil every other Government and people, it is sufficient to illuminate every question. And this is the style in which we speak to Governments perfectly independent of us! – A very wise mean, to be sure, of inducing them to grant the pardon of these people as a favor to us. Sir, it would be a strange spectacle, to be sure, when this Minister that is to be, this sort of anomalous messenger whom you are going to send, I know not exactly to whom; whether to the Junta, or persons exercising the power of government in the provinces, or to the Government in Europe; when this Minister goes to Carthagena or elsewhere, if he should carry to the Viceroy along with his credentials a file of papers containing the debates on this question. Why, sir, like Sir Francis Wronghead, we appear all to have turned round. My honorable friend, the gentleman from South Carolina, (Mr. Taylor,) spoke of the crimes of these men. Gentlemen on the other side, who wish them to be pardoned, tell you of nothing but of their innocence, and the injustice of those who condemn them and now have them under punishment. Two more such advocates as have appeared in favor of this proposition would damn the best cause ever brought before any House or any court in Christendom. The gentleman from New York, (Mr. Emott,) who spoke yesterday, certainly very pertinently, and very handsomely, tells the House that in this case no other money than that of the United States, will be received; that with a sort of Castilian fastidiousness, those persons acting for the Government of Spain will not touch any money which shall not be offered in the quality of public money. I believe no such thing; and moreover, I wish it to be distinctly understood that the question of money is not the question with me; and that to suppose it necessary for the Government of the United States to interfere for the purpose of raising so pitiful a sum as $3,500 for the relief of these unfortunate men, whose situation I most seriously deplore, is a libel upon the charity of this country. I believe, notwithstanding the public impression on this subject against the petitioners, that the money could be raised in half an hour in any town in the United States. I believe it might be raised in that time in the city of

Washington. It is not a question of the amount of money wanted; it is, whether the Government of the United States shall lend its countenance to persons situated as these unfortunate people are? Sir, had we at that time been at war with Spain, as Great Britain, something might be said in favor of these persons. But we were not at war with Spain, and these men knew it; and I believe they knew at least as well as I know, that when a man is recruited for *public service*, as they say they thought to be their case, he is immediately taken before a justice of the peace and sworn. This part of the ceremony, however, is not stated to have taken place. To be sure, sir, the gentleman from New York (Mr. Emott) said, I believe, every thing that could be said in favor of those unfortunate people, and really almost convinced me that we ought to make this interference; but unfortunately for him and for his cause, other advocates rose up in its favor and placed the subject in a situation not only as respects the majority of this House, but as respects that Government with whom intercession is to be made, which will completely foreclose any attempt at relieving the sufferers. It is not possible that the majority of this House, or that the Spanish Government, can be affected in any other manner than with disgust and indignation at such stuff. The gentleman from New York told us that these were ardent young men, who were anxious to go to Caraccas for the purpose, I think, of correcting the despotism which existed in that country; or otherwise, political Quixotes. This, I take it, will operate little in their favor with the Spanish Government, however it may in ours. I confess I feel very little sympathy for those who, overlooking their own country, and the abuses in their own Government, go in search of political adversaries abroad – go a tilting against political despotisms for the relief, I suppose, of distressed damsels compelled to live under them.

The question was now taken, and the votes being affirmative 62, negative 61, the Speaker voted in the negative – the votes then being equal, the question was lost.

Monday, June 19

The Batture at New Orleans

The House proceeded to consider the resolution submitted by Mr. Macon, on the sixteenth instant, in the words following, to wit:

> "*Resolved*, That so much of the message of the President of the United States of the seventh of March, one thousand eight hundred and eight, as relates to the batture in the suburbs of St. Mary's, adjoining New Orleans, and the documents accompanying it, together with the petitions of Edward Livingston, and the petitions of the citizens of New Orleans on the same subject, and the documents which accompanied the same, be referred to the Attorney-General of the United States, and that he be instructed to receive and collect such other testimony as may be necessary to ascertain the title of the United States to the before-mentioned batture, and that he be directed to report to this House, at the next session of Congress, his opinion as to the validity of the claim of the United States to the said batture."

Mr. Burwell thought that this was not the proper course to pursue; but that the course recommended at the last session was the one, viz: to give the petitioners the right of appeal from the decision of the Orleans court to the Supreme Court, or to give the United States the same right, should the decision be against them. He could see no advantage in the procrastination now proposed, nor any injury to the United States or the city of New Orleans, in the course which he advocated. He doubted, although the letter of the law of 1807 might cover this case, whether it was ever intended that that law should operate as this had done. My intention, said he, in voting for it, was that it should apply exclusively to the Western lands, commonly called the Yazoo lands, and such other lands as were occupied by hundreds who might be formidable from their numbers. To undertake jurisdiction on questions of property is taking upon ourselves the functions of another department of the Judiciary. The case involves important points of law – and let me ask, whether the gentlemen in this House are so well read in law as to be able to decide such an important point as this? It does appear to me that on all the questions of private property arising in the United States, where the question of right is not to be brought before this House, we ought to consult the convenience of the parties by promoting dispatch. On the question whether this property belong to the United States or to the petitioners I am completely ignorant. Nor would I have it inferred that I believe the petitioner to have a right to the property; I take it that the claim of the United States must be good, or the inhabitants of Orleans would not be so zealous in the support of it.

Mr. Poydras asked for the reading of a letter which he had received from the Governor of Orleans Territory, which was accordingly read. The letter states, that if it were possible that the committee to whom Mr. Livingston's claim was referred could now visit New Orleans, they would be convinced that the batture, now covered with water, was in fact the bed of the river, and, therefore, could not be private property. Mr. P. stated the history of this piece of alluvion at some length, and the circumstances under which it had always been deemed public property.

Mr. Sheffey said that before passing this resolution, gentlemen ought to ascertain what the Attorney-General could do in this case. He could not compel the attendance of witnesses, or collect testimony of circumstances which occurred a hundred years ago; and unless he could do this, it was impossible he could examine the title, for testimony as to facts was essential to enable him to form a correct opinion. What influence could the opinion of the Attorney-General have? Was

the right of the citizen to fall prostrate before such an *ex parte* opinion or statement as that might be? If it was not to have influence, why thus evade a decision on the prayer of the petitioner? If it was to have any influence, it must be a pernicious one, because founded on *ex parte* testimony. Would the House go into the merits of the case on this opinion, when obtained without affording an opportunity to the party interested to prove that the law was not correctly expounded nor the facts correctly stated? Surely not. If they did not, if they heard opinions on both sides, they converted this House into a judiciary tribunal. Was this body calculated for that branch of Government? No; this, Mr. S. said, is a Government of departments, each of which ought to be kept separate. What, sir! is this a question of right between the United States and an individual, and we are about to take it into our own hands, to wrest it from the constitutional authority, and decide it ourselves? I hope we shall not; and, therefore, I am against this proposition. What does the Attorney-General state in his report? Aware of the impropriety of his deciding, he tells you – what? That the usual course, where the rights of the United States have been involved, has been to appoint commissioners to hear and decide. Here the Attorney-General tells you it is not proper for him to decide. And I should never wish to see the case in which the Attorney-General's opinion is to give authority for dispossessing an individual of his property; for if it can be done in one case it may be in every case. Any individual may be driven from his property by military force, and then his title be decided by an ill-shapen, one-sided statement and opinion of the Attorney-General. Against such a decision I do protest. Is it because you have power on your side, sir, that you will not submit to a judicial decision of this question? If there be a controversy about a right, there ought to be a judicial decision.

I, sir, have been unable to see how an individual having property, in which he was put in possession in 1804 or '5 by a judicial decision, could be disposed of it by the act of 1807, the operation of which was limited to acts done hereafter, that is, after the passing of that act in 1807. That law too speaks of "lands ceded to the United States." Was the batture ceded to the United States? I say not, because it was private property before the United States possessed the sovereignty of the country. By the treaty of 1803 with the Government of the United States, the rights and property of the inhabitants of Louisiana was secured to them. What then is the inference from this state of the case? That the United States got possession illegally, in defiance of judicial authority. I am sorry to see that the judicial authority has been set at defiance, and the Presidential mandate carried into effect at the point of the bayonet, right or wrong. This was the case. Those who were put in possession were ousted by military force. Let me not be understood as throwing odium on the Executive; far from it. I believe the Executive acted conscientiously, but upon an *ex parte* statement. The President was never told that the case had been judicially investigated. Those facts were taken for granted, on the other hand, which did not exist, and those which formed the foundation of the true merits of the case, were withheld.

Mr. Poydras spoke at some length in reply to Mr. Sheffey, and in defence of the title of the United States. The batture had many years ago been considered as public property, and no one who examined the circumstances of the case could for a moment doubt it. He said that it had never been claimed as private property until after it came into the possession of the United States. He hoped the rights of the public and of the people of New Orleans would not be trampled upon to grant the petitioner his prayer.

Mr. Macon said that he was himself in favor of giving the right of the United States to the property to the people or corporation of New Orleans, and letting them and the individual contest it. There was nothing new, however, in the reference of a subject to the Head of a Department, whose opinion would have no more weight than reason, and so far only ought it to have weight. Mr. M. said he had no more desire to interfere with the judiciary than either of the gentlemen who had spoken. If provision was made for trying this case, must it not be extended to all others? In order to do justice, it must be done to all. Had not a special court been refused in relation to a property of much greater value than this? Before Congress made a special court for a certain case, they ought

to look at the consequences. It was departing from the general system of the nation to appoint a court for a special case. Perhaps there was something in this case which differed from other cases: but he doubted whether it would warrant the appointment of a special court. Mr. M. said he saw no other way of treating this subject but by letting it go before the courts already organized. If the right was in the petitioner, be the consequences what it might, the city of New Orleans had no right to take it away from him.

Mr. Troup observed that this case was probably one which would fall under the old maxim, *nullum tempus occurrit regi* or *reipublicæ*. It appeared to him that there was a constitutional difficulty in this case, which did not appear to have suggested itself to the mind of any gentleman. First, has the United States a claim, either real or disputed, to this territory? Whether disputed or otherwise, provided the claim be asserted on its part, the question is, has the Congress of the United States a power to decide the validity of that claim? And if it has, is it proper so to decide it? What is the subject-matter in dispute? Public property; and what species? Landed. Then the question results, has Congress a right, in order to determine its title, to refer it to any tribunal whatever? I contend not; the right to public property was originally in the people of this country; they could never be divested of their great public right to the landed property of the nation, but by their express consent. They did give that right to the Congress of the United States, in declaring that it should have power to dispose of and make all needful rules and regulations concerning public territory. Would it have had that power, if this right had not been expressly delegated? I know that, under the old Articles of Confederation, Congress did undertake to legislate as to property; but it was always questionable whether they had a right to do so – and this was not the only point on which Congress did exercise powers which were brought into question. The right to determine claims to public property is not only guarantied exclusively to Congress by the constitution, but the practice has been invariably pursuant to it; it was so in 1807. The Government not only asserted its right in the first instance, but asserted its power to enforce the right at the point of the bayonet. If the public have always been in possession of a certain property, the man who enters on it without their consent is a trespasser on that property. Upon this view of the subject, there is a constitutional difficulty on which the House should decide, before it entertains a motion for delegating a power to decide this question to any tribunal or commission whatever.

Mr. Boyd said, admitting all the gentleman had said to be true, his observations did not apply to this case. He had spoken of the right to public property. The question now was, whether this was public property or not; if it were certainly public property, on which ground the gentleman rested his argument, there could be no question on the subject. It was asked only before they decided between the individual and the United States on the right to land, not confessedly public property, but claimed as such, that fair investigation should be had. Mr. B. disclaimed the power of deciding judicially upon the subject; it was a right which he had never thought of this House claiming. A delay of justice was a denial of it. The individual petitioning had been in possession of the property; it had been taken from him by force, and he now asked a trial of his title before a competent court – and this opportunity, Mr. B. said, he ought to have as speedily as possible.

Mr. Randolph said he should vote against that report. He said it was no part of his intention to deliver any opinion on the merits of the claim, although he had devoted not a little of his time to the study of that question, for two reasons: first, that it would be a prejudicated opinion, inasmuch as that was not the question which the House were called upon to decide, even if it were competent to decide it. I am extremely sorry, said he that the law of 1807 has been brought into view of this House by my friends from North Carolina and Georgia, and for this reason: that that law has no bearing at all on the present question. Its object was wholly different from that to which it has been misapplied. What, sir, was the object of that law? To defend against a conspiracy, I may properly term it – against the lawless violence of confederated associations, a vast property. How has it been applied? Not to a great public property, but to a speck of land, to which, as I understand it, a single

individual, or at most three or four, put in a claim. Such an application as that of the law in question was never intended by the Legislature; and, if applied to such a property as the batture, and to the case of a single individual, may be applied to the property of every man in society. What is the doctrine of my friend from Georgia? That the public are always supposed to be in possession of the national domain. True, sir, and it is also true that those who enter upon it and endeavor to appropriate it to themselves, are trespassers, and as such, may be resisted by force. But that is not the case in the present question – very far from it – for the public never had been in possession of the property in question.

Without attempting to enter into the merits of the real title to the land in question, let us take it on the ground of the right of the citizen. A citizen comes before this House, and complains that he is dispossessed of his common right by arbitrary power. If, after a cause has been heard by a court, and a citizen put in possession of a property, by a decree of that court, he is dispossessed of it by military violence, where, if not before this House, is he to prefer his claim for redress? There is no court before which he can go, because the court which is the last resort in this case has already unavailingly given its decision. There is no court of appeal, no superior tribunal, and if there were, and a decree of the Supreme Court obtained in his favor on the appeal, what is any decree to avail against armed men – against muskets and bayonets? But this is not the only reason why I am sorry that the act of 1807 has been brought in to apply to this case. It is because, if this House can be once prevailed upon to consider this case as analogous to the Yazoo case, many most injurious consequences must follow therefrom. The first is, that that odious and supremely infamous claim will be put upon a ground which it is by no means entitled to occupy; and I entreat my friend from Georgia, and those whose minds are unalterably made up on the Yazoo question, not to give their enemies such a prize as they must have on us, if we agree to confound the Yazoo claim with that before the House. There is no sort of analogy between them. On the other hand, sir, supposing the right to be in the United States, I beg gentlemen not to create so forcible an interest against the rights of the United States as will infallibly be embodied against it if we confound the two. I have no idea of giving the Yazoo men such a handle. Again, let us suppose, if we can suppose it, that the right is in the petitioner; may it not, supposing a great majority of the House to be against the Yazoo claim – we do not know how they are disposed – may it not create an unjust bias against the petitioner? So that in whatever aspect we view it, it is not only impolitic, but, what is worse, extremely unjust to attempt to identify the two cases. And, sir, it is a matter of curious speculation, that while the act of 1807 has been brought into operation in the case of a solitary individual and a little speck of property to which it was not intended to apply, even supposing the case in question to to have arisen subsequently to the passage of that act; that, although it has been misapplied in this case, it has not been applied to the case to which it was intended to apply, and for which it was enacted; for, if I understood my friend from Georgia a few days ago, some hundreds or thousands of intruders have set themselves down on the public lands, and the public force has never been employed against them. On the contrary, the artillery of Government has been brought into play against a single individual. It was, indeed, said that these intruders had agreed to remain as tenants at will; but, let them remain till they are sufficiently strong, and they will give you another chapter in the history of Wyoming; for, after they are sufficiently strong to hold territory, although the arm of Government has been applied successfully to oust a single individual put in possession by a decree of a court, you will find it nerveless to expel these men.

With regard to the doctrine *nullum tempus occurrit reipublicæ*, it is a dangerous doctrine, if carried to the extent to which I apprehend my friend from Georgia would carry it. I venture to say that the abuse of that doctrine in the celebrated case of Sir John Lowther and the Duke of Portland, which created one general sentiment of indignation in the British nation – an attempt under that maxim to deprive a subject, hostile to the Court, of property of which he had been long in possession, for the purpose of transferring it to a minion of the Court – that case, with

all its aggravated enormities, does not come up to the case before the House; and I speak without reference to the question whether the petitioner has a right or not to the property in this case. The question of right is not before the House, and that question, decide which way you will, can have no sort of weight in the vote which the House ought to give. The question is this: Having been long in possession of a piece of land, the title deeds destroyed, records burnt, and possession the only title you have to show, an attempt is made to dispossess you of the property; a decree of court confirms your right; if the individual, under these circumstances, can be turned out of possession by main force and strength, and that, too, military force, there is an end in the right to property of every man in the country. Sir, I have been astonished, and grieved and mortified, to see so little sensation created in this nation by the procedure in question. It strikes at the root of every thing dear to freemen. There is an end of their rights.

What, then, is this case? An individual comes before us, and says, that after having been put in possession of a piece of land, (I speak not of the validity of his title; it is not concerned in this question,) he was dispossessed by military force of this property. These two facts I do not understand any member of this House to deny. And what does he claim? He claims of you, as the guardians of the rights of every man in society, *justice*. And where do you send him? To the Attorney-General. I will suppose that in the Lowther and Portland case, the Duke of Portland had been referred to the Attorney-General. Would the English nation have endured it? No, sir. Much less would they have endured, military as the nation is becoming by the introduction of large standing armies, that he should have been dispossessed of his property by an armed military force, at the fiat of the Crown. The question is, what should be done? Sir, what should not be done is perfectly clear. It ought not to be done that the petitioner should be sent to the Attorney-General, who has already given an opinion on his claim, though that is very immaterial, which opinion it seems we cannot find. If I understand any thing of this Government, however, it ought to be on record, and this return of *non est inventus* ought not to have been received. All that we have to do, it appears to me, is to make a provision, in the nature of a declaratory law, not amending the act of 1807, but, declaring what the law is; and we ought to quiet the rights, and the mind too, of every man in society, by declaring that, by the act of 1807, it was not intended to authorize the President of the United States to interpose the bayonet between the courts of justice and the individual. This power never has been given, never was intended to be given.

Mr. Gold said that this was one of the most important subjects that had ever been brought before the House. He did not mean to enter into the merits of the case. The gentleman from Virginia had very clearly expressed all those sentiments which every man must feel on hearing the history of this case; and as regarded the ground taken, of *nullum tempus occurrit*, the gentleman had repelled it very properly – and indeed in that country whence the maxim had been derived, whenever it was attempted to be put in force against ancient possessions, it had been executed with great difficulty. It is in the very teeth of *Magna Charta*, which says that a freeman shall not be dispossessed of his freehold without a better right is ascertained. There are a variety of forms by which the right is guarded. If I, said Mr. G., understood the gentleman from Georgia, (Mr. Troup,) he considers it a sacrifice of the rights of the United States to permit a decision on its property to pass into the hands of third persons. Even in England the prerogative is not carried so far. The Crown has frequently consented that the right of Government should pass into the hands of third persons, viz: of commissioners, for the purpose of investigation.

I will not trouble the House with lengthy remarks on this subject. I can hardly advert to it without feeling all that has been much more eloquently expressed by the gentleman from Virginia than it is in my power to express it. Let gentlemen look around and see if they can find a precedent for this transaction. And when we consider it, every man's feelings must be operated upon too strongly to permit him to argue. The course suggested by the gentleman from Virginia must prevail, or we no longer live under a Government of laws, and those principles on which it is founded are

destroyed. The man ousted must be put in possession, must be restored to the possession of the property which the hand of violence has wrested from him; and I hope that a proposition to this effect in a proper shape will be presented.

Mr. Gholson said he thought it would better become the character of this assembly to discuss every subject with calmness and deliberation, and on its own merits, than to endeavor to influence the decision by an appeal to the passions. It was important that such a course should be pursued, whether with reference to a great political principle or to the interest of the individual whose rights were said to have been wantonly prostrated at the Executive will. I (said Mr. G.) have been early taught, and the doctrine has grown with my years, that the right of property is not one of the least consideration in a free constitution. It is of a nature so sacredly inviolable that, when clearly ascertained, I would never encroach upon it by any means but through the regular constituted authority. It would have been under this impression that, had I been a member of the Legislature when the law of 1807 was introduced into the statute book, I should have been opposed to it. But receiving all the sanctions of a law, and as such containing a rule of conduct in certain specified cases, what was the Executive to do? Was he to set at defiance the law of the land? A doctrine like this can never be contended for. It seems, however, that to satisfy gentlemen the President should have refused to carry this law into execution, which I acknowledge does usurp judicial authority. – [Mr. Randolph said that his ground was that the President had not executed the law. If a law were ever so unconstitutional, the President having signed it, it would become his duty to carry it into effect. But he denied that he had carried it into effect.] Upon that point, continued Mr. G., my colleague and I are at issue. I rise not to discuss the merits of the claim, which I have no disposition to do. I rise to defend the late President of the United States, to endeavor, to the extent of my feeble powers, to place this question in a proper point of view. If the President of the United States has gone beyond the letter of the law, which itself tends to encroach on the rights of the citizen, I would be the last person to justify him in thus trespassing on the dearest rights of a freeman. But it is very easy to show that he has not exceeded the express provisions of the law in question.

The act of 1807 contains two clauses having a bearing on the subject; the first ascertaining the character of the persons to be ousted, and the second providing the means of ousting them. The President is authorized to exercise this power, either where property was previously in possession, in which case he is to give notice, or where it was subsequently entered on, in which case he is not required to give notice. It is easy to show that this is one of the cases contemplated by that act. It is well known that the feudal law did exist in Louisiana, previous to its acquisition by the United States, and that by that law alluvion does accrue to the Crown. Now, if the feudal law did exist, and by that law alluvion did accrue to the Crown of France, does it not follow that the same right did accrue to the United States by the deed of cession from France, who owned the territory? If the claimant was in possession when this act passed, it became the duty of the President of the United States to give him three months' notice previous to his removal; if not, no such notice was necessary. On this point I need only refer to the fact that it was not so early as the passage of the act, indeed not till the 23d of May, that the claimants came into possession. They were quieted in possession, so far as the rights of the United States were not concerned, on the 23d of May, 1807.

The decision of the corporation court of New Orleans is relied on as giving a title to the petitioner. That that decision did at all affect, in the remotest possible degree, the right of the United States, is a position which no man acquainted with the principles of law will contend for. The decision cannot affect the right of the United States, because it was not contested or defended before that court.

It is said that the feudal law does not exist in France. From time immemorial it has existed all over Europe. That it exists at this time in this country there can be no doubt. The right to lands is allodial, but is inherent in the Government. Is it denied that the Government can take property from an individual, making him compensation therefor? If the right to land be indefeasible, could

the Government run a road through it? It certainly could not. I wish it to be distinctly understood that I do not attempt to say where the real right to the property in question does reside. But I do say, that, according to the treaty of cession, it did become the Government of the United States to exercise the power which the President under the law of 1807 did make use of.

If there has been any violation of right, it was in the passage of the law under which the President acted. It was such a one as, under present persuasion, I could not have voted for, even to remove a Yazoo purchaser. I would even give to such a one his right to a fair trial. I would not have agreed to pass it, for a reason given a day or two ago, that the right to trial by jury is inalienable; it is a right which descends to us with our other birth-rights; it is one without which liberty is but a name. It was an unfortunate circumstance that such a law did pass. But if the Legislature thought proper to enact such a law, let them not, in the name of the great God, throw the blame on their instrument, on the President, who was innocent of fault, and bound to carry the statute into effect. There is undoubted proof that the President only acted in pursuance of the statute. The retroactive part of the statute is the most horrible feature in it.

But it is said that this is an extreme case, that this small spot was selected as the object of Executive vengeance. I am informed that in almost every instance of intrusion on the public lands, settlement was made by individual claimants. I would rather give up fifty times the value of land of the United States than to encroach against law on that of any individual. It was not the execution of the law which encroached on the rights of the citizen, but the law itself. I would ask, how can it be contended to the contrary? Who was in possession of the land when the law passed? It had been used as public property, and had every requisite to that character; and as such, when any one took possession of it, the President would not have done his duty under the act of 1807, had he not caused them to be removed.

Monday, June 26

Non-Intercourse

On motion of Mr. Smilie, the House resumed the consideration of the report of the Committee of the Whole, on the bill from the Senate, to revive and amend certain parts of the act interdicting commercial intercourse.

Mr. Dana said the amendment moved to the amendment of the gentleman from Virginia (Mr. Sheffey) went to give a construction to the bill which would operate as a complete exclusion of the vessels of both powers until a satisfactory adjustment of all existing differences shall have taken place. What, said Mr. D., is the situation in which we are now placed? On what principle is it that British ships were first excluded and on which their exclusion was confirmed by the non-intercourse law? They were originally excluded by the proclamation of the President of the United States in consequence of the attack on the Chesapeake. The President of the United States now in office has declared his acceptance of the proffered terms of satisfaction for that outrage. And, after that, is it proposed that we shall continue the measure of hostility when the cause alone which led to it is completely done away? I should suppose that in the very act of adjustment, which took place between the British Minister and the American Secretary, it is implied that we should do nothing further on this subject. The President of the United States has accepted the satisfaction offered; he has declared those terms, when performed, to be satisfactory. And are gentlemen considering the restoration of the seamen taken from the Chesapeake as a reason why we should continue the interdict? If we examine this subject fairly, the great principle of reparation was disavowed of the claim to search our armed vessels, and a homage to our rights. That matter must be deemed to be settled, if the President of the United States had authority to settle it. If the President had not power to settle it, this furnishes strong evidence that the vote of approbation of his conduct was a proper proposition.

As to the interdiction by the non-intercourse act, I apprehend that was founded on the violation of our neutral rights by the belligerent powers, the President of the United States being authorized to renew trade whenever the edicts violating our lawful commerce should be revoked. Whether or not the President has done right in accepting the assurance instead of the fact, gentlemen have considered it unnecessary for them to express any opinion upon it. If there be no edict affecting our lawful commerce in force by one belligerent, the interdict is at an end in point of fact in relation to that one. The question of the affair of the Chesapeake is settled, if the President had power to settle it; and as to the other cause of interdiction, the President has declared that the British orders will have been revoked on the 10th of June. Has the President acted correctly or not? If he has acted correctly in taking the assurance for the fact, the very principle of the non-intercourse is at an end as respects one of the belligerents, and there can be no ground for the exclusion of British armed vessels.

Mr. Taylor said he thought the gentleman from Connecticut used the word hostility in relation to this measure of including British armed vessels from the United States. Now, I believe, sir, said Mr. T., that if we go to the opinions entertained, not by the President of the United States, but entertained and expressed in the very foundation of the arrangement which was made, it will be found that the very hostility intended to be produced by the President's proclamation ceased at the moment when we passed the non-intercourse act in which we excluded the vessels of both the belligerents. The hostility was in the admission of the armed vessels of one, and excluding those of the other. It ceased by the non-intercourse law, and so satisfactory was this law of the last session, that it was the very foundation on which the overture was made which ended so much to

the satisfaction of this nation. So that, in fact, when we perpetuate the order of things produced by that act, we do not perpetuate the state of things produced by the interdictory proclamation of the late President. It was matter of satisfaction to the British Government, as expressed by their Minister here, that the quality of hostility in the exclusion of her vessels was taken away by the non-intercourse law. Have we promised, in the negotiation which has taken place, that we will commit an act of hostility against France for the boon which we have received from the hand of Great Britain? No, sir; and yet, if we take the definition of Mr. Canning, as to excluding the vessels of one belligerent and receiving those of the other, according to the mode proposed by the amendment, without the sentence moved to be admitted to it, it will in fact be agreeing to go to war with France. According to the opinion of Britain, promulgated not only to this Government but to the world according to the demonstration made by the British Government, you will undertake a measure of active hostility against France; for what? For any great boon that this Government has received from the hands of Great Britain? No, sir. If all the promises were fulfilled to their full extent, we should then receive but justice at her hands. It was acknowledged, too, in the discussion which took place, that any nation, particularly a neutral nation, has a right to exclude the armed vessels of both belligerents; but that, on the contrary, the state now proposed to be produced, the exclusion of one and admission of the other, is an act of hostility of the party excluded. As I would not be compelled by the utmost ill usage by either belligerent to take part with the other against that one, neither will I take a consent or refusal from one or the other to do us justice as a motive for alliance, or a war which shall compromit our neutrality. I now speak of both, for both have used us as ill as was in their power. As kicks and cuffs have not compelled us to take part with them, neither shall caresses or fawning, for we will mete out an equal measure of justice to both. I consider the state of things produced by the non-intercourse as totally distinct from that produced by the proclamation of our late illustrious President.

Mr. Fisk. – It was my intention not to have troubled the House with any remarks on the bill now under consideration. I could readily have reconciled it to my feelings to have given a silent vote in favor of the bill, had not so many and various objections been made against it. But as it seems to be objectionable, and susceptible of so many amendments, in the opinion of so many gentlemen, the House will indulge me, while I offer the reasons which will govern my vote.

This bill for which we were convened, has, during the time we have been here, received as yet but a small portion of our attention; and it is so important that upon its passage, and the principles it shall embrace, may depend the destinies of our country. It deserves our immediate and most serious attention. I hope it may be coolly and dispassionately examined, and treated according to its real importance. Its principles have been carefully and scrupulously investigated by the committee who reported it, or a bill similar in its provisions, of which committee I had the honor to be a member.

The language is plain; public ships are not interdicted. There is but one question to be decided in disposing of this bill, and that is respecting public ships; for I believe all will agree to renew the non-intercourse act as respects France. The question is, what regulation shall we make respecting public ships, and one of three courses is to be pursued? Shall we exclude both, admit both, or discriminate?

There are many who would be willing to exclude the armed ships of every foreign power from our harbors and waters. And considering what we have suffered by admitting them, it may be well questioned whether it would not be the best policy of this nation to interdict them by a permanent law. Yet many gentlemen object to this, as being inexpedient at this period. It is said, and it is the principal argument urged against it, that it might embarrass our impending negotiations with Great Britain to interdict her public ships by this act. As I feel as much disposed for an amicable adjustment of our differences with that nation as any member of this House, and would be as unwilling to embarrass the negotiation, I would not insist on this interdiction.

It is also said that England has made reparation, or agreed to make reparation, for the aggression which caused the interdiction of her public ships, and that as the cause no longer exists the interdiction should cease. *Be it so*; and may we never have fresh cause to renew it!

But, say gentlemen, we must not now recede from the ground we have taken with respect to France, we must discriminate. Let us for a moment view the ground we have taken – not only as relates to France, but England also.

We are not at war with either of the belligerents. Our Ministers at their respective Courts are endeavoring to negotiate, and by negotiation to obtain redress for the injuries of which we complain, and whatever precautionary measures we might adopt would not be deemed a violation of our neutral character, so long as those measures were equally applicable to both the belligerents. We could not be deemed to have taken part with either to the prejudice of the other, while no other was benefited by our measures. While British public ships were interdicted, and our embargo existed, an offer was made to both the belligerents to resume our trade – the same equal terms were tendered to both. The nation refusing is left without a cause of complaint against us, for resuming our trade with the nation accepting the offer.

Before either nation does accept, America changes her position. The embargo is abandoned, and a general interdiction of the public ships of England and France, and a non-intercourse with these nations and their dependencies, is substituted. By this non-intercourse act, the particular interdiction is merged in a general regulation. This was to exist until the end of the next session of Congress only. This was virtually saying, that the proclamation interdicting British public vessels from our waters for a particular aggression shall be revoked; and a general municipal regulation, over which the President shall have no control, shall be substituted in its stead. It was then, in order to preserve our neutral character, necessary that this rule should embrace both the belligerents. It may be said, and has indeed been frequently said, that the reason of extending this restriction to France, was her having burnt our vessels and imprisoned our seamen. But never, at least in the history of diplomacy, have cause and effect been more distant and unconnected. France, on the high seas, burns our vessels, and in her own territories imprisons our seamen. We, at the distance of three thousand miles, interdict our ports and waters to her public ships, which do not or dare not come within five hundred leagues of the line of our interdicted territory, and this is to retaliate for the aggression. Can this interdiction be defended on this ground? It cannot. There must have existed some other reason. It was to preserve our relations with the belligerents in that state that should be consistent with our professions of neutrality.

Had the interdiction been confined to British vessels by this law, what would Great Britain have said to this discrimination? In vain might we have told her that we meant to preserve our neutral character, and not to take a part with her enemies in the war against her. Our acts would have been directly opposed to our professions. With this discriminating, permanent, municipal law, could we expect Great Britain to treat with us as a neutral? If we did, we should be disappointed. If, then, it be inexpedient to make this discrimination against Great Britain, how is it less so, when directed against France? We are to admit British and exclude the French. And, are we to endeavor to negotiate, as neutrals, with France, upon this ground, with any reasonable prospect of success? It is desirable that the commercial intercourse between this country and France should be restored. Peace and free trade is the interest and the object of America. While we throw wide open the door of negotiation to England, why should we shut it against France? While we facilitate negotiations with the British, why should we embarrass and prevent the same with the French? I wish to leave the Executive and treaty-making powers of our Government free and unshackled, to enter on negotiation with both these Governments, under every advantage of success which we can give. On what ground can this discrimination be defended? You adopt this measure. Our Minister at Paris is requested to explain it. Is there any advocate for this discrimination in this House, who can conceive the grounds upon which our Minister or our Government are to justify this measure

with our relations of neutrality? It cannot be defended. I am not for yielding to either nation, but, let our conduct be consistent, impartial, and defensible. If then, we are to be involved in a war with either, the resources of the country and the hearts of our citizens will support the Government, and we need not be afraid of the world. But those men, or that Administration that will, upon a mere useless, punctilious point of etiquette, commit the peace and happiness of this country to the ravages of war, will meet the indignation, and feel the vengeance of the intelligent citizens of the country. This temerity would meet its merited punishment. The people of America can see, and will judge for themselves; they can readily discern the difference between shadow and substance; they are neither to be deceived or trifled with, especially on subjects of such immense moment to their liberties and happiness.

Mr. Burwell said he deemed it in some degree his duty to make some remarks on the bill before the House. He intended to vote against both the amendments proposed to the bill. I think (said Mr. B.) that if my colleague who moved the first amendment, (Mr. Sheffey,) had taken that view of this subject which might have been presented to his mind, he would not have found such error in the course proposed to be pursued. He seems to have taken another ground, when by the clearest demonstration it might have been shown that the system proposed is one of impartiality to the belligerent powers of Europe. It will be recollected by gentlemen of this House, that at the time the exclusion of French armed ships took place, it was upon the express ground that the British Government objected to come to an accommodation with us, because we excluded her vessels and nominally admitted those of her enemy. On that ground I venture to say that the exclusion took place; because, at the time that it took place, it was considered a measure absolutely favoring Great Britain, yet not injuring France by a nominal prohibition of the entrance of her vessels. It was stated that there was not perhaps in the course of a year a single French public armed vessel in the harbors of the United States. Have we any French frigates now in our seas? None. Is there any probability that there will be any? No, sir; for France having now lost her West India Islands, if her vessels are freely admitted, it is probable that there would not, in the course of five years, be a single French vessel within our waters. As the exclusion would be perfectly nominal, I would not adopt any thing to prevent a settlement of our differences with France. I am not now sanguine in my belief that we shall settle our differences with her; for every one acquainted with that Government knows, I fear, that it is not to be diverted from its object by any arrangement we may make. But I would do away every possible justification that could be urged by France for not meeting our overtures for peace. This conduct would produce at home more union among our citizens; and, when our rights are attacked without a pretence for their infraction, there can be but one sentiment in the nation. I have always determined to admit British vessels as far as my vote would go; and should the House determine to exclude French vessels I should still vote for the admission of English vessels, because their former exclusion has been so artfully managed by the British Government, and the doctrine has been so admitted by the presses in this country, as to give rise to the most unjustifiable conduct ever pursued by one nation towards another. As to the idea advanced by the gentleman from South Carolina, (Mr. Taylor,) that, if we do admit them to take possession of our waters, they will take advantage of the privilege to our injury in negotiation, it has no force with me, for this plain reason; that, although the exclusion of them from our waters was not carried into execution by physical force, yet they did not enter our waters, which they might have done, in defiance of the proclamation. And why did they not? Because, I presume, they had no desire to rouse the indignation of this nation by an open violation of the laws of the land.

If, sir, you wish to gain the advantage of union at home, take away every pretext for the violation of your rights. Let me ask if it be not better to admit them? By so doing you give up a principle which does not benefit you, and receive an accession of physical strength by union at home. I do not say that every one will be satisfied, because I have no doubt England has agents in the country, but so few in number as to be unworthy of notice. If Great Britain, on the other hand,

attacks us when we have taken away every possible ground of collision and violates her promise, the people in every part of the country will be satisfied that her deliberate object is to destroy our commerce. We should have no more of those party divisions which have distracted us for some months past.

It cannot be said that we are bound by any part of the negotiation to admit English vessels. I have seen nothing of the kind, if it exist; and I call upon gentlemen to point it out. Why do it, then? It may be considered a concession; and certainly manifests that disposition which we feel to settle all the points of difference in agitation betwixt us. And here I beg leave to say that, according to the most explicit declarations of the British Minister, you would not give the smallest umbrage by pursuing that course. On this subject Mr. B. quoted a speech of Mr. Stevens in the British Parliament. If we were to be governed by reference to expressions which existed in that country of our partiality to France, it did appear to him that this speech was entitled to weight, because it justified the course proposed by the bill, and stated a position which the British Government admitted was all that could be required from a neutral State. From this speech it appeared that placing the two belligerents on an equal footing was all that was required. Did not this bill completely come up to their wishes? Did it not interdict all trade with France under the most severe and heavy penalties? Mr. B. said he did not wish it to be understood that he would shape his conduct by the wishes of the British Ministry; but, as it had been said that the bill was somewhat hostile to that country, he had quoted the speech of a ministerial member to show that no such inference could be drawn. The same person, in his speech, also states, said Mr. B., that the reason why our offer in August last was not accepted, was, that, if it had been accepted, such was the situation of the law, that a commerce might always be carried on with the enemy; that, through the ports in Europe, her enemy might be as efficiently supplied as if the embargo did not exist in relation to him. But, sir, what is now the state of things? If it is possible to operate on France by commercial restrictions, let me ask if this bill will not accomplish that object? Let me ask if an American vessel under it can go to any port of France? It not only cuts off direct intercourse, but prohibits the importation of the products of France; and any attempt to carry on a circuitous commerce must be ineffectual, inasmuch as the produce will be liable to seizure when it comes into the ports of the United States.

If, according to the ideas of the British Government itself, this state of things be a sufficient resistance to France, let me ask of gentlemen how they can infer a partiality to France? What more can you do? If you exclude the armed vessels of France, though it may display a disposition to injure her, I defy any gentleman to show that it can, in the smallest degree, coerce or affect her. Let me call the attention of gentlemen to the present situation of Europe. If accounts lately received are to be credited, we may calculate on the universal control of the French Emperor over the ports of Europe. Is it to our advantage to be excluded from the trade of the continent? Is it not known that all the surplus product of the agriculture of this country finds its vent on the Continent of Europe? Is it not known that, of the whole of our tobacco, seven out of eight parts are consumed on the continent? That of our cotton, at least one-half finds its market there? Does not flour find a great proportion of its consumption on the continent? This cannot be denied. Then, let me ask of gentlemen, whether it be so much to our advantage to exclude this trade; and, if not, why we should take a step which can do France no injury, but which may, and probably would, be made a pretext for cutting off so valuable a part of our trade? With respect to partiality to France, let me call upon the gentleman from Virginia, or any other, to show if, from the conduct of the United States, and such thing can be inferred. Look at our relative situation. Have we opened our ports to her traders? Have we renewed commercial intercourse with her? Let me ask, which have we placed in the best situation, France or England? Every gentleman must answer – England. Whilst she gets all our commerce, her enemy is wholly excluded from any participation in it.

Another argument has been used against discrimination, viz: that France has no public armed ships. If this is the case, gentlemen need not be alarmed; for, if they cannot come here, we need not be afraid of their resentment, because we will not admit them. But we know that her cruisers can steal out of their ports, go into foreign seas, and destroy our trade in spite of the ships of Great Britain. If an American vessel has British property on board, or has been spoken by a British cruiser, a French public armed vessel is bound to make prize of her. This being the case, let us for a moment consider the subject as respects ourselves. Our feelings ought to be for ourselves and our country. Here is a nation having public ships, having a right to come into your ports. Does it comport with our honor and dignity to admit into our ports and harbors the very vessels destroying our commerce? Not to go into an inquiry what has been the fact heretofore, but what may be now – if you pass a law that a French frigate may come into your waters and partake of your hospitalities, where is the obligation that it may not take advantage of the opportunity to make its prey more sure by watching it in port and then going out and entrapping it? If, from the intoxication of the man who rules the destinies of the nations of Europe, he does not feel disposed to treat with us on terms of reciprocity, that circumstance should have no effect on our measures. But the question on that point is no doubt already settled; time sufficient has been allowed for the vessel to go and receive an answer to the instruction sent to our Minister. I certainly would so far respect myself as to fulfil what I conceive to be good faith toward both, without respect to the wish or dictation of either.

As to the amount of produce sent to the continent, it cannot be great. Some few may have adventured there on desperate voyages; but that there is much property in jeopardy, I cannot believe, for France is known to be, in respect to mercantile property, the lion's den, easy of access, but impossible to return. Those, therefore, who have risked their property must have been extremely rash.

If the French Government would do us justice, I should be glad; if not, we must abide by the consequences. We must not do improper things because they will not do us justice. It is proper that we should assert what we conceive to be our rights. I believe, however, that the question of peace with France will not turn on this bill. I believe the point to be already settled. If it be not, and the exclusion of French armed vessels would be an impediment to it, the same objection would be valid against the whole bill.

Mr. Holland asked the indulgence of the House whilst he stated a few reasons why he should vote for the amendment under consideration. It had been asked whether it was consistent with the honor of this nation to admit French ships within our waters. Mr. H. said he would answer, that, as things now stood, he did not consider it consistent with our honor and dignity so to do; and the reason why was, that that Government had done sundry injurious acts towards this nation for which it had not made reparation, nor even intimated an intention of doing so. He therefore answered that it was inconsistent to admit the vessels of France within our waters. It was in consequence of injuries which they had done, according to my conception, that I voted for their exclusion. I was not influenced to vote for the prohibition of the ships of France from coming into our waters by any desire to produce an equality in our relations with the belligerents. It was no impression of that kind that influenced my vote; and yet I voted that French ships of war should not come into our waters. It was not the opinions of editors of newspapers, or the clamors of individuals, that influenced my vote, and I hope they never will. I think that every gentleman, on taking his seat in this House, should consider himself beyond suspicion. The only question for consideration of the members of this House, when a measure is presented to them, is the expediency of it; and on that ground alone I voted for the exclusion of French ships or of British ships. I was chiefly influenced to vote for the exclusion of British armed ships by the variety of acts committed in our waters, and the great disposition which she had shown to commit the most wanton acts of treachery. I can say for myself that my conduct was only partially influenced by the acts of British officers within our waters; I had in view a variety of other acts committed against the rights of the people of this

country. Supposing the affair of the Chesapeake to have been authorized, I never wish to see the British ships of war within our waters, till they recede from the right of impressment. I wish the British Government to know that it was the determination of the major part of the citizens of the United States to resist her till she surrendered that right. I think it was a sacrifice of the dignity of the United States to receive British vessels so long as they committed those acts. It was therefore that I voted to exclude them.

It is said, by the gentleman last up, that we are at peace with Great Britain. Does it follow, from that, that they are entitled to all the rights of hospitality that one nation could possibly show to another? Certainly not. We ought yet to hold up some indication that we are not perfectly reconciled to them. When they abandon the outrageous principles which govern that nation with respect to neutrals; when they abandon the practice of impressment; when they make restitution for spoliations of our trade; we will hold the hand of fellowship to them. It is not enough for me to hear the British Minister say that an Envoy Extraordinary is to come out and settle all differences. I have heard something like this long ago. I heard that a Minister was to be sent out to make reparation for the affair of the Chesapeake. We have experience on this subject. Have we forgot that every thing which accompanied that mission was evidence that the British Government was not sincere, and that it did not intend to accommodate? When I see an abandonment by Great Britain of the principles destructive to neutrality, I can consent to admit that nation to the rights of hospitality.

Mr. Johnson observed, that, to say any thing on this subject, after the time which had been already consumed, and the speeches which had been made, was contrary to a rule which he had laid down for his own conduct. But his excuse would be found in the introduction into the House of a proposition, which, it was said, proposed to place us on a neutral ground. Nothing, said Mr. J., is dearer to me than neutrality as to our foreign relations; but, the bill submitted to the House by the committee of which I had the honor to constitute one, and which is the same with that now before us, so far from being in hostility to Great Britain, and partiality to France, I contend, is a concession to Great Britain, at the same time that I admit that it is not hostility to France. The admission of the belligerent vessels into our waters, so far from being hostility to Great Britain, is concession. I bottom the remark upon the fact, that, at this moment, as many and as heavy causes of complaint exist unsettled between this Government and Great Britain, as between this Government and that of France. If then, the same causes exist to exclude from our waters the vessels of both, I ask whether the admission of both will not be an actual benefit and concession to Great Britain, and a nominal benefit to France? And, still, it is to go forth to the nation that we are about to commit an act which will sink the nation, from the elevated situation in which it is now placed by our former measures! I hope that we shall continue to convince the world that the United States of America are incapable of other than neutral conduct. Is it a fact, that greater injuries exist from France than from Great Britain? What injuries have been received from France? Have they been committed within our waters? Has our hospitality been violated and our officers insulted in our very ports by the vessels of France? or is her hostility merely commercial? It is of the latter description. Is it not admitted that we may lawfully exclude or admit the vessels of both belligerents? If you admit the vessels of one nation with whom you have cause of difference, and exclude those of another nation with whom you have only the same cause of difference, I ask whether you do not commit the dignity of the nation, and jeopardize its peace?

I will put this question to gentlemen: what has Britain done which would require a discrimination as to her public vessels? She has rescinded her Orders in Council. And what have we done in return? Have we done nothing? Has Great Britain held out the hand of friendship, and have we refused to meet her? Has she withdrawn her Orders in Council, and have we insisted on a continuance of our commercial restrictions? I have understood that she has done nothing but rescinded her Orders in Council, and we have renewed intercourse with her therefore. I am more astonished at the proposal to discriminate, when we see that, at this moment, orders are in existence

blockading countries to which your merchants have, long ago, taken out clearances, in violation of stipulations which Britain had proposed to us. When she has violated our rights, I am more astonished that gentlemen should wish to go beyond this letter of the law. And, let the consequence be what it may, it would result to the benefit of this nation that we should not be influenced by idle fears of imaginary dangers. My better judgment tells me we should exclude the armed vessels of both nations; but the general sentiment appears to be against it. It is asked of us, why admit the vessels of France, whilst injuries which she has done us are unatoned for? And, I ask, sir, why, then, admit the vessels of England standing in the same relation to us? I only make these remarks as going to show that we ought to be strictly neutral. If, sir, you wish to take part in the broils of Europe, embody your men, and send them over to the disposal of England at once, and let her send them to Spain or Austria. But, if you would remain neutral, either admit or exclude the armed vessels, as you would armies, of both belligerents.

I had thought, sir, not only from the acts of our Government, but from conversing with gentlemen, that we hailed the present as an auspicious moment, as a political jubilee; I had thought that we had been on the verge of war with the two most powerful nations of the earth, but that our situation was changed, and that, at the same moment we now offer the only asylum to the victims of European wars. And are you now about again to jeopardize the peace of this nation, without any cause whatever?

The exclusion of French and British armed vessels at the last session, may be taken on this ground. It was a defensive war, not only for the injuries we had received, but in expectation of actual hostility. Has it occurred? No, sir. Would you have excluded British vessels since 1793, for taking the vessels engaged in your lawful trade, and for impressing your seamen? You did not do it; and it was not for that alone that you did it at the last session, but for other causes, which have nearly or quite disappeared.

I have done, sir. I shall not vote for any proposition which makes a difference between France and Great Britain; not that I am afraid of the conscripts of Napoleon, or the navy of George III. But I cannot consent to adopt a course which will again obscure with clouds our political horizon.

Mr. Smilie said, that if he now took up five minutes of the time of the House, he could not excuse it to himself; and he should not have risen, but to explain the reasons for the course which he should take. As to the amendment, to that he could never agree. The question which the Legislature often had to decide, was not what was best, but what is practicable. Now, he thought it a happy circumstance that parties in the other House had united on this subject. However we may differ as to local affairs, said he, I think it good policy, if it can be done without a sacrifice of principle, to meet in concert on measures of external relations. What may be the effect, if you introduce either of these two principles into this bill? We know that, if this bill does not go to the Senate till to-morrow, if amended, a single member of the Senate can, according to their rules, prevent the bill from passing altogether. My opinion is, that it is our duty to pass the bill in its present form. If any material alteration be made in the bill, I believe it will not pass. If it does not, all that has taken place between this country and Great Britain is at an end. And I hope that this reason will induce gentlemen to permit the question to be taken.

Mr. J. G. Jackson said he had intended, before the day had so far progressed, to have explained to the House the motives by which he was actuated in relation to the bill. He said he would still take the liberty of stating to the few members present, (the House being very thin,) why he offered the amendment to the amendment. It will be recollected, said Mr. J., that the other day I stated that a construction had been given to the law contemplated to be re-enacted by the bill on the table, which, notwithstanding the renewal of intercourse, excluded armed vessels from our waters; and, for the purpose of doing away completely that construction, I moved an amendment which, gentlemen conceiving it unnecessary, I withdrew. If gentlemen are correct in the opinion which they advanced, and which induced me to withdraw that motion, they cannot, consistently, vote for the amendment

of my colleague providing an exception to a provision which the bill does not contain. Where is the necessity of a proviso if the law does not bear such a construction? Is the Executive to infer from the proviso that something exists in the law which the friends of the proviso declare does not exist? The amendment proposed by my colleague provides for the admission of the armed vessels of those nations with whom commercial intercourse *shall* have been (not *has* been) permitted. Are you, by this phraseology, about to devolve upon the President a discretionary power, holding the scale of national honor in one hand, and the injury and atonement in the other, to decide which nation shall be thus favored, when it is conceded on all hands that the admission of the armed vessels of one nation and the exclusion of those of the other, is an act *ipso facto* of hostility?

Gentlemen have observed that there ought to be an exclusion of French and admission of English armed ships, and that any other course would be an acquiescence in the views of "*sister* France," and hostility to England. This language, sir, does not help the cause which the gentleman advocates. What must be the effect of such insinuations? They must excite feelings which, I am happy to say, have not been displayed on this floor during the session. Might it not be retorted, as a natural consequence, that gentlemen who wish to admit British and exclude French ships, and thus serve the interest of England, are desirous of subserving the views of *mother* Britain? The attachment to *sister* France on the one hand, is about as great as the attachment to *mother* Britain on the other. I believe it has been emphatically declared to the nation that we would not go to war for existing differences. If, however, gentlemen, since the last session, have so materially altered their ideas of the policy proper in relation to one belligerent, let us go to war openly; I am not for using the stiletto, or for stabbing in the dark.

The interdict of British armed vessels from entering our ports was not on account of the affair of the Chesapeake only. It is unnecessary now to repeat the cause which led to it. If gentlemen will turn to the letter of Mr. Madison to Mr. Rose, they will find the causes detailed. Since that time other injuries have been committed; and it has been justly observed that the burning the Impetueux was an insult to the sovereignty of this nation scarcely less than the affair of the Chesapeake. If we permit hostility from one belligerent to another within our territory, we become party to the war, as we do, by admitting the enemy even to pass through our territory to attack another nation. It is in vain to say that a nation preserves a neutral attitude, when it permits one of the belligerents repeatedly to violate its sovereignty. If there be as much injury unatoned on the part of Britain as on the part of France, then a discrimination will be a departure from the ground which we took last session, that both should be excluded. And the President had no power over that part of the law. Inasmuch as we know that Great Britain has the command of the ocean, and that a French ship of war cannot, without a miracle, escape across the Atlantic, we, in fact, by the operation of the bill as it came from the Senate, admit English and exclude French ships.

We throw open our ports and admit the thousand ships of Britain, without opening our eyes to the consequences which have heretofore resulted from so doing. And shall we now refuse admission to the vessels of France? It is indeed difficult to say what led to their exclusion; for it has been with truth observed that the non-intercourse bill had not an advocate in the House. It was something like throwing all our discordant opinions into one crucible, and after fusion, extracting what was expected to be gold, but which all called dross. When gentlemen speak of their zeal to maintain the ground taken last winter, I beg of them to recollect their own speeches, from which it will be found that the bill was so obnoxious to them that they would not even extend its operation to the next winter, and that it was with difficulty that it was extended to the end of the present session.

Gentlemen ask, has there not been a satisfactory adjustment of our differences with Great Britain? I deny it. What is the expression of the British Envoy on which gentlemen rely, and on which they are about to sit down quietly under the vine and fig tree? "In the mean time, with a view to contribute to the attainment of so desirable an object, His Majesty would be willing to withdraw his orders," &c. In the mean time, still persisting in the principle of taxing our exports, a

right denied even to us by the constitution. It is to be hung up *in terrorem*, to be let loose upon us hereafter, if we shall not do every thing which is required of us. There is a marked cautious style of language in this letter, which shows that Great Britain in fact has promised nothing. She does not say that she will repeal or revoke her orders, but that in the mean time she will withdraw them; and, sir, in the mean time she has withdrawn them, and substituted other orders or proclamations equally obnoxious. This is reason sufficient for not going beyond the letter of the agreement; which however I will consent to do, by admitting instead of excluding British armed vessels.

When Mr. J. G. Jackson concluded, Mr. Sheffey, in order to obtain a direct question on his own amendment, adopted Mr. Jackson's rider to it, as a part of his own motion, and called for a division of the question, taking it first on his own amendment as first moved.

Some doubt arising whether it was correct thus to act, according to the rules of the House, Mr. Macon produced a precedent in which he had himself done the same in the case of a motion for the repeal of the second section of the sedition act, nine or ten years ago.

Mr. Taylor said that, as the House had decided that they would not discriminate between the admission of British and French public vessels, he wished to try the question on the exclusion of both. He made a motion having in view that object; which was decided without debate, fifteen for it, one hundred against it, being a majority of eighty-five against the exclusion, at this time, of the public vessels of both belligerents.

Mr. Montgomery observed that the decision of the courts of the United States had been that, after a law had expired, they had dismissed all suits pending for the recovery of penalties incurred under the act. He conceived that this bill should have a saving clause, that penalties and forfeitures incurred under it, should be recoverable and distributable after the act itself had expired. He therefore moved an amendment to that effect.

Tuesday, June 27

Non-Intercourse

The bill to revive and amend certain parts of the act "interdicting commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," was read the third time.

Mr. Pickman hoped that he should be excused for making a few observations at this stage of the bill, not having before partaken of the debate. He said he felt a strong objection to the bill, because it admitted French vessels into our ports and harbors. Gentlemen had asked why a discrimination should be made. He answered, that the reasons for this conduct were to his mind very plain. He had considered the outrage on the Chesapeake as a gross violation of our rights and of the law of nations, and he believed no one had felt more indignation at it than he did. But that was now atoned for. I consider (said Mr. P.) that the Orders in Council are repealed; that Great Britain has stipulated to send on an envoy with instructions to negotiate for a settlement of all differences. I consider these things as done, because I consider the faith of the British nation as solemnly pledged to do them; for, if it had not been, the United States would not have been justified in taking the attitude which we have taken.

It has been said, that since the arrangement here has taken place, Great Britain has modified her Orders in Council in a most exceptionable manner. I admit that this modification was posterior in point of date to the arrangement here; that is to say, that the proclamation of the President of the United States was issued on the 19th, and that the orders were modified on the 29th of April; yet, in strict propriety, the new orders may be said to have issued before the arrangement, because it was before it was known. Viewing the subject in this light, I do not believe that the modification of the Orders in Council did proceed from the arrangement here; and I now declare that if such modification as has been made is to be considered as rescinding the orders, according to the stipulation made with Mr. Erskine, I should consider it a mere mockery. I do, however, consider it in a very different light, and have no doubt that the Government of Great Britain will adopt such modification of their orders as they have stipulated to do. These are my ideas, and on this ground I did and do still believe that we ought to have made a discrimination, because I consider one nation to have complied with the conditions of the non-intercourse act, whilst the other has not varied its position.

Mr. Macon said he was against admitting the armed vessels of either belligerents into our waters. He would place our foreign relations precisely in the state in which the President had left them, saying neither yea or nay on the subject of their armed vessels, leaving it where it had been left by both the parties to the late arrangement. He should have been glad that the same disposition had been manifested towards us by France as by Great Britain; but because there had not he would do nothing towards her to prevent it. Some gentlemen had conceived that an indiscriminate admission would be more advantageous to France than to Great Britain. Mr. M. said he did not agree with gentlemen in this; for Great Britain had Canada and her West India Islands, to which she was in the habit of sending out vessels; whilst France, having no possessions on the American coast, had no occasion for our hospitality.

Mr. M. said he sincerely hoped that we should now act, as we had heretofore done, so as to give to neither of the belligerents cause to charge us with partiality. He was decidedly of opinion that we ought to leave both nations in the same state as they were left by the President's proclamation. He had no doubt that Great Britain would send a Minister to negotiate. But what was left, as to her, for the surrender or repeal of which she had any anxiety? Nothing. As to France, she would have

no shipping at sea, so long as the war lasted in Europe, unless an event took place which he hoped would not. You give France a right to enter your waters, said he, and take away any inducement she might have had to rescind her decrees. I believe the passage of the bill will extend the difficulties of the nation. I know it is not a very pleasant thing to be opposed to the evident sentiment of a majority of the House; but it is the bounden duty of those who think as I do to vote, as I shall, against the bill.

Mr. Taylor said it appeared to be desired on all hands that nothing should be done by the House to embarrass the negotiation; and he presumed that the majority, in the different stages of this bill, had been actuated by that wish. If, said Mr. T., I could see the present measure in the light in which its friends appear to view it, I certainly should be in favor of it. But, when it is recollected that your legislative acts have been held out to your fellow-citizens and to foreign nations, promising a perseverance in our restrictive measures against such nation as shall continue to oppress our commerce by her unlawful edicts, I consider our faith as pledged to the nation, that, according to the recession of one belligerent, or perseverance of the other, we were to shape our course.

The gentleman from Virginia aimed a side blow at those who, in the discussion of this subject, had spoken of the ground which we have taken. On the effects supposed to be produced by the non-intercourse, I had a right to say *we*. The sense of the House was taken distinctly as to a repeal of the embargo, on the first report of the Committee of Foreign Relations. It was then that the principle was decided, and it was that act which was taken hold of across the Atlantic, and made the ground of the instructions which came out by Mr. Oakley to the British Envoy here, and on which the arrangement did take place. Now, though the gentleman seems unwilling that any part of the House should say *we*, I vindicate the claim which I have to use it. In fact, I would claim for the mover of the original proposition to this House for the interdiction of armed vessels, the gentleman from North Carolina, (Mr. Macon,) the merit of the late negotiation, if it attach anywhere. But I am not willing to carry on the copartnership. I will not now say *we*. I, who voted for the motion going to give power to the President of the United States to issue letters of marque and reprisal against that nation which persevered in its edicts after the other had withdrawn them, am not willing, on the passage of this bill, to say *we*, as by it you admit instead of continuing the exclusion against armed vessels, where, instead of a recession, injuries have rather been added. When gentlemen are asked why they have admitted French vessels, in our present situation in relation to France, after the temper displayed and the votes given at the last session on the subject, theirs must be a feeling in which I would not participate, and therefore I will not say "*we*."

Mr. Dana observed that, by the Journals of the Senate, it appeared that this bill had been unanimously passed by that body. This unanimous vote of the Senate might be regarded as a consideration to operate very strongly on the minds of members of the House, as respected the propriety of adopting the present bill; it certainly must have weight in favor of a measure, when it was found that men differing widely in political opinions joined in voting for it. I, said Mr. D., have myself very strongly felt the force of this consideration. But you know, sir, that the rules of proceeding and order established in this House do not admit of our urging in debate the conduct of the Senate of the United States as a motive for deciding the opinion of this House. Why is it out of order? Because the excellence of our constitution is, that the Legislature shall consist of two Houses, each of which shall act on its own ideas of propriety. If it is not proper to mention the conduct of the Senate in debate, it is not proper to suffer it to overthrow our opinions. In this view I feel myself bound, with all due deference to the Senate, to examine this subject for myself. I cannot but feel the weight of that vote; but I cannot forget that the bill respecting the writ of habeas corpus was once passed in that House, and rejected unanimously in this, without being permitted to be read a second time.

On examining this bill, sir, I do not find that its various provisions appear to constitute one whole, to conform with any system of policy, or to be consistent with the principles of any man in this country. It is certainly not the course which I would have chosen; it is not consistent with

the course marked out at the last session of Congress. I was certainly not in favor of the embargo; I disapproved of that system; and when I saw the non-intercourse system, I considered that as retaining the embargo principle, but not with so much precision. I consider this bill to be receding from a weak position. If the embargo was a decisive measure, it ought to have been taken more completely at the outset than it was. But it failed. The non-intercourse was abandoning one part and retaining another of the system. This bill was abandoning a part of the non-intercourse system and retaining a part. When I look at it, I see nothing in it at which any portion of American citizens can rejoice or be proud of; nothing of a firm, dignified, matured, sound, consistent policy, to be maintained on general principles against all the world. Am I then required to vote for a measure of this kind? If, with my friend from Massachusetts (Mr. Quincy) I could suppose that voting for a system which I did not like would destroy it, I should vote for it. For, if I understand him, he dislikes the whole, and therefore will vote for this part of it. The whole would die at the end of this session; but to show his anxiety for its death he must keep it alive till the next session of Congress. I was very much pleased with a great part of his remarks; I approbated his premises, but his conclusions appeared to be directly the reverse of the proper result. But as he is a gentleman of strong powers of mind, he may well be able to draw a conclusion which I cannot.

Gentlemen have alluded to the declarations of the Emperor of France in relation to his decrees. When Bonaparte talks of the freedom of the seas, does he mean the same idea which we attach to these words when we use them? When he talks of the principles of maritime law, does he mean the same as we? On the subject of maritime law, has he not stated things which before were unheard of? Certainly, sir. On the contrary, I have always understood the claims of the United States as a neutral nation to be, not to assert new pretensions, but to assert such claims as they may think reasonable with respect to principle, and such as have been formerly admitted in practice.

With respect to the bill before you, there has been one argument used, and an imposing one certainly, provided that it appeared completely founded in fact. It is said this bill is considered as comporting with the views of the Executive Government of the country; and that the Executive has acted so well in conducting the preliminary arrangement for removing certain obstacles to negotiation, that on the whole we ought to assist his administration. On this subject, sir, I have to observe that we are utterly without official evidence on this point. We have no evidence whatever, of an official nature, that this bill comports with the Executive views. If we have, it is to me unknown. We have not, during the present session, had any report in detail from the Committee of Foreign Relations. If that committee had made a report, stating facts and reasoning as the basis of the bill, I might consider that committee as having consulted the Executive of the country, and as having adopted its disposition as the basis of its proceedings. But, as we have no such thing, are we to suppose that there are certain gentlemen in the House who are organs of communication of the Executive wishes? Have we any other evidence of the disposition of the Executive in relation to this bill than that certain gentlemen are in favor of it? If, on this subject, the opinion of the Executive should properly decide our judgment, ought we not to have had some official exposition of the views of the Government? As we have no such information, we are to examine whether this bill comports with the arrangement made with Great Britain. But, as to that, I beg leave to be deemed as not considering myself pledged by that arrangement merely. As to myself, as an American, I am by no means gratified that we should contend with one nation because another does us justice. A stipulation of that kind I should consider as degrading to my country.

In my remarks therefore, I disclaim owing any thing for any boon which Great Britain may have given us, because I do not consider it as a boon that they have ceased to injure us. But in the face of the world such declarations have been formally made by the Congress of the United States. The fact is known to ourselves, to our countrymen, to such portions of the foreign world as may take an interest in our concerns. And in comparing this bill with those declarations, will it be possible to conceive that we are consistent? When you had differences with both the belligerents, what was

your language? You talked as though you would throw the gauntlet to the globe, as though you would stretch out your arm and smite the world. When an adjustment is made with one of those powers, what is your language? Really, sir, the difficulty under which the Government formerly labored was said to be this: that if we went to war with both nations. – [Mr. D. quoted a part of the report of the Committee of Foreign Relations of last session on this subject.] I consider this part of the report, said he, as proceeding upon assumptions which are erroneous, and founded upon grounds untenable and inaccurate. But as to this report, which appeared to receive the approbation of a majority of the members of the House, it seems to be clear from it, that were it not that you were so equally wronged by both belligerents, and that both persisted, you certainly would have engaged in war with one; but that, as a treble war was rather a difficult plan, it was best to continue the restrictive system.

What is the declaration made to the British Minister at this place, by our Secretary of State, on this subject? Is it pretended to enter into any stipulations with Great Britain as to our conduct? No, sir; it is that our measures are adopted on the principle that the Government would assert the rights of our country against any power on the globe, without any reference to pledges. On this point I would call the attention of the House to a sentence which is the most extraordinary surely that ever was put together. And, unless it be a dash of the pen, like that of the brush of the painter who painted at one dash a perfect horse, it must have been the elaborate labor of twenty-four hours; in either case not detracting from the skill of the author of it. The sentence is as follows: "As it appears at the same time, that, in making this offer, His Britannic Majesty derives a motive from the equality, now existing, in the relations of the United States, with the two belligerent powers, the President owes it to the occasion, and to himself, to let it be understood, that this equality is a result, incident to a state of things, growing out of distinct considerations." If any mortal, from the depth of his knowledge, can specifically tell what this means, he may pass for an oracle. It proceeds upon this idea: that in making our arrangements at the last session we did not mean, as respects saying that whatever nation insulted us we would resent it, to please Great Britain alone, but equally to please any other nation whatever. If the saying this was an annunciation by our Government to the British Government, that in making this arrangement we are not making any stipulation in respect to France, but you and the world may know that whoever invades our rights shall meet with resistance, adequate to the crisis, if the Government can find means to accomplish it. If the paragraph be thus considered, we may respect the declaration itself, and admire the skill with which it is so worded as to convey nothing offensive in the expression. In this view, I am willing to admit it, because it conduces to the reputation of the Government and of the Secretary of State, who in this business appears to have conducted with the frankness of a man of talents, and the manner of a practical man of sense. I consider this bill as not corresponding with the resolutions of last session, as not corresponding with the general sentiment in regard to the non-intercourse law when it passed; nor with the general sentiment fairly to be collected from the correspondence of our officers with the British Minister.

If it be asked, what other system would be proper, I acknowledge it to be a question of difficulty. But, for myself, I think I would say that I would prefer an armed neutrality; not such a one as distinguished the confederacy in the Baltic, not one to assert new pretensions; but one temperate in its claims, specific in its object. And I could really wish that in the present state of the world we should turn our attention to a system of policy which shall be founded on general principles, and at least say what are the rights which as neutrals we claim, and what the pretensions to which as neutrals we will submit; and if our legislation were of that character, we never should be embarrassed as we are. We pass a law that if edicts of the belligerents be revoked or modified, trade shall be renewed. Now, the edicts then in existence might be revoked, and others substituted, and the law would be complied with. The whole system has been constituted too much in reference to particular cases.

But I have one further objection to this bill, viz: that by it you do permit trade with French trading vessels, thus. There is no prohibition to the furnishing supplies to French vessels. The French vessels, going to sea, go armed and under the authority of their Government; and coming into the ports of this country may be supplied with any thing they wish without an infraction of the letter of the law. Let any public armed vessel come into the waters of the United States, and they may purchase whatever they please. There is no law to prohibit it, nor any authority placed in the Government of the United States to prevent them from purchasing. The state of the case now is, that your vessels shall not be cleared out to carry any thing to France, but your boats and every thing that sails may be employed to carry provisions to French armed ships in your harbors, and they may be completely loaded. If this be the intention of gentlemen, I have nothing further to say; if it be not their intention, they will have in this case, as they have had in others, a very great experience of the disadvantages of undertaking to chop up law.

From these general views of the subject, sir, I am opposed to the passage of the law.

Messrs. Pitkin and Quincy stated their reasons for voting against the bill.

And on the question, "Shall the bill pass?" it was decided in the affirmative – yeas 72, nays 15, as follows:

Yeas. – Lemuel J. Alston, Willis Alston, jr., William Anderson, Ezekiel Bacon, William W. Bibb, Adam Boyd, John Brown, Robert Brown, William A. Burwell, Joseph Calhoun, John Campbell, Howell Cobb, James Cochran, Orchard Cook, James Cox, Richard Cutts, John Dawson, Joseph Desha, James Emott, J. W. Eppes, William Findlay, Jonathan Fisk, Gideon Gardner, Thomas Gholson, jr., Peterson Goodwyn, Thomas R. Gold, Daniel Heister, William Helms, Jacob Hufty, Robert Jenkins, Richard M. Johnson, William Kennedy, Herman Knickerbacker, Robert Le Roy Livingston, John Love, Matthew Lyon, Aaron Lyle, Robert Marion, Vincent Matthews, Samuel McKee, William Milnor, John Montgomery, Nicholas R. Moore, Thomas Newton, Joseph Pearson, John Porter, Peter B. Porter, Josiah Quincy, John Rea, of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Ebenezer Sage, Thomas Sammons, Daniel Sheffey, John Smilie, George Smith, Samuel Smith, Henry Southard, John Stanley, James Stephenson, Jacob Swoope, John Thompson, Uri Tracy, Nicholas Van Dyke, Archibald Van Horne, Robert Weakley, Laban Wheaton, Robert Whitehill, Ezekiel Whitman, Robert Witherspoon, and Richard Wynn.

Nays. – Daniel Blaisdell, John C. Chamberlain, S. W. Dana, John Davenport, jr., William Ely, William Hale, Nathaniel A. Haven, James Holland, Jonathan H. Hubbard, Edward St. Loe Livermore, Nathaniel Macon, Timothy Pitkin, jr., John Ross, Richard Stanford, and John Taylor.

Absent, 54 members.

Wednesday, June 28

Emigrants from Cuba

On motion of Mr. Marion, the House resolved itself into a Committee of the Whole on the bill for the remission of certain fines and penalties.

[This bill provides for the remission of penalties incurred by the captains and owners of vessels which have been compelled to take on board emigrants from Cuba, with their slaves, the landing of the latter in the United States having, under present laws, forfeited the vessels and cargoes and fined the persons concerned.]

Mr. Marion observed that he had, a day or two ago, presented petitions from persons bringing in slaves, amongst which were some documents, one of which was the opinion of the district court of South Carolina, by which it appeared that, if the bill passed in the present shape, no relief would be afforded by it; for, it had not appeared on the trial that the *slaves* were forcibly expelled from the island, though the *owners* were. He therefore moved an amendment to include slaves owned by persons who were expelled from the island. – Motion agreed to without opposition.

Mr. M. then moved to add a proviso: "*And provided, also*, that such slaves shall have been brought in at the same time as their owners, respectively." – Agreed to.

Mr. Ross observed that a former act on the subject of the importation of slaves said, that it should not be lawful to bring into the United States any negro, mulatto, or person of color, with intention to sell the same or hold them as slaves. The present case appeared to him to be one in direct violation of that law. Under the act of 1807, it had become the duty of the court to examine whether it was the intention of the parties to infringe or violate the laws. After a fair examination by a court, under a desire to relieve those interested, and a failure of every attempt to show that they were compelled to take on board these slaves, was the House about to sit in judgment and reverse the decision? Mr. R. said that provision was also made in the bill as to slaves that may hereafter arrive in the United States, giving a power to the President of the United States, at his discretion, to set aside the law. What reason could there be for enacting this law, if the principles of the law of 1807 were correct? If it was intended, by a side blow, to repeal that law, he had rather see it done at once; and not, whilst in appearance we had such a law, to give the President a dispensing power over it. It was said that the persons concerned in bringing them in were distressed. How distressed? Only because they could not prove they were compelled to bring them into the country. Mr. R. said he did not wish to irritate the feelings of gentlemen from any portion of the Union, but he was sorry to see a bill introduced to unsettle what he conceived to be a valuable provision, enacted some sessions ago.

Mr. Newton said he felt as much repugnance as the gentleman from Pennsylvania to touch that law; but, if the gentleman would consider that this was a case of a peculiar nature, attended with singular circumstances, he would withdraw his objection. And he verily believed, that had the Legislature foreseen what had taken place, they would certainly have inserted a provision to meet the case which had occurred. Let it be recollected, said he, that the unfortunate Frenchmen driven on our coast, were some time ago driven from St. Domingo, and were obliged to take shelter at Cuba. Since the commencement of the war in Spain, Cuba has almost witnessed the same scenes as St. Domingo. These people were forced to leave the island in distress, and take what portion of property they could collect. They could not go to France, because no vessels of that country were permitted to touch at the island of Cuba, neither could they go to the French islands in the West Indies. There was no country open to them but America. The American captains, then, were forced to take the French on board, and with them, a few body servants; and, under the former law, these

vessels are seized, and liable to forfeiture, our merchants to suffer the loss of vessel and cargo, and the poor emigrants to lose all their little property. Let it be recollected that the law of 1807 does not interfere with the State rights on the subject. This bill only goes so far as to remit all fines and penalties incurred by the captains of vessels, and release the property which would otherwise be condemned, and relieve the perfectly innocent merchants who would otherwise suffer. Let us say to these unfortunates, as Dido to Æneas, when he was exiled from Troy: "I have suffered misfortune myself, and therefore know how to extend the hand of relief to others."

Mr. Marion said that if the gentleman from Pennsylvania (Mr. Ross) thought that he had a wish or intention to increase the number of slaves, he was much mistaken. The laws of South Carolina prohibited the bringing these slaves, or any other, into the State; yet they had been brought there, and the persons bringing them there must give security that they would have them carried out of the State. Now, by the non-intercourse law, the State was prevented from sending them away; they would, of course, remain here till the law permitted them to be sent off, for they could go nowhere but to France and her dependencies, France being at war with all the rest of the world. Mr. M. said that there were several captains now in jail under sentence of court for having brought those people into the country; he submitted to the House whether, under the circumstances of the case, the captains had not good reason to suppose that they would not be subject to the penalty of the law. The law prohibiting the importation of slaves was of a highly penal nature, and different from all other laws of that nature, having no clause in it giving a power of remission of penalties; and this bill was guarded in such a manner that no evil could arise.

Mr. Macon said it was certainly true that the Southern country wanted no more slaves. The sole object of the bill was to get them away. However desirous the people might be to hold that property, there could be no fear of their wanting them from the West Indies.

Mr. Montgomery said it was peculiarly necessary to pass this bill to get rid of the immense number of slaves brought into New Orleans; for every one must know that they were not wanted there. They were too numerous to continue there, and this bill was intended to make provision for their exportation.

Mr. Newton produced a letter from the collector of New Orleans on this subject.

Mr. Taylor said it never could have been the intention or spirit of the law of 1807 to increase our population in free blacks. It was not to set free the people of this description that the law had been passed, but to prevent them from being brought here at all. For even in Pennsylvania he had no doubt the gentleman would be content to have no further population of this sort. Mr. T. said that he knew that in the Southern States there was an extreme aversion to receiving an additional free black population. The intent of this bill, so far from being in hostility to the law quoted by the gentleman from Pennsylvania, was in furtherance of it. It was to remove them out of the country.

Mr. Ross said that it was strange that the House should have a bill before it contemplating the removal of a certain description of persons out of the country, when nothing of the kind appeared on the face of it. If that was its intention, there should be a condition that the persons bringing in these slaves should carry them out again.

Mr. Newton observed that unless this law passed, the inevitable consequence must be that the negroes must remain here. He did not want them, they brought principles which it was known would not promote our interest or happiness.

The committee then rose and reported the bill.

Mr. Newton moved a new section for the relief of Foster and Girard, of New York, whose ship had been forfeited under the law prohibiting the importation of slaves. – Agreed to.

And the bill was ordered to a third reading, and subsequently passed without opposition.

Evening Session

Mr. Root reported that the committee had waited on the President according to order, who was pleased to say that he had no further communications to make.

About nine o'clock, all the bills having been enrolled and signed, a motion was made to adjourn, and carried; and the Speaker, after wishing the members of the House a pleasant journey home, and a happy meeting with their friends, adjourned the House to the fourth Monday in November next.

ELEVENTH CONGRESS – SECOND SESSION. BEGUN AT THE CITY OF WASHINGTON, NOVEMBER 27, 1809. PROCEEDINGS IN THE SENATE

Monday, November 27, 1809

Conformably to the act passed at the last session, entitled "An act to fix the time for the next meeting of Congress," the second session of the eleventh Congress commenced this day; and the Senate assembled, in their Chamber, at the city of Washington.

PRESENT:

- Nicholas Gilman, from New Hampshire.
- Timothy Pickering, from Massachusetts.
- Chauncey Goodrich, from Connecticut.
- Stephen R. Bradley and Jonathan Robinson, from Vermont.
- John Lambert, from New Jersey.
- Andrew Gregg and Michael Leib, from Pennsylvania.
- William B. Giles, from Virginia.
- James Turner, from North Carolina.
- Thomas Sumter and John Gaillard, from South Carolina.
- Buckner Thruston and John Pope, from Kentucky.
- Return Jonathan Meigs and Stanley Griswold, from Ohio.

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

Tuesday, November 28

The Senate assembled – present as yesterday; and Obadiah German, from the State of New York; James Hillhouse, from the State of Connecticut; Elisha Mathewson, from the State of Rhode Island; and Nahum Parker, from the State of New Hampshire, severally attended.

Andrew Gregg, President *pro tempore*, resumed the chair.

The President communicated a letter from the Surveyor of the Public Buildings, stating the difficulties that have prevented the entire completion of the permanent Senate Chamber; which letter was read.

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

Ordered, That Messrs. Gilman and Gaillard be a committee on the part of the Senate, together with such committee as may be appointed by the House of Representatives 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.

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

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

Resolved, That James Mathers, Sergeant-at-Arms and Doorkeeper to the Senate, be, and he is hereby, authorized to employ one assistant and two horses, for the purpose of performing such services as are usually required by the Doorkeeper to the Senate; and that the sum of twenty-eight dollars be allowed him weekly for that purpose, to commence with, and remain during the session, and for twenty days after.

Mr. Gilman reported, from the joint committee, that they had waited on the President of the United States, agreeably to order, and that the President of the United States informed the committee that he would make a communication to the two Houses to-morrow, at 12 o'clock.

Wednesday, November 29

James Lloyd, from the State of Massachusetts, attended.

President's Message

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

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

At the period of our last meeting, I had the satisfaction of communicating an adjustment with one of the principal belligerent nations, highly important in itself, and still more so, as presaging a more extended accommodation. It is with deep concern I am now to inform you, that the favorable prospect has been overclouded by a refusal of the British Government to abide by the act of its Minister Plenipotentiary, and by its ensuing policy towards the United States, as seen through the communications of the Minister sent to replace him.

Whatever pleas may be urged for a disavowal of engagements formed by diplomatic functionaries, in cases where, by the terms of the engagements, a mutual ratification is reserved; or where notice at the time may have been given of a departure from instructions; or, in extraordinary cases, essentially violating the principles of equity; a disavowal could not have been apprehended in a case where no such notice or violation existed; where no such ratification was reserved; and, more especially, where, as is now in proof, an engagement, to be executed, without any such ratification, was contemplated by the instructions given, and where it had, with good faith, been carried into immediate execution on the part of the United States.

These considerations not having restrained the British Government from disavowing the arrangement, by virtue of which its orders in council were to be revoked, and the event authorizing the renewal of commercial intercourse having thus not taken place, it necessarily became a question of equal urgency and importance, whether the act prohibiting that intercourse was not to be considered as remaining in legal force. This question being, after due deliberation, determined in the affirmative, a proclamation to that effect was issued. It could not but happen, however, that a return to this state of things, from that which had followed an execution of the arrangement by the United States, would involve difficulties. With a view to diminish these as much as possible, the instructions from the Secretary of the Treasury, now laid before you, were transmitted to the collectors of the several ports. If, in permitting British vessels to depart without giving bonds not to proceed to their own ports, it should appear that the tenor of legal authority has not been strictly pursued, it is to be ascribed to the anxious desire which was felt, that no individuals should be injured by so unforeseen an occurrence: and I rely on the regard of Congress for the equitable interests of our own citizens, to adopt whatever further provisions may be found requisite for a general remission of penalties involuntarily incurred.

The recall of the disavowed Minister having been followed by the appointment of a successor, hopes were indulged that the new mission would contribute to alleviate the disappointment which had been produced, and to remove the causes which had so long embarrassed the good understanding of the two nations. It could not be doubted that it would at least be charged with

conciliatory explanations of the step which had been taken, and with proposals to be substituted for the rejected arrangement. Reasonable and universal as this expectation was, it also has not been fulfilled. From the first official disclosures of the new Minister, it was found that he had received no authority to enter into explanations relative to either branch of the arrangement disavowed, nor any authority to substitute proposals, as to that branch which concerned the British orders in council. And, finally, that his proposals with respect to the other branch, the attack on the frigate Chesapeake, were founded on a presumption, repeatedly declared to be inadmissible by the United States, that the first step towards adjustment was due from them; the proposals, at the same time, omitting even a reference to the officer answerable for the murderous aggression, and asserting a claim not less contrary to the British laws and British practice, than to the principles and obligations of the United States.

The correspondence between the Department of State and this Minister will show how unessentially the features presented in its commencement have been varied in its progress. It will show, also, that, forgetting the respect due to all governments, he did not refrain from imputations on this, which required that no further communications should be received from him. The necessity of this step will be made known to His Britannic Majesty, through the Minister Plenipotentiary of the United States in London. And it would indicate a want of the confidence due to a Government which so well understands and exacts what becomes foreign Ministers near it, not to infer that the misconduct of its own Representative will be viewed in the same light in which it has been regarded here. The British Government will learn, at the same time, that a ready attention will be given to communications, through any channel which may be substituted. It will be happy, if the change in this respect should be accompanied by a favorable revision of the unfriendly policy which has been so long pursued towards the United States.

With France, the other belligerent, whose trespasses on our commercial rights have long been the subject of our just remonstrances, the posture of our relations does not correspond with the measures taken on the part of the United States to effect a favorable change. The result of the several communications made to her Government, in pursuance of the authorities vested by Congress in the Executive, is contained in the correspondence of our Minister at Paris, now laid before you.

By some of the other belligerents, although professing just and amicable dispositions, injuries materially affecting our commerce have not been duly controlled or repressed. In these cases, the interpositions deemed proper, on our part, have not been omitted. But, it well deserves the consideration of the Legislature, how far both the safety and the honor of the American flag may be consulted, by adequate provisions against that collusive prostitution of it by individuals, unworthy of the American name, which has so much favored the real or pretended suspicions, under which the honest commerce of their fellow-citizens has suffered.

In relation to the powers on the coast of Barbary, nothing has occurred which is not of a nature rather to inspire confidence than distrust, as to the continuance of the existing amity. With our Indian neighbors, the just and benevolent system continued towards them, has also preserved peace, and is more and more advancing habits favorable to their civilization and happiness.

From a statement which will be made by the Secretary of War, it will be seen that the fortifications on our maritime frontier are, in many of the ports, completed, affording the defence which was contemplated; and that a further time will be required to render complete the works in the harbor of New York, and in some other places. By the enlargement of the works, and the employment of a greater number of hands at the public armories, the supply of small arms, of an improving quality, appears to be annually increasing, at a rate, that, without those made on private contract, may be expected to go far towards providing for the public exigency.

The act of Congress providing for the equipment of our vessels of war having been fully carried into execution, I refer to the statement of the Secretary of the Navy for the information which may be proper on that subject. To that statement is added a view of the transfers of appropriations, authorized by the act of the session preceding the last, and of the grounds on which the transfers were made.

Whatever may be the course of your deliberations on the subject of our military establishments, I should fail in my duty in not recommending to your serious attention the importance of giving to our militia, the great bulwark of our security and resource of our power, an organization the best adapted to eventual situations, for which the United States ought to be prepared.

The sums which had been previously accumulated in the Treasury, together with the receipts during the year ending on the 30th of September last, and amounting to more than nine millions of dollars, have enabled us to fulfil all our engagements, and to defray the current expenses of our Government, without recurring to any loan. But the insecurity of our commerce, and the consequent diminution of the public revenue, will probably produce a deficiency in the receipts of the ensuing year, for which, and for other details, I refer to the statements which will be transmitted from the Treasury.

In the state which has been presented of our affairs with the great parties to a disastrous and protracted war, carried on in a mode equally injurious and unjust to the United States as a neutral nation, the wisdom of the National Legislature will be again summoned to the important decision on the alternatives before them. That these will be met in a spirit worthy of the councils of a nation conscious both of its rectitude and of its rights, and careful as well of its honor as of its peace, I have an entire confidence. And that the result will be stamped by a unanimity becoming the occasion, and be supported by every portion of our citizens, with a patriotism enlightened and invigorated by experience, ought as little to be doubted.

In the midst of the wrongs and vexations experienced from external causes, there is much room for congratulation on the prosperity and happiness flowing from our situation at home. The blessing of health has never been more universal. The fruits of the seasons, though in particular articles and districts short of their usual redundancy, are more than sufficient for our wants and our comforts. The face of our country every where presents the evidence of laudable enterprise, of extensive capital, and of durable improvement. In a cultivation of the materials, and the extension of useful manufactures, more especially in the general application to household fabrics, we behold a rapid diminution of our dependence on foreign supplies. Nor is it unworthy of reflection, that this revolution in our pursuits and habits is in no slight degree a consequence of those impolitic and arbitrary edicts, by which the contending nations, in endeavoring, each of them,

to obstruct our trade with the other, have so far abridged our means of procuring the productions and manufactures of which our own are now taking the place.

Recollecting, always, that, for every advantage which may contribute to distinguish our lot from that to which others are doomed by the unhappy spirit of the times, we are indebted to that Divine Providence whose goodness has been so remarkably extended to this rising nation, it becomes us to cherish a devout gratitude, and to implore, from the same Omnipotent source, a blessing on the consultations and measures about to be undertaken for the welfare of our beloved country.

JAMES MADISON.

November 29, 1809.

The Message and documents therein referred to were read, and five hundred copies of the Message, and also five hundred copies of the Message together with five hundred copies of the documents, were ordered to be printed for the use of the Senate.

On motion, by Mr. Goodrich,

Resolved, unanimously, That the members of the Senate, from a sincere desire of showing their respect to the memory of the Honorable Samuel White, deceased, late a member thereof, will go into mourning for one month, by the usual mode of wearing a crape round the left arm.

Thursday, November 30

Philip Reed, from the State of Maryland, attended.

John Condit, appointed a Senator by the Legislature of the State of New Jersey, in the place of Aaron Kitchel, resigned, produced his credentials, which were read; and, the oath prescribed by law having been administered to him, he took his seat in the Senate.

Monday, December 4

Richard Brent, from the State of Virginia, and William H. Crawford, from the State of Georgia, severally attended.

Samuel Smith, appointed a Senator by the Legislature of the State of Maryland from the 15th of November, 1809, to the 4th of March, 1815, produced his credentials, which were read; and the oath prescribed by law having been administered to him, he took his seat in the Senate.

A message from the House of Representatives informed the Senate that the House concur in the resolution of the Senate of the 30th of November, for the appointment of Chaplains, and have appointed the Rev. Jesse Lee Chaplain on their part.

Tuesday, December 5

The British Minister

Mr. Giles, from the committee appointed on the first instant, reported in part the following resolution; which was read the first time, and passed to the second reading:

> *Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled*, That the expressions contained in the official letter of Francis James Jackson, Minister Plenipotentiary of his Britannic Majesty near the United States, dated the 23d day of October, 1809, and addressed to Mr. Smith, Secretary of State, conveying the idea, that the Executive Government of the United States had knowledge that the arrangement lately made by Mr. Erskine, his predecessor, on behalf of his Government, with the Government of the United States, was entered into without competent powers on the part of Mr. Erskine for that purpose, were highly indecorous and insolent; that the repetition of the same intimation in his official letter dated the 4th of November, 1809, after he was apprised, by the asseveration of the Secretary of State, that the Executive Government had no such knowledge, and that if it had possessed such knowledge such arrangement would not have been entered into on the part of the United States, and after also being officially apprised that such intimation was inadmissible, was still more insolent and affronting; and that, in refusing to receive any further communications from him in consequence of these outrageous and premeditated insults, the Executive Government has manifested a just regard to its own dignity and honor, as well as to the character and interest of the American people.
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> That the letter signed Francis James Jackson, headed "Circular," dated the 13th of November, 1809, and published and circulated through the country, is a still more direct and aggravated insult and affront to the American people and their Government, as it is evidently an insidious attempt to excite their resentments and distrusts against their own Government, by appealing to them, through false or fallacious disguises, against some of its acts; and to excite resentments and divisions amongst the people themselves, which can only be dishonorable to their own characters and ruinous to their own interests; and the Congress of the United States do hereby solemnly pledge themselves to the American people and to the world to stand by and support the Executive Government in its refusal to receive any further communications from the said Francis James Jackson, and to call into action the whole force of the nation if it should become necessary in consequence of the conduct of the Executive Government in this respect to repel such insults and to assert and maintain the rights, the honor, and the interests of the United States.

Privileges of Foreign Ministers

Mr. Giles, from the same committee, also reported the following bill, which was read and passed to a second reading:

A bill to prevent the abuse of the privileges and immunities enjoyed by Foreign Ministers within the United States.

Be it enacted, &c., That if any foreign Ambassador, Minister, or other person, entitled to enjoy within the United States the privileges and immunities of a foreign Minister, shall have committed, or may hereafter commit, any such act as by the laws and usages of nations would justify the President of the United States in ordering such offending Ambassador, Minister, or other person as aforesaid, out of the District of Columbia, or out of the Territories of the United States; or in sending him home to his Sovereign, or to some place or territory within his Sovereign's jurisdiction; in every such case where the President of the United States shall deem it proper and expedient to exercise his constitutional authority, in either of these respects he shall be, and is hereby authorized and empowered to cause a warrant to be issued and signed by the Secretary of State, directed to any civil officer of the United States, authorized to serve process, or any military officer under the authority of the United States, commanding him to provide for and enforce the departure of such Ambassador, Minister, or other person offending as aforesaid, taking due precautions to avoid improper or unnecessary violence in executing such warrant. And all officers, civil and military, under the authority of the United States, are hereby required and enjoined to be obedient to such warrant. And in case any officer, civil or military, to whom such warrant shall be directed, shall fail, or unreasonably delay to execute the same, every officer so offending shall be deemed guilty of a high misdemeanor, and shall be punished by fine and imprisonment before any court of the United States having cognizance of the offence. *Provided*, That the fine shall not exceed – dollars, nor the imprisonment be for a longer time than – years.

Mr. Giles gave notice that he should call for the consideration of this subject on Thursday next.

Friday, December 8

The British Minister

The resolution reported by Mr. Giles, approving the conduct of the Executive in refusing to hold any further communication with Mr. Jackson, was taken up in the Senate as in Committee of the Whole. The resolution having been read,

Mr. Giles rose, and spoke as follows:

Mr. President: Before I proceed to perform the duties enjoined upon me as chairman of the committee who reported the resolution before you, permit me to express my regret that the consideration of a subject which justly excites so much sensibility should have been delayed, even only one day, on my account; and be assured, sir, that nothing less than an indisposition, sufficient to justify it, would have caused me to have been absent from my place yesterday. Perhaps, sir, I owe an apology to the Senate at this time for entering into this debate under a state of hoarseness, which must necessarily disqualify me, in some degree, from discharging my duty on the present occasion. But, sir, it is a subject of great consolation to me, to reflect that I am fortunately favored with associates on the committee, either of whom could perform the task I am now engaged in better than myself, and some of whom will certainly do me the favor of correcting any errors I may unintentionally commit, or supplying any omissions I may inadvertently make.

Although it appears to me that the propriety and urgency of the resolution now under consideration must be strongly addressed, both to the judgment and sensibility of every gentleman who has carefully attended to the distribution of powers under our constitution, and who has also carefully attended to the correspondence which gave rise to the resolution, yet, in a case of so much delicacy, it would naturally be expected, and is a respect due to the Senate, from the chairman of the committee, to present to it at least some of the general motives which induced the committee to report the resolution at this time.

It is to be observed, Mr. President, that our constitution is peculiar in the organization and distribution of its powers; and in no respect is it more peculiar than in the distribution of the particular powers embraced by the resolution. In all other Governments known to us, the same department which possesses the power to receive and negotiate with foreign Ambassadors and other public Ministers, also possesses the power to make war. It has been thought wise in our constitution to separate these powers. With a simplicity of language, and a solidity of wisdom almost peculiar to our constitution, the President is invested with the power to receive Ambassadors and other public Ministers; thus using the broadest terms in granting this power, without even an attempt at limitation or specification; evidently with a view that all the incidental or consequential powers might flow from this general expression to the department thus invested with this general power. It was easy to foresee (and no doubt the framers of our constitution did foresee) that the multiplicity and diversity of cases which would arise in the course of various diplomatic manœuvres and negotiations, would set at defiance all attempts to limit or specify the powers of the department, in this respect, to which these powers were confided, and to be exercised on the part of the United States; and, therefore, every attempt of that kind was wisely avoided, leaving to the President to exercise his authority upon his own responsibility, to be regulated by the only established standard amongst nations, to wit: the laws and usages of nations. For, it never can be presumed, sir, that the wise sages who framed our excellent constitution could for a moment have tolerated the idea that the Ministers of foreign nations residing near the Government of the United States, should possess greater privileges and immunities than the Ministers of our Government residing near foreign Courts. Of course,

the same laws – to wit, the laws and usages of nations – were left reciprocally to govern in every reciprocal case.

But, sir, notwithstanding the President is invested with the power "to receive Ambassadors and other public Ministers," and, as I think, all other incidental or consequential powers applicable to the various agencies with such Ambassadors and other public Ministers, yet Congress is invested with the power, without limitation or qualification, "to declare war." Now, sir, it must be obvious to every understanding, that these several powers are so intimately connected, and may be so dependent upon each other, that the exercise of the power conceded to the President may consequentially involve the necessity of the exercise of the power conceded to Congress, as in the case now under consideration. The refusal of the Executive to receive any further communications from His Britannic Majesty's Minister, (Mr. Jackson,) may consequentially involve us in war with Great Britain; or, in other words, may serve as a pretext for Great Britain to make war upon us, if she should conceive it her interest to do so, which I think not very improbable. Hence arises, in my judgment, the propriety and urgency of expression of the Congressional opinion upon this Executive act, and a declaration of the Congressional will as to the course of conduct Congress will pursue under any consequences which may flow from, or possibly be attributed to, this Executive act.

I conceive, sir, that the expression of this opinion, and the pledge of a solemn declaration, by Congress, are due to the people, because the people have the greatest interest in the character of their Government; and in no part of its attributes have a deeper interest than in its efficacy to resist and impel injuries and insults from foreign Governments. The people, also, are the mediate or immediate electors of Congress, and as such have a right to expect and demand that Congress will execute all their duties, and will never shrink from their constitutional responsibility in any case; and, last of all, in a case of so high and solemn a character as the one under consideration.

This course of conduct is essentially due to the Executive. The President ought to know whether, with the indispensable co-operation of Congress, he ought to proceed with dignified moderation and intelligence to assert and maintain the rights, the honor, and the interests, of the American people; or whether, for the want of that co-operation, he shall with shame and confusion of face be compelled to retrace his steps, and leave to Congress to abandon these high attributes of the nation, and, with their degradation, to record their country's ruin and disgrace. No, sir, it is not possible that an American Congress does exist, or can ever exist, that would not spurn from themselves every vestige of an idea that they could be brought, under any circumstances, to perform so degrading and dishonorable a task. It is imperiously demanded by the dignity and candor of Congress itself. What, sir, shall the exercise of one of the highest constitutional functions of Congress be brought into question, and every individual in the nation engaged in expressing an opinion on it; and shall Congress alone stand aloof, for fear of incurring a responsibility imposed on them by the constitution? Shall Congress stand by as idle spectators, and see a contest before the people, between the President and a foreign Minister, and feel no interest and take no share in such an unprecedented scene, especially when one of their highest constitutional functions may be affected by it! No, sir. Congress must speak – Congress must act. Congress never can shrink from its constitutional responsibility. It is due to the dignity – it is demanded from the candor – of Congress.

Above all, sir, it is important to the United States as a nation, that the Congressional will should be proclaimed upon this delicate and solemn occasion. It is of importance, it may be of the last importance, to the United States, that Great Britain should know, before she decides upon this subject, what is the Congressional will in relation to it. Whether she will be called upon to act against an united, harmonized Government and people – or whether she shall have for her prey, a divided people and a discordant Government.

Do you believe, Mr. President, that the conduct of Great Britain would be very different under these different conditions of the people and Government of the United States? Let me ask you this question, sir: would you not, sir, if you were Prime Minister of Great Britain, consulting her interest alone, pursue a very different course of conduct under this different state of things? Let every gentleman put the question to himself; and the answer of every one would be the same. Why then, sir, do we not unanimously take the ground here which, if we were called upon to act in an opposite hostile character, would most certainly deter us from persevering in that hostile character against the United States? Sir, if there had been any doubt upon this subject, our late experience ought to have removed it; for, sir, I have no hesitation in saying, and with pain at heart I shall be compelled to show it in the course of this debate, that, in my judgment, our present embarrassments are too much to be ascribed to our former manifestations of indecision, to our unfortunate dissensions and divisions. Sir, whenever I approach this sorrowful and awful subject, my heart feels as if it were bleeding at every pore, when I am compelled to reflect, and to believe, that this our beloved and happy country may shortly become a bleeding victim, from wounds – if not inflicted by the hands of her own sons, at least by their unhappy divisions and dissensions. Yes, sir, with a full knowledge of what is past, and strong presages of what is to come, is it not deplorable to be compelled to think, that, in a very few months, perhaps in a still shorter time, American blood must be shed, to repel the hostile spirit of Great Britain, now rendered too manifest to every understanding; and worse than all, sir, to wash away the stains of our own unfortunate divisions and dissensions; and is it not wonderful, as it is deplorable, that the virtuous and patriotic American people, and sometimes called the most enlightened in the world, with the experience of the horrible consequences, through all ages, of the divisions of a people amongst themselves, should permit themselves from the same cause, to fall a prey to the same inevitable calamities?

Look, Mr. President, through all history, from the first dispute between Cain and Abel, down to the late disastrous dissensions between the Spanish branch of the Bourbon dynasty, and find if you can, sir, a single instance of a people who gained any advantage from dissensions among themselves, and especially, sir, when they carried them so far, as to join a foreign against their country's standard! I believe, sir, not one solitary instance of this kind stands recorded. Nor is it possible or practicable in any state of human affairs – because in all cases, the foreign interference in the internal concerns of its neighbors is always for its own and never for its neighbor's benefit. With these monitory lessons before our eyes, and a full conviction of their truth upon our hearts, is it not wonderful, that we should voluntarily give up ourselves victims to the same calamities? But, sir, gentlemen may ask, where is the remedy? How can we make a sacrifice of our own opinions? Sir, the case is a plain one. Let gentlemen exercise their opinions and persevere in their arguments at all times respecting our internal concerns, as well before as after the measures are adopted; let them, respecting our foreign relations, urge their arguments with a zeal proportioned to the magnitude of the subject; they will be pleasurably received, and respectfully considered; but after the Government has taken its attitude against a foreign nation, it would be going too far to desert its standard, and to join that of the enemy. It is then time for opinion to pause and reflect, whether any consequence can be worse, or more disgraceful, than joining a foreign against its country's standard? Whether it would not be better, more patriotic, more virtuous, to support your country even in a supposed unwise course of policy, than to join a foreign standard, and use it to correct and change the course of policy thus disapproved?

Sir, in a contest between your own and a foreign nation, it never can be wrong to join the standard of your own country; nor right to join the standard of your enemy. Then, sir, here is a rallying point. It is a plain and obvious one. No understanding can mistake it. No heart can disapprove it. It is our own Government. Let that be the rallying point. There never can be a more propitious moment than the present for casting into oblivion all former irritations and dissensions. There can never be a plainer case presented to the human understanding. There never were more

urgent considerations in favor of the course recommended. Whether we respect their repulsive effects upon British hostility or their harmonizing effects among ourselves, they appear to me to be equally strong and persuasive. May I not then, sir, indulge the pleasing hope, that the resolution before you will be received as the signal of unanimity in Congress, and joyfully hailed in that character through the whole of this great and extended country? Sir, does it not manifest a strange perverseness in the human character, for us to observe that, when it is perfectly at our option, we should choose to distress and injure ourselves by irritations and resentments, rather than delight ourselves with union and harmony and mutual good offices? Especially, sir, when the latter choice would command the respect, if not excite the alarm of our enemy. For, sir, do you believe that if Great Britain saw the strong arm of this nation stretched out to oppose her unjust spirit of hostility, guided in all its operations by one undivided will, she would so readily encounter its powerful influence, as if she saw it paralyzed in all its efforts from the want of a unity of will and action? No, sir, we undervalue our energies and importance, if we were to suppose that her conduct would be the same in both of these situations; or that she is at all indifferent to the course of conduct now to be pursued by us. Let us then all unite, sir, in this proposition, and disappoint her mistaken calculations upon her influence in this country. I verily believe, that union is all that is wanting to appease her hostile spirit towards us. But perhaps, sir, every gentleman present will admit, and it appears to me that no human being can deny, that if the facts stated in the resolution be supported by the correspondence upon which it is founded, that then every gentleman would readily assent to the resolution. But, sir, it is possible, although it appears to be scarcely possible, that some gentlemen may doubt whether the facts stated in the resolution be supported by the correspondence or not. This I admit is a fair though delicate inquiry, and I will therefore immediately proceed to the examination of that question – and I beg the most critical attention of the Senate in the course of the investigation.

I will now proceed, Mr. President, to inquire whether the facts stated in the resolution are supported by the correspondence upon which it is founded? In performing this task, I propose to read the whole of the correspondence which I conceive bears any material relation to the subject of the resolution, and no other; although the whole may not be entitled to, nor receive any animadversions from me, yet as my sole object is to get at the true exposition and meaning of the correspondence, if I should unfortunately omit, misconceive, or misinterpret any material part of it, I shall have the consolation to reflect, that, by presenting the whole, the means of my correction in either case will be presented to the Senate and the world, if the observations I propose now to make should ever find their way out of the walls of this Chamber. I shall also present this correspondence in its responsive order, which will be found to be indispensable to the due comprehension of some of its most essential parts.

Permit me, then, sir, to call your attention first to the letter of Mr. Jackson to Mr. Smith, dated the 11th October, 1809, pages 32, 33, of the printed documents. For, sir, although this letter is not mentioned in the resolution, yet it furnishes the original offensive insinuations, and is referred to and reiterated in the letter of the 23d October, which is noticed in the resolution, and therefore the offensive expressions of the letter of the 11th are entitled to, and shall receive, the most accurate and critical attention and analysis.

[Here the exceptionable passages were read.]

Now, sir, after thus stripping this extraordinary sentence of all its disguises, and translating it into plain English, to what does it amount? Why, sir, certainly and unquestionably to this: – You, Mr. Smith, Secretary of State of the United States, have entered into an arrangement with my predecessor, Mr. Erskine, under such scandalous and dishonorable circumstances as could only lead to a disavowal of it; and you yourself were so well apprised of them, and so conscious of their inevitable operation, as even to think it unreasonable to complain of the disavowal. I defy gentlemen

to give to this offensive paragraph any other fair and correct interpretation; and if this be the fair and correct one, can you conceive, sir, of an insult more outrageous and premeditated? And will you not be surprised, sir, to be told that the insult does not stop here; that, as offensive as it already appears, it does not stop here; that it is still further aggravated? Yes, sir, Mr. Jackson, not content with making this extraordinary and insolent communication in its ordinary form, underscores the words "could only," containing the point or gist of the insult, thus aggravating the act, either by the distrust thus manifested of Mr. Smith's mental perceptions; or by letting Mr. Smith know, that the insult was known to, and intentionally given by Mr. Jackson; for the underscoring could not have had any other object in view. In this impudent act of underscoring, Mr. Jackson reminds me, sir, of a set of miserable, conceited pretenders to wit, who, having great confidence in the acuteness of their own mental perceptions, and very little in that of their hearers, will kindly and compassionately explain the point of wit to their hearers, before they approach it in the recital of the story, to prepare and qualify the hearers' minds to join in the laugh intended to be produced by it. Yes, sir, this underscoring was as much as saying to Mr. Smith, I am afraid that I have so nicely wrapped this insult in the veil of mysteries and disguises, that it may escape observation from the obtuseness of your mental perception, but am determined it shall not. I have underscored it for you; you shall look at it; you shall know that I, Mr. Jackson, understand and mean it. I have wrapped it up in mystery and disguise to be sure, but I will rend the veil, I will make an eyelet hole for you, that you shall look through, and behold the insult in all its front of grossness and impudence.

But, sir, if Mr. Jackson had then known, as well as he now does, the dignified character, the high sensibility, and the correct intelligence of the Secretary of State, he would have found it more honorable to himself to have spared his insult altogether, or at least might have spared himself the trouble of underscoring. Sir, I conceive this insult so gross and outrageous that I am surprised how the Executive Government could reconcile it to itself to proceed another step in the communications with Mr. Jackson. Certainly, sir, proceeding beyond this point manifests on the part of the Executive great moderation, great forbearance, and a condescension scarcely excusable; and, sir, I am perfectly sure, that nothing could have induced it to consider such gross intimations argumentatively, but the ardent and sincere desire which has invariably actuated the present, as well as the last, Administration to preserve peace and cultivate harmony and a good understanding with Great Britain. And, sir, we shall see, in the course of this investigation, how it has been requited for this, as well as for all former acts of moderation, forbearance, and condescension.

Let me now, sir, select out of the quotation another extraordinary expression, for a few animadversions, in the following words: "But the very act of substitution evidently shows that those original conditions were in fact very explicitly communicated to you, and by you, of course, laid before the President for his consideration."

It is somewhat curious to observe what stress Mr. Jackson placed through the whole of his correspondence, upon what he is here pleased to term "the very act of substitution," and demonstrates to every impartial mind how slender are the pretexts with which Mr. Jackson is furnished, to apologize for, or rather to equivocate about the disavowal of Mr. Erskine's arrangement. Let me, therefore, inquire, in what this horrible act of substitution, as Mr. Jackson would make it appear, consists? Why, sir, simply in this: That the three inadmissible conditions mentioned in one of the despatches to Mr. Erskine, were verbally communicated to Mr. Smith, and insisted upon by Mr. Erskine, and that Mr. Smith, in rejecting those conditions verbally, and with great propriety and frankness, told Mr. Erskine what conditions he might obtain. Mr. Erskine, upon a review of all his letters of instructions, finding it impossible to obtain his, the three conditions first proposed, conceived himself fully empowered to propose those which possibly might have been intimated to him by Mr. Smith in conversation; and the arrangement was accordingly and promptly made between these two gentlemen on the part of their respective Governments. And now let me ask you, sir, what is there dishonorable, unfair, or even unusual in this proceeding,

which is the whole amount of Mr. Jackson's "very act of substitution." Sir, it is very easy to see, that Mr. Jackson keeps his ingenuity constantly upon the stretch respecting this very act of substitution, evidently with a view of producing an impression by the insinuation, that the Executive Government of the United States had more than its share in that arrangement, and, in fact, was concerned in a dishonorable and scandalous combination with his predecessor, Mr. Erskine, for the purpose of producing the arrangement. Which insinuation, if true, must represent Mr. Erskine as a fool, a knave, or a traitor, or all three, and our Executive Government still further lost to every honorable sentiment, and utterly destitute of even the most ordinary understanding. An insinuation so insidious and affronting, cannot fail to excite the indignation and contempt of every patriotic heart in America. But, fortunately for the Executive Government, Mr. Erskine's previous explanation of this point to our Government strips the transaction of every shadow of a shade of a doubt, of which Mr. Jackson perhaps was not apprised at the time he was employed in devising the gross insinuation. Yes, sir, this was one miserable effort of Mr. Jackson to reproach our Executive Government for an act, for which it merited, and universally received, the sincere applause and grateful thanks of the American people. It restored the Executive, as it ought to have done, to universal confidence, and utterly rooted out every doubt of its sincerity in its diplomatic intercourse with Great Britain, under which some of our misled and mistaken citizens, for a while, unfortunately labored. For the moment terms were proposed on the part of Great Britain, which could, with honor or propriety, be accepted by the United States: they were frankly and promptly accepted by the Executive, regardless of all consequences from any other quarter. Sir, there is another part of this quotation which requires a few animadversions.

I allude, sir, to the first solemn declaration made to this Government by Mr. Jackson, respecting the despatch, in which the conditions were prescribed to Mr. Erskine. It is in the following words:

> [Here Mr. Giles read the paragraphs from Mr. Jackson's letter, which charged that Mr. Erskine had shown to Mr. Smith, Secretary of State, the inadmissible conditions laid down in Mr. Canning's despatch; and then read Mr. Erskine's statement that he had not shown that part of Mr. Canning's despatch, and giving the reason why he had not done it.]

It is to be observed from this quotation, in the first place, sir, that Mr. Erskine explicitly disavows ever having shown the Executive Government the despatch containing the inadmissible conditions; and thus entirely exculpates it from the odious imputation attempted to be thrown on it by Mr. Jackson, and for this respectful forbearance to our Government, he is certainly entitled to the applause of his own. In the next place, Mr. Erskine explicitly states that the despatch in question contained but one part of his instructions, and that he thought that, from the spirit at least of his several letters of instructions, he was fully authorized to make the arrangement he had done. And I think there is very little doubt but he had – that Mr. Erskine still thinks so, there can be no doubt – for he nowhere says he is now convinced that his powers were incompetent – he only says, that the disavowal by His Majesty is a painful proof to him, that he had formed an erroneous judgment of His Majesty's views and the intentions of his instructions. Whether or not he had formed an erroneous view of His Majesty's views, or the intention of his instructions, I imagine, will depend very much upon the point of time to which the judgment he had formed is referable. If it be referred to the time of Mr. Oakley's mission, I am inclined to think he had neither formed an erroneous judgment of His Majesty's views, nor the intentions of his instructions; but, if he refers to the time of the disavowal, then I think it pretty certain, he had formed an erroneous judgment of both – for I have no doubt but His Majesty's views at least had completely changed between these two periods of time, and the real cause of this change, and of the disavowal itself, is to be looked for in the occurrences which took place, both in Europe and in the United States, during that interval.

No, sir, the want of powers on the part of Mr. Erskine is not the true cause of the disavowal. I will now venture to conjecture the true cause, and, if it be the right one, the case will be a plain one, and all equivocations in the explanations rendered unnecessary. To do this, sir, I must call your attention to the state of events in Europe and in the United States, at these different periods of time. Mr. Oakley's mission was immediately after the British Government was apprised of the precipitate retreat of Sir John Moore's army from Spain, and the fortune escape of the remains of it from Corunna. The affairs of Spain, which had before excited such high expectations in the British Cabinet, were given up as hopeless, &c. Contemporaneously with a knowledge of these events, the British Government was also informed of the measures of resistance against her outrageous aggressions, contemplated by Congress; which she then believed would certainly be carried into effect, &c. Such was the state of things at the time of sending the despatches by Mr. Oakley. At the time of the disavowal, a new coalition had been formed, Austria had boldly entered into the war against France, and the Spaniards had been animated into further efforts at resistance, which excited new hopes of success, &c.

In this country, too, sir – it pains my heart to be compelled to recite the circumstances – our contemplated measures of resistance had been relaxed, and the whole country exhibited such scenes of divisions and disaffections as paralyzed in some degree the movements of the Government. I wish, sir, I could throw a shade of oblivion over these unfortunate scenes, or recollect them only as they furnish the strongest argument. Indeed, sir, they point with an infallible index to the course it now becomes us to pursue. Yes, sir, it is to these changes in the state of things, you are to look for the real causes of the disavowal, and not to the want of competent instructions on the part of Mr. Erskine; and it would have been more dignified on the part of the British Government to have told us so at once. She would then have said to us, the state of things is changed; at the time of giving the instructions, I was depressed from a combination of untoward events; I am now flushed with new hopes of elevation and of triumph. Besides, you have convinced me that you are untrue to yourselves – that you will shrink from the assertion and support of your own rights – if you will not, I am not bound to respect them, &c. I was then down, I am now up, and therefore I cannot grant you, in a spirit of triumph, what I solemnly promised in a spirit of despondency – I now find this the most favorable moment for establishing my favorite doctrine of the despotism of the ocean; and I cannot, and will not deprive myself of the advantage merely to avoid the imputation of bad faith. Yes, sir, this would have been a much more correct and dignified course on the part of Great Britain than the miserable effort made by Mr. Canning in devising an ingenious mental retort, for converting the bad faith of his own Government, in the disavowal of the arrangement, into a reproach upon ours, for the circumstances under which that arrangement was pretended to have been made. It is true, sir, that in the one case there would have been an admission of *mala fides*, which is basely attempted to be avoided by a miserable subterfuge in the other; but, then the British Cabinet would have had the consolation of having told the truth, taken the responsibility upon themselves and set us at defiance; and we should have been left to our own remedy, with a perfect understanding of the case. She would, also, have had the plea of necessity, the old-fashioned plea of tyrants, and, indeed, of everybody else, who has no better; but this is not Mr. Canning's mode of doing business; he chooses to act by tricks and contrivances; and, in the case of the disavowal, by a mental retort, flowing solely from his own visionary mental conceits, without a fact or pretext for its support.

Mr. President, I am told that Mr. Canning is a professed punster. But, sir, I would not condescend to make the observation here, had he not, after heaping upon us, during the whole of his administration, every injury and insult in his power, at the close of it placed us in a ludicrous situation by imposing on us an obligation, in a grave and serious concern to the nation, of expounding his equivoques, and unriddling his riddles. I really feel some condescension in being compelled, in my place, to hunt out for his and Mr. Jackson's meaning, through a transition of sentences, a collocation of words, and a shifting of verbiage. And indulge me, sir, with remarking,

that I conceive the situation of a nation never can be more disastrous, calamitous, and lamentable, than when its great and serious affairs are placed in the hands of a parcel of punsters. For, sir, men of minds of that description are too much employed in the pleasing amusement of looking out for coruscations of wit and sentiment, to have any leisure for the more dull and unpleasurable business of observing and marking the great occurrences in human affairs, and of devising means of giving them a direction favorable to their own views, or to their country's interests. No, sir, this is too dull and plodding a pursuit for men of such light, flitting, brilliant imaginations, and if ever they unfortunately undertake it, they soon find the woful misapplication of talents. If, sir, any illustration were wanting of the correctness of these observations, it could nowhere be found better than in an attentive review of the historical events which occurred during the late British administration – the administration of the energetic, the brilliant, the sarcastic, the facetious, the joking Mr. Canning. He has carried his joking propensities far indeed. It may be truly said he jests at scars indeed – at scars of the blackest disgrace and ruin inflicted upon his bleeding country – upon a great nation, which probably would have received, and certainly merited, a better fate, if it had fortunately placed its destinies in better hands. Sir, it appears to me, that all the military enterprises during his whole administration, from the abominable attack on Copenhagen, down to the last expedition against the islands of Zealand, were nothing more than belligerent puns and conundrums. It has been constantly announced that some grand, secret expedition was on hand, and each succeeding one grander than the preceding, until the last expedition to Walcheren, which was the grandest of all; and, when the secret really came out, it appeared either that the object was abominable or contemptible, and the means of executing even the contemptible object, upon experiment, were generally found incompetent. Yes, sir, probably these enterprises have cost the British nation the lives of fifty thousand brave officers and soldiers, and I will not undertake to count the millions of dollars. Sir, the same little-minded course of policy has also been uniformly manifested during the same time against the United States; and in no respect more than in the disavowal of Mr. Erskine's arrangement – in avoiding to avow the real motives for it – and in the uncandid attempt to convert the bad faith of the British Government into a reproach upon our own; and this was to be done by an ingenious mental device, prettily conceived by Mr. Canning, and adroitly executed by Mr. Jackson, who, if not equal to Mr. Canning in the mysterious art of punning, I think can be very little way behind his prototype in the art of equivoques. Sir, the disavowal, in my judgment, was not for the want of competent powers. Too great a share of the real cause of the disavowal, unfortunately, is attributable to ourselves, and now is the moment to relieve ourselves from the imputation.

Sir, it is painful for me to be so often compelled to question the candor of any gentleman, particularly one clothed with the high functions of Minister Plenipotentiary of His Britannic Majesty; but permit me to ask you, sir, how it is possible for Mr. Jackson not to conceive that offence would be taken at his offensive insinuations after Mr. Smith's letter of the 1st of November, telling him in strong and decisive terms that offence had been taken at them? or how can Mr. Jackson reconcile it to himself to say that in adhering to these gross insinuations, he did not intend to give offence? Let me ask you, sir, what else he did, or could intend? For my part, I can see nothing else that he could either rationally intend or expect. Here then, sir, is another false or fallacious disguise thrown out before the people of the United States, as will always be the case in every appeal to them, calculated, or evidently intended, to excite their resentments and distrusts against their own Government.

Now, sir, upon the most critical review of this exposition, is there a single gentleman present, who is not prepared to say, that the facts stated in the resolution are fully justified by the correspondence? And if they be, sir, what inducement can possibly prevent unanimity on the present occasion? Surely those, who wish peace with Great Britain, will find unanimity upon this occasion the most likely to deter from war; and surely, sir, every gentleman must feel and see that the declarations contained in the resolution are imperiously due to the dignity and honor of

our own Government, as well as to our respect for the people and ourselves. Sir, what would be the effect of passing by unnoticed these gross and insidious insults to both the people and Government? Why, sir, foreign Ministers would begin to conceive, that an appeal to the people was amongst the most sacred of their privileges and immunities. The frequency of them already is almost sufficient to establish and sanctify the rule. The cases of Genet, Yrujo, the publication of Mr. Canning's letter in one of the Boston newspapers, &c., never received sufficient animadversions from Congress; and if this most aggravated case of all should pass over unnoticed, I should not be surprised to see Mr. Jackson during the present winter set himself up as a British President in New York, contesting the point of jurisdiction before the people, with the American President at Washington; whilst Congress, regardless of their own constitutional powers, &c., should stand by and behold the extraordinary scene in a state of perfect neutrality. Sir, is it possible that Congress can so far forget their duties to the people and their respect for themselves? Independently of the obvious propriety of this proceeding in itself, have we, sir, no examples of the course of conduct recommended by the resolution? Let me remind you, sir, of the case of Count De Palm in the British Parliament. In that case, sir, the Count De Palm presented a memorial to the British King by the express order of his Government, complaining of the misrepresentation of facts made in the King's speech to Parliament, which complaint the British historians admit was well founded. After presenting the memorial, he caused it to be published and circulated through the country, etc. What, sir, was the conduct of the British Parliament and nation upon that occasion? Sir, the Parliament unanimously entered into resolutions expressing the highest indignation at the insolent procedure; and presented an address to His Majesty requesting him to order the Count De Palm out of the country immediately. Sir, I will not trouble the Senate with reading the proceedings of the House of Commons upon this memorable occasion; because I presented them to the Senate last winter in the case of the publication of Mr. Canning's letter in the Boston paper, and I, therefore, presume they are now fresh in the recollection of every gentleman. And what, sir, was the conduct of the opposition in the British House of Commons, when their King and country were insulted by a foreign Minister? Did they hold back, did they attempt to paralyze the proceedings of their Government in resenting this conduct and retrieving its wounded honor and dignity? No, sir, they were Englishmen, and felt the indignity to themselves! They were patriots, and could not see their Government and nation insulted with indifference! They stepped forward, sir, and were the first to move the resolution and address. The proceeding was unanimous; and what benefit did the British nation receive from this unanimous and prompt proceeding? Why, sir, from the year 1726 to the present time, the insult has not, I believe, been repeated, and probably never will again.

Sir, how honorable, how patriotic, was this course of conduct to the British opposition! How honorable and laudable would be its imitation here! Especially, sir, when union is all that is wanting to make us happy and victorious. Why then, sir, should we not have union, when it is so easy and efficacious a remedy for all our difficulties? Sir, the nation expects it; the nation has a right to demand it. May I not then hope, sir, that the hitherto dominant spirit of party will now yield to an occasion, so obvious, so urgent, so honorable! Sir, I cannot express to you the pleasure I should feel at my heart, if I could see all irritations banished, and harmony and mutual good will universally pervading all political scenes and all social intercourse. That the present occasion may be improved to this desirable end, is the most fervent prayer of one, who, in the present delicate, interesting crisis of the nation, feels a devotion for his country beyond every thing else on this side of Heaven!

After Mr. Giles concluded, the question was taken on the passage of the resolution to a third reading. There were twenty-four members present, besides the President *pro tem.*; of whom twenty voted in favor of it. It was ordered to be read a third time on Monday next.

Monday, December 11

Mr. Gilman, from the committee, reported the resolution relating to the official correspondence between the Secretary of State and Francis J. Jackson, Minister Plenipotentiary of His Britannic Majesty, correctly engrossed; and the resolution was read the third time.

On the question, Shall this resolution pass? it was determined in the affirmative – yeas 20, nays 4, as follows:

Yeas. – Messrs. Bradley, Brent, Condit, Crawford, Gaillard, German, Giles, Gilman, Gregg, Griswold, Lambert, Leib, Mathewson, Meigs, Parker, Pope, Reed, Smith of Maryland, Sumter, and Turner.

Nays. – Messrs. Goodrich, Hillhouse, Lloyd, and Pickering.

Monday, December 18

John Smith, from the State of New York, attended.

Thursday, December 21

Joseph Anderson, from the State of Tennessee, attended.

Tuesday, December 26

Jesse Franklin, from the State of North Carolina, attended.

Thursday, December 28

Charles Tait, appointed a Senator by the Legislature of the State of Georgia, in the place of John Milledge, resigned, produced his credentials; which were read, and, the oath prescribed by law having been administered to him, he took his seat in the Senate.

Tuesday, January 2, 1810

James A. Bayard, from the State of Delaware, attended.

Thursday, January 4

Jenkin Whiteside, from the State of Tennessee, attended.

Friday, January 12

Alexander Campbell, appointed a Senator by the Legislature of the State of Ohio, in place of Edward Tiffin, resigned; and Christopher G. Champlin, appointed a Senator by the Legislature of the State of Rhode Island, in the place of Francis Malbone, deceased; severally produced their credentials, which were read. And the oath prescribed by law having been administered to them, they took their seats in the Senate.

Tuesday, January 23

Naval Armament

The Senate resumed the third reading of the bill authorizing the fitting out, officering, and manning, the frigates belonging to the United States.

Thursday, February 1

The President communicated a letter from the Governor of the State of Kentucky, enclosing a certificate of the appointment of Henry Clay a Senator of the United States, in place of Buckner Thruston, resigned. And the certificate was read, and ordered to lie on file.

Monday, February 5

Henry Clay, appointed a Senator by the Legislature of the State of Kentucky, in the place of Buckner Thruston, attended, and the oath prescribed by law having been administered to him, he took his seat in the Senate.

Thursday, February 22

Non-Intercourse

Mr. Gilman, from the committee, reported the amendments to the bill, entitled "An act respecting the commercial intercourse between the United States and Great Britain and France, and for other purposes," correctly engrossed; and the bill was read the third time as amended.

Mr. Clay. – Mr. President: At all times embarrassed when I have ventured to address you, it is with peculiar diffidence I rise on this occasion. The profound respect I have been taught to entertain for this body, my conscious inadequacy to discuss, as it deserves, the question before you, the magnitude of that question, and the recent seat I have taken in this House, are too well calculated to appall, and would impel me to silence if any other member would assume the task I propose attempting. But, sir, when the regular troops of this House, disciplined as they are in the great affairs of this nation, are inactive at their posts, it becomes the duty of its raw militia, however lately enlisted, to step forth in defence of the honor and independence of the country.

I voted yesterday against the amendment offered by the gentleman from Maryland, because, while that vote did not pledge me for the ultimate passage of the bill, it would have allowed me to give it my support if no better proposition was tendered. I do not like the bill as sent from the House of Representatives. It was a crazy vessel, shattered and leaky; but it afforded some shelter, bad as it was. It was opposition to the aggressive edicts of the belligerents. Taken from us without a substitute, we are left defenceless, naked, and exposed to all the rage and violence of the storm.

Sir, have we not been for years contending against the tyranny of the ocean? Has not Congress solemnly pledged itself to the world not to surrender our rights? And has not the nation at large in all its capacities of meetings of the people, State, and General Government, resolved to maintain at all hazards our maritime independence? Your whole circle of commercial restrictions, including the non-importation, embargo, and non-intercourse acts, had in view an opposition to the offensive measures of the belligerents, so justly complained of by us. They presented *resistance*– the *peaceful* resistance of the law. When this is abandoned without effect, I am for resistance by the *sword*.

No man in the nation wants peace more than I; but I prefer the troubled ocean of war, demanded by the honor and independence of the country, with all its calamities and desolation, to the tranquil and putrescent pool of ignominious peace. If we can accommodate our differences with one of the belligerents only, I should prefer that one to be Britain; but if with neither, and we are forced into a selection of our enemy, then am I for war with Britain, because I believe her prior in aggression, and her injuries and insults to us were atrocious in character. I shall not attempt to exhibit an account between the belligerents of mercantile spoliations inflicted and menaced. On that point we have just cause of war with both. Britain stands pre-eminent in her outrage on us, by her violation of the sacred personal rights of American freemen, in the arbitrary and lawless imprisonment of our seamen, the attack on the Chesapeake – the murder, sir. I will not dwell on the long catalogue of our wrongs and disgrace, which has been repeated until the sensibility of the nation is benumbed by the dishonorable detail.

But we are asked for the means of carrying on the war, and those who oppose it triumphantly appeal to the vacant vaults of the Treasury. With the unimpaired credit of the Government invigorated by a faithful observance of public engagements, and a rapid extinction of the debt of the land, with the boundless territories in the west presenting a safe pledge for reimbursement of loans to any extent, is it not astonishing that despondency itself should disparage the resources of this country? You have, sir, I am credibly informed, in the city and vicinity of New Orleans alone, public property sufficient to extinguish the celebrated deficit in the Secretary's report. And are we

to regard as nothing the patriotic offer so often made by the States, to spend their last cent, and risk their last drop of blood, in the preservation of our neutral privileges? Or, are we to be governed by the low, grovelling parsimony of the counting room, and to cast up the actual pence in the drawer before we assert our inestimable rights?

It is said, however, that no object is attainable by war with Great Britain. In its fortunes, we are to estimate not only the benefit to be derived to ourselves, but the injury to be done the enemy. The conquest of Canada is in your power. I trust I shall not be deemed presumptuous when I state that I verily believe that the militia of Kentucky are alone competent to place Montreal and Upper Canada at your feet. Is it nothing to the British nation; is it nothing to the pride of her Monarch, to have the last of the immense North American possessions held by him in the commencement of his reign wrested from his dominion? Is it nothing to us to extinguish the torch that lights up savage warfare? Is it nothing to acquire the entire fur trade connected with that country, and to destroy the temptation and the opportunity of violating your revenue and other laws?

War with Great Britain will deprive her of those supplies of raw materials and provisions which she now obtains from this country. It is alleged that the non-intercourse law, constantly evaded, is incapable of execution. War will be a non-intercourse, admitting of but partial elusion. The pressure upon her, contemplated by your restrictive laws, will then be completely realized. She will not have the game, as she will if you press this bill without an efficient system, entirely in her own hands. The enterprise and valor of our maritime brethren will participate in the spoils of capture.

Another effect of war will be, the reproduction and cherishing of a commercial spirit amongst us. Is there no danger that we shall become enervated by the spirit of avarice, unfortunately so predominant? I do not wish to see that diffusive military character, which, pervading the whole nation, might possibly eventuate in the aggrandizement of some ambitious chief, by prostrating the liberties of the country. But a certain portion of military ardor (and that is what I desire) is essential to the protection of the country. The withered arm and wrinkled brow of the illustrious founders of our freedom are melancholy indications that they will shortly be removed from us. Their deeds of glory and renown will then be felt only through the cold medium of the historic page. We shall want the presence and living example of a new race of heroes to supply their places, and to animate us to preserve inviolate what they achieved. Am I counting too much on the valor of my countrymen, when I indulge the hope, that, if we are forced into war, the American hero now lives, who, upon the walls of Quebec, imitating his glorious example, will avenge the fall of the immortal Montgomery? But we shall, at least, gain the approbation of our own hearts. If we surrender without a struggle to maintain our rights, we forfeit the respect of the world, and (what is worse) of ourselves.

We are often reminded that the British navy constitutes the only barrier between us and universal dominion. When resistance to Britain is submission to France, I protest against the castigation of our colonial infancy being applied in the independent manhood of America. I am willing, sir, to dispense with the parental tenderness of the British navy. I cannot subscribe to British slavery upon the water, that we may escape French subjugation on land. I should feel myself humbled, as an American citizen, if we had to depend upon any foreign power to uphold our independence; and I am persuaded that our own resources, properly directed, are fully adequate to our defence. I am therefore for resisting oppression, by whomsoever attempted against us, whether maritime or territorial.

Considering then that the bill as amended in this House, in furnishing no substitute for the law of non-intercourse, which it repeals, nor the proposition of the other House, intended to take its place, is a total dereliction of all opposition to the edicts of the belligerents, I cannot vote for it in its present form. I move a recommitment of the bill to supply this defect. What ought to be the substitute, I confess I have not satisfied myself – not expecting that it would fall to my lot to make you this motion. The committee, however, can deliberate upon the subject, and

propose one. I would suggest two for consideration – either a total non-importation, which our laws can doubtless enforce, or to arm our merchantmen, and authorize convoys. A day may be fixed, allowing sufficient time for the last effort of the negotiation. That failing, our merchants then to be permitted to arm, and to receive all the protection by convoys which the public vessels can give. This latter measure may lead to war, but it is not war. Our neutral rights are violated by the belligerents. Each places our commerce under restrictions, not warranted by the law of nations. We must then submit, or protect it. Whilst we confine ourselves within the pale of that law, neither has a right to complain. When so armed, and pursuing our lawful destination, let those who attempt to molest us take to themselves the consequences of their own violations. On our part, a war thus produced will be a war of defence.

But, Mr. President, if, after all our deliberation, it shall be deemed unwise to adopt either of these expedients, perhaps some other unexceptionable course may occur. I insist that you do not return the bill to the other branch of the Legislature in its present form. They have sent you a measure, I acknowledge, weak; it is, however, not submission. It professes to oppose (in form, at least) the injustice of foreign Governments. What are you about to do – to breathe vigor and energy into the bill? No, sir; you have eradicated all its vitality, and are about to transmit back again the lifeless skeleton. I entreat the Senate to recollect the high ground they occupy with the nation. I call upon the members of this House to maintain its character for vigor. I beseech them not to forfeit the esteem of the country. Will you set the base example to the other House of an ignominious surrender of our rights, after they have been reproached with imbecility, and you extolled for your energy? But, sir, if we could be so forgetful of ourselves, I trust we shall spare you the disgrace of signing with those hands, so instrumental in the Revolution, a bill abandoning some of the most precious rights which it then secured.

The motion of Mr. Clay to recommit the bill, for the purpose of amendment, was determined in the negative – yeas 13, nays 20, as follows:

> Yeas. – Messrs. Bradley, Brent, Campbell, Clay, Condit, German, Mathewson, Meigs, Parker, Pope, Robinson, Sumter, and Whiteside.
>
> Nays. – Messrs. Anderson, Bayard, Champlin, Crawford, Franklin, Gaillard, Gilman, Goodrich, Gregg, Hillhouse, Horsey, Lambert, Leib, Lloyd, Pickering, Reed, Smith of Maryland, Smith of New York, Tait, and Turner.

On the question, Shall this bill pass as amended? it was determined in the affirmative – yeas 26, nays 7, as follows;

> Yeas. – Messrs. Anderson, Bayard, Brent, Campbell, Champlin, Crawford, Franklin, Gaillard, Gilman, Goodrich, Gregg, Hillhouse, Horsey, Lambert, Leib, Lloyd, Mathewson, Meigs, Pickering, Reed, Smith of Maryland, Smith of New York, Sumter, Tait, Turner, and Whiteside.
>
> Nays. – Messrs. Bradley, Clay, Condit, German, Parker, Pope, and Robinson.

So it was resolved that this bill pass with amendments.

On motion, by Mr. Smith of Maryland, it was agreed that the title of the bill be amended, to read as follows: "An act to interdict the public ships and vessels of France and Great Britain from the ports and harbors of the United States, and for other purposes."

Wednesday, February 28

The Vice President being absent, the Senate proceeded to the election of a President *pro tempore*, as the constitution provides, and the honorable John Gaillard was appointed.

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 John Gaillard President of the Senate *pro tempore*.

Tuesday, March 6

Non-Intercourse

The Senate resumed the resolution of the House of Representatives disagreeing to their amendments to the bill, entitled "An act respecting the commercial intercourse between the United States and Great Britain and France, and for other purposes."

The question pending, when the Senate adjourned yesterday, was on adherence to their amendments to the bill.

Mr. Anderson observed that, when he had made the motion yesterday to *adhere*, he had done it under the impression that it was proper to bring the subject to a conclusion, and because he believed the interest of the country required that it should be finally acted on. He said he was still impressed with that idea; but, paying a deference to the opinion of his friends, desiring also to treat the House of Representatives with the respect due to that body, and because it was more conformable to the rules of proceeding generally observed, he withdrew the motion to *adhere*, and moved to *insist* on the amendments. He said he should, by parliamentary practice, have been fully justified in the motion to adhere before insisting. But it was proper that the two Houses of Congress should be courteous in their conduct to one another, and the state of affairs at present peculiarly required it; he therefore varied his motion. The question was then taken to *insist*, and carried without a division.

Mr. Anderson then moved to appoint a committee of conference, to confer on the subject with such committee as should be appointed by the House of Representatives. – Agreed to.

Messrs. Anderson, Leib, and Smith of Maryland, were accordingly appointed on the part of the Senate.

Thursday, March 8

Demands upon Great Britain – Reprisal

Mr. Leib submitted the following resolutions:

"*Resolved*, That the President of the United States be required to instruct our Minister at the Court of Great Britain to demand of the British Government an immediate compliance with the arrangement made by their Minister, Mr. Erskine, with this Government, comprising atonement for the attack upon the frigate Chesapeake, and a relinquishment of the Orders in Council; and that, on failure to execute that arrangement, our Minister be directed forthwith to return to the United States.

"*Resolved*, That the President of the United States be required to instruct our Minister at the Court of Great Britain to demand of the British Government an immediate release of all American citizens impressed into the British service, and that, on failure or refusal to make such release, our Minister be directed forthwith to return to the United States.

"*Resolved*, That, on the failure or refusal of the Government of Great Britain, after demand made by our Minister to carry into effect the arrangements made by Mr. Erskine, the British Minister, or, on the refusal or failure to release all American citizens impressed into the British service, the President of the United States be authorized to issue letters of marque and reprisal against the ships and vessels belonging to the Government and subjects of Great Britain."

Monday, March 12

Withdrawal of Resolutions

Mr. Leib, on request, had leave to withdraw his resolutions submitted for consideration on the 8th inst.

Mr. Leib remarked that he had submitted the resolutions upon the table of the Senate under a conviction that the honor and interests of the nation required such a course of measures. He believed that it was time to have done with trifling, with a war of words, and with what had been termed *gasconade*; that the cup of expedients had been drained to the last dregs, and that a new mode of warfare became indispensable, to vindicate our honor and assert our rights. His impressions were, that a determined attitude alone could rescue us from the oppressor's wrong, awaken a sense of justice, or lead to that necessary alternative which an injured nation is sometimes obliged to resort to, to avoid greater calamity. He said that he was no friend to war – that peace was the first wish of his heart – but that he could not consent to preserve it by a prostitution of the attributes of freemen. Insult, robbery, and murder, cried aloud for justice or for vengeance; and duty requires of him the aid of his feeble efforts to rescue the nation from degradation. He remarked, that the resolutions were directed against one of the belligerents only, and he would assign his reasons for the discrimination, and why he had selected Great Britain for their object. It had been admitted that we had a right to choose our enemy, and Great Britain was selected, because she was first in the career of maritime despotism, and had exercised it with unrelenting severity; because she stands alone in the impressment of our citizens, and dooms them to ignominious punishment, or compels them to fight her battles; because the national honor had been vitally wounded, in the attack upon our flag; and because she had heaped outrage upon aggression, and had imbrued her hands in the innocent blood of our citizens. Since the resolutions were offered, he further remarked, the aspect of things seemed to be somewhat varied, and a hope is entertained, from the advices received, that a change of attitude may be rendered unnecessary; and that, under present circumstances, such change is inexpedient, and may prove injurious. However skeptical he might be on this subject, he had no wish to embarrass the Administration in its negotiations; but, on the contrary, he wished to give full scope to any efforts for an amicable adjustment of our differences. He wished not to throw in a cloud to intercept that glimpse which was supposed to be breaking upon us. His enmities, he said, were national, and would cease with the cause of excitement. Under these impressions, and in deference to the judgment of political as well as personal friends, to whose opinions he was always ready to render a willing homage, he said that he would withdraw the resolutions, reserving to himself the right to renew them under other circumstances.

Monday, March 19

Non-Intercourse

The Senate resumed the consideration of the report of the managers at the conference on their part, on the bill, entitled "An act respecting the commercial intercourse between the United States and Great Britain and France, and for other purposes."

On motion, by Mr. Clay, to postpone the further consideration thereof until to-morrow, it was determined in the negative. And the question recurring on the original motion —

Mr. S. Smith said: Mr. President, the question before the Senate is, to adhere to their amendments made to the bill "respecting the commercial intercourse between the United States and Great Britain and France."

It is with extreme reluctance that I rise on the present occasion. I feel, sensibly feel, the situation in which I place myself by opposing a measure countenanced by the vote in the other House, of almost all those with whom I have been accustomed to act, and by many in the Senate, for whose superior judgment and correct opinions I have ever had the highest respect. Finding, however, that I differed with those gentlemen, I took the bill to my lodgings, and considered it with a disposition to find in it something that should induce me to give up my own opinion to that expressed by the vote in the other House; but I looked in vain, and I found myself compelled to take the ground of opposition to the bill. In doing this, I must hope for the indulgence of those with whom I differ, and of the Senate, for detailing the reasons for the motion I made to amend the bill. To do this, it may not be unprofitable to take a review of the causes that led to the measures adopted by the United States, and the course taken by Congress to resist the injuries imposed upon us by Great Britain and France.

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