ANNALS

OF

THE CONGRESS OF THE UNITED STATES.

FIFTEENTH CONGRESS.—SECOND SESSION.

UNITED STATES SENATE LIBRARY
Duplicate
Transfer
OFFICE OF THE SECRETARY

THE

DEBATES AND PROCEEDINGS

IN THE

CONGRESS OF THE UNITED STATES;

WITH

AN APPENDIX,

CONTAINING

IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,

AND ALL

THE LAWS OF A PUBLIC NATURE;

WITH A COPIOUS INDEX.

FIFTEENTH CONGRESS—SECOND SESSION:

COMPRISING THE PERIOD FROM NOVEMBER 16, 1818, TO MARCH 3, 1819, INCLUSIVE.

COMPILED FROM AUTHENTIC MATERIALS.

WASHINGTON:

PRINTED AND PUBLISHED BY GALES AND SEATON.

1855.

PROCEEDINGS AND DEBATES

OF

THE SENATE OF THE UNITED STATES,

AT THE SECOND SESSION OF THE FIFTEENTH CONGRESS, BEGUN AT THE CITY OF WASHINGTON, MONDAY, NOVEMBER 16, 1818.

MONDAY, November 16, 1818.

The second session of the Fifteenth Congress commenced this day at the City of Washington, conformably to the act passed the 18th of April, 1818, entitled "An act fixing the time for the next meeting of Congress;" and the Senate assembled.

PRESENT:

DAVID L. MORRIL, from the State of New Hampshire.

PRENTISS MELLEN, from Massachusetts.

JAMES BURRILL, junior, from Rhode Island and Providence Plantations.

ISAAC TICHENOR and WILLIAM A. PALMER, from Vermont.

DAVID DAGGETT, from Connecticut.

RUFUS KING and NATHAN SANFORD, from New York.

MAHLON DICKERSON and JAMES J. WILSON, from New Jersey.

ABNER LACOCK and JONATHAN ROBERTS, from Pennsylvania.

ROBERT H. GOLDSBOROUGH, from Maryland.

JAMES BARBOUR and JOHN W. EPPES, from Virginia.

NATHANIEL MACON, from North Carolina.

JOHN GAILLARD and WILLIAM SMITH, from South Carolina.

JOHN WILLIAMS and JOHN HENRY EATON, from Tennessee.

BENJAMIN RUGGLES, from Ohio.

ELIGIUS FROMENTIN and HENRY JOHNSON, from Louisiana.

JAMES NOBLE and WALLER TAYLOR, from Indiana.

WALTER LEAKE and THOMAS H. WILLIAMS, from Mississippi.

JOHN GAILLARD, President *pro tempore*, resumed the Chair.

PRENTISS MELLEN, appointed a Senator by the Legislature of the State of Massachusetts, to supply the vacancy occasioned by the resignation of Eli P. Ashmun; WILLIAM A. PALMER, appointed a Senator by the Legislature of the State of Vermont, to supply the vacancy occasioned by the resignation of James Fisk; and JOHN HENRY EATON, appointed a Senator by the Executive of the State of Tennessee, to supply the vacancy occasioned by the resignation of George W. Campbell, respectively produced their credentials, were qualified, and took their seats in the Senate.

A quorum being present, a message was sent to the House of Representatives, notifying that body of the fact.

A committee was appointed, jointly with a committee to be appointed by the other House, for the purpose of waiting on the President of the United States, to inform him that the two Houses were organized, &c. Messrs. MACON and DAGGETT, were appointed of the committee on the part of the Senate.

A Committee of Engrossed Bills was appointed, consisting of Messrs. RUGGLES, DICKERSON, and MORRIL.

A Committee of Accounts was appointed, consisting of Messrs. LACOCK, DAGGETT, and DICKERSON.

Mr. MORRIL offered a resolution for appointing a joint Library Committee, and Mr. WILSON a resolution for appointing a Chaplain to each House; both of which resolutions received their first readings; and, after adopting the usual rule respecting newspapers, the Senate adjourned.

TUESDAY, November 17.

JEREMIAH MORROW, from the State of Ohio; and ALEXANDER C. HANSON, from the State of Maryland, attended this day.

The resolution for the appointment of Chaplains to Congress, was read the second time, considered as in Committee of the Whole, reported to the House without amendment, read the third time by unanimous consent, and passed.

Mr. MACON 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 this day.

Mr. MORRIL submitted the following motion for consideration; which was read:

Resolved, That Mountjoy Bayly, Doorkeeper and Sergeant-at-Arms to the Senate, be, and he hereby is, authorized to employ one assistant and two horses, for the purpose of performing such services as are usually required by the Doorkeeper of the Senate, which expense shall be paid out of the contingent fund.

Ordered, That it pass to the second reading.

The engrossed resolution for the appointment of a joint Library Committee, was read a third time, and passed; and Messrs. DICKERSON, KING, and FROMENTIN, were appointed the committee on the part of the Senate.

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:

The auspicious circumstances under which you will commence the duties of the present session will lighten the burdens inseparable from the high trust committed to you. The fruits of the earth have been unusually abundant; commerce has flourished; the revenue has exceeded the most favorable anticipation, and peace and amity are preserved with foreign nations on conditions just and honorable to our country. For these inestimable blessings we cannot but be grateful to that Providence which watches over the destiny of nations.

As the term limited for the operation of the commercial convention with Great Britain will expire early in the month of July next, and it was deemed important that there should be no interval, during which that portion of our commerce, which was provided for by that convention, should not be regulated, either by arrangements between the two Governments, or by the authority of Congress, the Minister of the United States at London was instructed, early in the last Summer, to invite the attention of the British Government to the subject, with a view to that object. He was instructed to propose, also, that the negotiation which it was wished to open, might extend to the general commerce of the two countries, and to every other interest and unsettled difference between them; particularly those relating to impressment, the fisheries, and boundaries, in the hope that an arrangement might be made, on principles of reciprocal advantage, which might comprehend and provide, in a satisfactory manner, for all these high concerns. I have the satisfaction to state, that the proposal was received by the British Government in the spirit which prompted it, and that a negotiation has been opened at London embracing all these objects. On full consideration of the great extent and magnitude of the trust, it was thought proper to commit it to not less than two of our distinguished citizens, and, in consequence, the Envoy Extraordinary and Minister Plenipotentiary of the United States at Paris has been associated with our Envoy Extraordinary and Minister Plenipotentiary at London; to both of whom corresponding instructions have been given; and they are now engaged in the discharge of its duties. It is proper to add, that, to prevent any inconvenience resulting from the delay incident to a negotiation on so many important subjects, it was agreed, before entering on it, that the existing convention should be continued for a term not less than eight years.

Our relations with Spain remain nearly in the state in which they were at the close of the last session. The convention of 1802, providing for the adjustment of a certain portion of the claims of our citizens for injuries sustained by spoliation, and so long suspended by the Spanish Government, has at length been ratified by it; but no arrangement has yet been made for the payment of another portion of like claims, not less extensive or well founded, or for other classes of claims, or for the settlement of boundaries. These subjects have again been brought under consideration in both countries, but no agreement has been entered into respecting them. In the meantime events have occurred, which clearly prove the ill effect of the policy which that Government has so long pursued, on the friendly relations of the two countries, which, it is presumed, it is as least of as much importance to Spain, as to the United States, to maintain. A state of things has existed in the Floridas, the tendency of which has been obvious to all who have paid the slightest attention to the progress of affairs in that quarter. Throughout the whole of those provinces to which the Spanish title extends, the Government of Spain has scarcely been felt. Its authority has been confined almost exclusively to the walls of Pensacola and St. Augustine, within which only small garrisons have been maintained. Adventurers from every country, fugitives from justice, and absconding slaves, have found an asylum there. Several tribes of Indians, strong in the number of their warriors, remarkable for their ferocity, and whose settlements extend to our limits, inhabit those provinces. These different hordes of people, connected together, disregarding, on the one side, the authority of Spain, and protected, on the other, by an imaginary line, which separates Florida from the United States, have violated our laws prohibiting the introduction of slaves, have practised various frauds on our revenue, and committed every kind of outrage on our peaceable citizens, which their proximity to us enabled them to perpetrate. The invasion of Amelia Island, last year, by a small band of adventurers, not exceeding one hundred and fifty in number, who wrested it from the inconsiderable Spanish force stationed there and held it several months, during which, a single effort only was made to recover it, which failed, clearly proves how completely extinct the Spanish authority had become, as the conduct of those adventurers, while in possession of the island, as distinctly shows the pernicious purposes for which their combination had been formed.

This country had, in fact, become the theatre of every species of lawless adventure. With little population of its own, the Spanish authority almost extinct, and the colonial governments in a state of revolution, having no pretension to it, and sufficiently employed in their own concerns, it was in a great measure derelict, and the object of cupidity to every adventurer. A system of bucanneering was rapidly organizing over it, which menaced, in its consequences, the lawful commerce of every nation, and particularly of the United States; while it presented a temptation to every people, on whose seduction its success principally depended. In regard to the United States, the pernicious effect of this unlawful combination was not confined to the ocean. The Indian tribes have constituted the effective force in Florida. With these tribes these adventurers had formed, at an early period, a connexion, with a view to avail themselves of

that force, to promote their own projects of accumulation and aggrandizement. It is to the interference of some of these adventurers, in misrepresenting the claims and titles of the Indians to land, and in practising on their savage propensities, that the Seminole war is principally to be traced. Men who thus connect themselves with savage communities, and stimulate them to war, which is always attended, on their part, with acts of barbarity the most shocking, deserve to be viewed in a worse light than the savages. They would certainly have no claim to an immunity from the punishment, which, according to the rules of warfare practised by the savages, might justly be inflicted on the savages themselves.

If the embarrassments of Spain prevented her from making an indemnity to our citizens, for so long a time, from her treasury, for their losses by spoliation and otherwise, it was always in her power to have provided it, by the cession of this territory. Of this her Government has been repeatedly apprized, and the cession was the more to have been anticipated, as Spain must have known that, in ceding it, she would, in effect, cede what had become of little value to her, and would likewise relieve herself from the important obligation secured by the treaty of 1795, and all other compromitments respecting it. If the United States, from consideration of these embarrassments, declined pressing their claims in a spirit of hostility, the motive ought, at least, to have been duly appreciated by the Government of Spain. It is well known to her Government that other Powers have made to the United States an indemnity for like losses sustained by their citizens at the same epoch.

There is, nevertheless, a limit, beyond which this spirit of amity and forbearance can in no instance be justified. If it was proper to rely on amicable negotiation for an indemnity of losses, it would not have been so to have permitted the inability of Spain to fulfil her engagements, and to sustain her authority in the Floridas, to be perverted, by foreign adventurers and savages, to purposes so destructive to the lives of our fellow-citizens, and the highest interests of the United States. The right of self-defence never ceases. It is among the most sacred, and alike necessary to nations and individuals. And, whether the attack be made by Spain herself, or by those who abuse her power, its obligation is not the less strong. The invaders of Amelia Island had assumed a popular and respected title, under which they might approach and wound us. As their object was distinctly seen, and the duty imposed on the Executive, by an existing law, was profoundly felt, that mask was not permitted to protect them. It was thought incumbent on the United States to suppress the establishment, and it was accordingly done. The combination in Florida, for the unlawful purposes stated, the acts perpetrated by that combination, and, above all, the incitement of the Indians, to massacre our fellow-citizens, of every age, and of both sexes, merited a like treatment, and received it. In pursuing these savages to an imaginary line, in the woods, it would have been the height of folly to have suffered that line to protect them. Had that been done, the war could never cease. Even if the territory had been, exclusively, that of Spain, and her power complete over it, we had a right, by the law of nations, to follow the enemy on it, and to subdue him there. But the territory belonged, in a certain sense, at least, to the savage enemy who inhabited it; the power of Spain had ceased to exist over it, and protection was sought, under her title, by those who had committed on our citizens hostilities which she was bound by treaty to have prevented, but had not the power to prevent. To have stopped at that line would have given new encouragement to these savages, and new vigor to the whole combination existing there, in the prosecution of all its pernicious purposes.

In suppressing the establishment at Amelia Island, no unfriendliness was manifested towards Spain, because the post was taken from a force which had wrested it from her. The measure, it is true, was not adopted in concert with the Spanish Government, or those in authority under it; because, in transactions connected with the war in which Spain and the colonies are engaged, it was thought proper, in doing justice to the United States, to maintain a strict impartiality towards both the belligerent parties, without consulting or acting in concert with either. It gives me pleasure to state, that the Governments of Buenos Ayres and Venezuela, whose names were assumed, have explicitly disclaimed all participation in those measures, and even the knowledge of them, until communicated by this Government, and have also expressed their satisfaction that a course of proceedings had been suppressed, which, if justly imputable to them, would dishonor their cause.

In authorizing Major General Jackson to enter Florida, in pursuit of the Seminoles, care was taken not to encroach on the rights of Spain. I regret to have to add, that, in executing this order, facts were disclosed respecting the conduct of the officers of Spain, in authority there, in encouraging the war, furnishing munitions of war, and other supplies, to carry it on, and in other acts, not less marked, which evinced their participation in the hostile purposes of that combination, and justified the confidence with which it inspired the savages, that, by those officers they would be protected. A conduct so incompatible with the friendly relations existing between the two countries, particularly with the positive obligation of the 5th article of the treaty of 1795, by which Spain was bound to restrain, even by force, those savages, from acts of hostility against the United States, could not fail to excite surprise. The Commanding General was convinced that he should fail in his object; that he should in effect accomplish nothing, if he did not deprive those savages of the resource on which they had calculated, and of the protection on which they had relied in making the war. As all the documents relating to this occurrence will be laid before Congress, it is not necessary to enter into further detail respecting it.

Although the reasons which induced Major General Jackson to take these posts were duly appreciated, there was, nevertheless, no hesitation in deciding on the course which it became the Government to pursue. As there was reason to believe that the commanders of these posts had violated their instructions, there was no disposition to impute to their Government a conduct so unprovoked and hostile. An order was in consequence issued to the General in command there to deliver the posts—Pensacola, unconditionally to any person duly authorized to receive it; and St. Marks, which is in the heart of the Indian country, on the arrival of a competent force, to defend it against those savages and their associates.

In entering Florida to suppress this combination, no idea was entertained of hostility to Spain, and, how-

ever justifiable the Commanding General was, in consequence of the misconduct of the Spanish officers, in entering St. Marks and Pensacola, to terminate it, by proving to the savages and their associates that they should not be protected even there; yet the amicable relations existing between the United States and Spain could not be altered by that act alone. By ordering the restitution of the posts, those relations were preserved. To a change of them the power of the Executive is deemed incompetent. It is vested in Congress only.

By this measure, so promptly taken, due respect was shown to the Government of Spain. The misconduct of her officers has not been imputed to her. She was enabled to review with candor her relations with the United States, and her own situation, particularly in respect to the territory in question, with the dangers inseparable from it; and, regarding the losses we have sustained, for which indemnity has been so long withheld, and the injuries we have suffered through that territory, and her means of redress, she was likewise enabled to take, with honor, the course best calculated to do justice to the United States, and to promote her own welfare.

Copies of the instructions to the Commanding General; of his correspondence with the Secretary of War, explaining his motives, and justifying his conduct, with a copy of the proceedings of the courts martial, in the trial of Arbuthnot and Ambrister; and of the correspondence between the Secretary of State and the Minister Plenipotentiary of Spain near this Government: and of the Minister Plenipotentiary of the United States, at Madrid, with the Government of Spain, will be laid before Congress.

The civil war, which has so long prevailed between Spain and the provinces in South America, still continues without any prospect of its speedy termination. The information respecting the condition of those countries, which has been collected by the Commissioners, recently returned from thence, will be laid before Congress, in copies of their reports, with such other information as has been received from other agents of the United States.

It appears, from these communications, that the Government of Buenos Ayres declared itself independent in July, 1816, having previously exercised the power of an independent Government, though in the name of the King of Spain, from the year 1810: that the Banda Oriental, Entre Rios, and Paraguay, with the city of Santa Fe, all of which are also independent, are unconnected with the present Government of Buenos Ayres: that Chili has declared itself independent, and is closely connected with Buenos Ayres; that Venezuela has also declared itself independent, and now maintains the conflict with various success; and that the remaining parts of South America, except Montevideo, and such other portions of the eastern bank of the La Plata as are held by Portugal, are still in the possession of Spain, or, in a certain degree, under her influence.

By a circular note addressed by the Ministers of Spain to the allied Powers with whom they are respectively accredited, it appears that the allies have undertaken to mediate between Spain and the South American provinces, and that the manner and extent of their interposition would be settled by a Congress, which was to have met at Aix-la-Chapelle in September last. From the general policy and course of proceeding observed by the allied Powers in regard to this contest, it is inferred that they will confine their interposition to the expression of their sentiments; abstaining from the application of force. I state this impression, that force will not be applied, with the greater satisfaction, because it is a course more consistent with justice, and likewise authorizes a hope that the calamities of the war will be confined to the parties only, and will be of shorter duration.

From the view taken of this subject, founded on all the information that we have been able to obtain, there is good cause to be satisfied with the course heretofore pursued by the United States, in regard to this contest, and to conclude, that it is proper to adhere to it, especially in the present state of affairs.

I have great satisfaction in stating, that our relations with France, Russia, and other Powers, continue on the most friendly basis.

In our domestic concerns we have ample cause of satisfaction. The receipts into the Treasury, during the three first quarters of the year, have exceeded seventeen millions of dollars.

After satisfying all the demands which have been made under existing appropriations, including the final extinction of the old six per cent. stock, and the redemption of a moiety of the Louisiana debt, it is estimated that there will remain in the Treasury, on the first day of January next, more than two millions of dollars.

It is ascertained that the gross revenue which has accrued from the customs during the same period amounts to twenty-one millions of dollars, and that the revenue of the whole year may be estimated at not less than twenty-six millions. The sale of the public lands during the year has also greatly exceeded, both in quantity and price, that of any former year; and there is just reason to expect a progressive improvement in that source of revenue.

It is gratifying to know, that, although the annual expenditure has been increased by the act of the last session of Congress, providing for Revolutionary pensions, to an amount about equal to the proceeds of the internal duties, which were then repealed, the revenue for the ensuing year will be proportionally augmented, and that, while the public expenditure will probably remain stationary, each successive year will add to the national resources, by the ordinary increase of our population, and by the gradual development of our latent sources of national prosperity.

The strict execution of the revenue laws, resulting principally from the salutary provisions of the act of the 20th of April last, amending the several collection laws has, it is presumed, secured to domestic manufactures all the relief that can be derived from the duties, which have been imposed upon foreign merchandise, for their protection. Under the influence of this relief, several branches of this important national interest have assumed greater activity, and, although it is hoped that others will gradually revive, and ultimately triumph over every obstacle, yet the expediency of granting further protection is submitted to your consideration.

The measures of defence, authorized by existing laws, have been pursued with the zeal and activity due to so important an object, and with all the despatch practicable in so extensive and great an undertaking. The survey of our maritime and inland frontiers has been continued; and, at the points where it was decided to erect fortifications, the work has been commenced, and, in some instances, considerable pro-

gress has been made. In compliance with resolutions of the last session, the Board of Commissioners were directed to examine in a particular manner the parts of the coast therein designated, and to report their opinion of the most suitable sites for two naval depots. This work is in a train of execution. The opinion of the Board on this subject, with a plan of all the works necessary to a general system of defence, so far as it has been formed, will be laid before Congress, in a report from the proper department, as soon as it can be prepared.

In conformity with the appropriations of the last session, treaties have been formed with the Quapaw tribe of Indians, inhabiting the country on the Arkansas, and with the Great and Little Osages north of the White river; with the tribes in the State of Indiana; with the several tribes within the State of Ohio, and the Michigan Territory; and with the Chickasaws; by which very extensive cessions of territory have been made to the United States. Negotiations are now depending with the tribes in the Illinois Territory, and with the Choctaws, by which it is expected that other extensive cessions will be made. I take great interest in stating that the cessions already made, which are considered so important to the United States, have been obtained on conditions very satisfactory to the Indians.

With a view to the security of our inland frontiers, it has been thought expedient to establish strong posts at the mouth of Yellow Stone River, and at the Mandan village, on the Missouri: and at the mouth of St. Peters, on the Mississippi, at no great distance from our northern boundaries. It can hardly be presumed, while such posts are maintained in the rear of the Indian tribes, that they will venture to attack our peaceable inhabitants. A strong hope is entertained that this measure will likewise be productive of much good to the tribes themselves; especially in promoting the great object of their civilization. Experience has clearly demonstrated, that independent savage communities cannot long exist within the limits of a civilized population. The progress of the latter has, almost invariably, terminated in the extinction of the former, especially of the tribes belonging to our portion of this hemisphere, among whom, loftiness of sentiment, and gallantry in action, have been conspicuous. To civilize them, and even to prevent their extinction, it seems to be indispensable that their independence, as communities, should cease, and that the control of the United States over them should be complete and undisputed. The hunter state will then be more easily abandoned, and recourse will be had to the acquisition and culture of land, and to other pursuits tending to dissolve the ties which connect them together as a savage community, and to give a new character to every individual. I present this subject to the consideration of Congress, on the presumption that it may be found expedient and practicable to adopt some benevolent provisions, having these objects in view, relative to the tribes within our settlements.

It has been necessary, during the present year, to maintain a strong naval force in the Mediterranean, and in the Gulf of Mexico, and to send some public ships along the Southern coast, and to the Pacific Ocean. By these means, amicable relations with the Barbary Powers have been preserved, our commerce has been protected, and our rights respected. The augmentation of our Navy is advancing, with a steady progress, towards the limit contemplated by law.

I communicate, with great satisfaction, the accession of another State, Illinois, to our Union; because I perceive, from the proof afforded by the additions already made, the regular progress and sure consummation of a policy, of which history affords no example, and of which the good effect cannot be too highly estimated. By extending our Government, on the principles of our Constitution, over the vast territory within our limits, on the lakes and the Mississippi, and its numerous streams, new life and vigor are infused into every part of our system. By increasing the number of the States, the confidence of the State governments in their own security is increased, and their jealousy of the National Government proportionally diminished. The impracticability of one consolidated Government for this great and growing nation will be more apparent, and will be universally admitted. Incapable of exercising local authority, except for general purposes, the General Government will no longer be dreaded. In those cases of a local nature, and for all the great purposes for which it was instituted, its authority will be cherished. Each Government will acquire new force and a greater freedom of action, within its proper sphere. Other inestimable advantages will follow: our produce will be augmented to an incalculable amount, in articles of the greatest value for domestic use and foreign commerce. Our navigation will, in like degree be increased; and, as the shipping of the Atlantic States will be employed in the transportation of the vast produce of the Western country, even those parts of the United States, which are most remote from each other, will be further bound together by the strongest ties which mutual interest can create.

The situation of this District, it is thought, requires the attention of Congress. By the Constitution, the power of legislation is exclusively vested in the Congress of the United States. In the exercise of this power, in which the people have no participation, Congress legislate in all cases, directly on the local concerns of the District. As this is a departure, for a special purpose, from the general principles of our system, it may merit consideration, whether an arrangement better adapted to the principles of our Government, and to the particular interests of the people, may not be devised, which will neither infringe the Constitution, nor affect the object which the provision in question was intended to secure. The growing population, already considerable, and the increasing business of the District, which it is believed already interferes with the deliberations of Congress on great national concerns, furnish additional motives for recommending this subject to your consideration.

When we view the great blessings with which our country has been favored, those which we now enjoy, and the means which we possess of handing them down, unimpaired, to our latest posterity, our attention is irresistibly drawn to the source from whence they flow. Let us then unite in offering our most grateful acknowledgments for these blessings to the Divine Author of all Good. JAMES MONROE.

NOVEMBER 16, 1818.

The Message was read, and two thousand copies thereof ordered to be printed for the use of the Senate.

WEDNESDAY, November 18.

HARRISON GRAY OTIS, from the State of Massachusetts, attended this day.

Mr. SANFORD submitted the following motion for consideration:

Resolved, That the Committee on Public Lands, inquire into the propriety of amending the existing laws, in such manner, that the signature of the President of the United States shall not be requisite to patents for land.

The resolution to authorize the Doorkeeper and Sergeant-at-Arms to the Senate to employ one assistant and two horses, was read the second time, considered in Committee of the Whole, reported to the House without amendment, read the third time by unanimous consent, and passed.

On motion by Mr. BARBOUR, it was resolved that the standing committees to be appointed by the Senate consist of five members each, and that they have leave to report by bill or otherwise; and, on his motion, it was resolved that the Senate will, on Friday next, at 12 o'clock, proceed to the appointment of the standing committees of this House.

THURSDAY, November 19.

JOHN J. CRITTENDEN, from the State of Kentucky, attended this day.

Mr. SANFORD submitted the following motions for consideration:

Resolved, That so much of the Message of the President of the United States as relates to foreign affairs, be referred to the Committee on Foreign Relations.

Resolved, That so much of the Message of the President of the United States as relates to finance, be referred to the Committee of Finance.

Resolved, That so much of the Message of the President of the United States as relates to commerce and manufactures, be referred to the Committee of Commerce and Manufactures.

Resolved, That so much of the Message of the President of the United States as relates to the District of Columbia, be referred to the Committee for the District of Columbia.

Resolved, That so much of the Message of the President of the United States as relates to the Indian tribes, be referred to a select committee, with leave to report by bill or otherwise.

On motion by Mr. WILSON, the Senate proceeded to the appointment of a Chaplain on their part, and, on the ballots having been counted, it appeared that the Rev. JOHN CLARK had a majority, and was elected.

FRIDAY, November 20.

CLEMENT STORER, from the State of New Hampshire, attended this day.

STANDING COMMITTEES.

The Senate proceeded to the appointment of the standing committees, which are as follows:

Committee on Foreign Relations—Mr. MACON, Mr. BARBOUR, Mr. KING, Mr. LACOCK, and Mr. DAGGETT.

Committee on Finance—Mr. EPPES, Mr. TALBOT, Mr. KING, Mr. MACON, and Mr. EATON.

Committee on Commerce and Manufactures—Mr. SANFORD, Mr. DICKERSON, Mr. BURRILL, Mr. HORSEY, and Mr. MORRIL.

Committee on Military Affairs—Mr. WILLIAMS, of Tennessee, Mr. LACOCK, Mr. TICHENOR, Mr. TAYLOR, and Mr. STORER.

Committee on the Militia—Mr. RUGGLES, Mr. NOBLE, Mr. ROBERTS, Mr. MACON, and Mr. STORER.

Committee on Naval Affairs—Mr. SANFORD, Mr. TAIT, Mr. WILLIAMS, of Mississippi, Mr. DAGGETT, and Mr. CRITTENDEN.

Committee on Public Lands—Mr. MORROW, Mr. WILLIAMS, of Mississippi, Mr. TAYLOR, Mr. HUNTER, and Mr. JOHNSON.

Committee of Claims—Mr. GOLDSBOROUGH, Mr. WILSON, Mr. ROBERTS, Mr. RUGGLES, and Mr. MORRIL.

Committee on the Judiciary—Mr. BURRILL, Mr. CRITTENDEN, Mr. OTIS, Mr. SMITH, and Mr. LEAKE.

Committee on the Post Office and Post Roads—Mr. STOKES, Mr. WILSON, Mr. PALMER, Mr. MELLEN, and Mr. RUGGLES.

Committee on Pensions—Mr. LACOCK, Mr. NOBLE, Mr. VAN DYKE, Mr. TALBOT, and Mr. STORER.

Committee for the District of Columbia—Mr. GOLDSBOROUGH, Mr. DAGGETT, Mr. BARBOUR, Mr. EPPES, and Mr. HANSON.

The Senate resumed the consideration of the motions of the 19th instant, for referring the Message of the President of the United States to different committees, and agreed thereto; and,

Ordered, That Mr. MORROW, Mr. WILLIAMS of Tennessee, Mr. WILLIAMS of Mississippi, Mr. TAYLOR, and Mr. CRITTENDEN, be the committee on so much of the Message as relates to the Indian tribes, in pursuance of the last resolution.

The Senate adjourned to Monday morning.

MONDAY, November 23.

NICHOLAS VAN DYKE, from the State of Delaware, attended this day; JOHN FORSYTH, appointed a Senator by the Legislature of the State of Georgia, to supply the vacancy occasioned by the resignation of George M. Troup, produced his credentials, was qualified, and he took his seat in the Senate.

Mr. DAGGETT presented the petition of Samuel F. Hooker, of the State of New York, praying indemnification for certain property captured and condemned by the enemy during the late war, as stated in the petition; which was read and referred to the Committee of Claims.

Mr. ROBERTS presented the petition of Lucy Cottineau, of the State of Georgia, praying a pension, in consideration of the services of her late husband; and the petition was read and referred to the Committee on Pensions.

Mr. ROBERTS also presented the petition of John Brown, of the city of Philadelphia, praying a pension; which was read and referred to the same committee, to consider and report thereon.

The Senate resumed the consideration of the motion of the 18th instant, "that the Committee

on Public Lands inquire into the propriety of amending the existing laws in such manner that the signature of the President of the United States shall not be requisite to patents for land;" and agreed thereto.

Mr. DICKERSON gave notice that to-morrow he should ask leave to introduce a bill to provide for the removal of the Library of Congress to the north wing of the Capitol.

TUESDAY, November 24.

The PRESIDENT communicated a report of the Secretary of the Treasury, prepared in obedience to the act entitled "An act to establish the Treasury Department;" which was read.

Mr. FROMENTIN submitted the following motion for consideration:

Resolved, That the President of the United States be requested to cause to be laid before the Senate such information as he may possess touching the execution of so much of the first article of the late Treaty of Peace and Amity between His Britannic Majesty and the United States of America as relates to the restitution of slaves, and which has not heretofore been communicated.

Mr. OTIS presented the petition of Nathaniel Goddard, and others, of Boston, owners of the ship Ariadne, and her cargo, which have been condemned in the Supreme Court of the United States, having been captured by the United States brig Argus, praying relief; which was read and referred to the Committee on Finance.

Mr. BARBOUR gave notice that to-morrow he should ask leave to introduce a bill to increase the salaries of certain officers of Government.

Mr. DAGGETT presented the petition of Hannah Douglas, of Branford, Connecticut, widow and relict of Colonel William Douglas, deceased, praying relief, in consideration of the services of her late husband during the Revolutionary war; and the petition was read and referred to the Committee of Claims.

Mr. BURRILL presented the petition of Joseph Aborn, surveyor of the port of Patuxet, within the district of Providence, in the State of Rhode Island, praying an increase of salary; which was read and referred to the Committee on Commerce and Manufactures.

Mr. DICKERSON presented the memorial of William Lambert, relating to the establishment of a first meridian for the United States, at the Seat of their Government, according to the original plan of the city of Washington; and the memorial was read and referred to a select committee, to consider and report thereon, by bill or otherwise; and Messrs. DICKERSON, KING, and BURRILL were appointed the committee.

Mr. SMITH presented the petition of Thomas Chapman, collector of the customs for Georgetown district, in the State of South Carolina, praying the restoration of a certain sum of money as his proportion of the cargo of the brig Diana, a Swedish vessel, forfeited for a violation of the revenue laws; which was read and referred to the Committee of Claims.

Mr. NOBLE submitted the following motion for consideration:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of continuing in force the act entitled "An act to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payments thereon," until the 31st day of March, 1821.

Mr. MELLEN submitted the following motion for consideration:

Resolved, That the Committee on the Judiciary be instructed to inquire as to the expediency of establishing, by law, a circuit court of the United States, to be holden at Portland, within and for the District of Maine.

Mr. GOLDSBOROUH gave notice, that to-morrow he should ask leave to introduce a resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where they now lie.

Agreeably to notice given, Mr. DICKERSON asked and obtained leave to introduce a bill, to provide for the removal of the Library of Congress to the north wing of the Capitol; and the bill was read twice by unanimous consent.

WEDNESDAY, November 25.

OUTERBRIDGE HORSEY, from the State of Delaware, attended this day.

The PRESIDENT communicated the memorial of Matthew Lyon, of Eddyville, in the State of Kentucky, praying reimbursement of a certain fine, imposed in the year 1798, at the suit of the United States; together with the costs and other losses attending the same, as stated in the memorial; which was read, and referred to the Committee on the Judiciary.

Agreeably to notice given, Mr. BARBOUR asked and obtained leave to introduce a bill, to increase the salaries of certain officers of Government; and the bill was read twice by unanimous consent.

Mr. FORSYTH presented the petition of Richard H. Wilde, praying that the sum of 1,171 dollars 80 cents, may be passed to the credit of James Wilde, deceased, in the settlement of his accounts as paymaster in the service of the United States, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. BURRILL presented the memorial of Nicholas Brown, and Thomas P. Ives of Providence, in the State of Rhode Island, praying reimbursement of certain duties paid by them on the cargo of the ship Charlotte, imported in the Spring of the year A. D. 1816, from the coast of Africa; which was read, and referred to the Committee on Commerce and Manufactures.

Mr. BURRILL also presented the petition of John Slocum, of Providence, in the State of Rhode Island, praying an increase of pension; and the petition was read, and referred to the Committee on Pensions.

Mr. MORRIL presented the petition of George Stone, of the State of New Hampshire, praying a pension; and the petition was read, and referred to the same committee, to consider and report thereon.

A message from the House of Representatives informed the Senate that the House have passed a resolution declaring the admission of the State of Illinois into the Union, in which they request the concurrence of the Senate.

The said resolution was read twice, by unanimous consent, and referred to the Committee on Public Lands.

Agreeably to notice given, Mr. GOLDSBOROUGH asked and obtained leave to introduce a resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where they now lie; and the resolution was read, and passed to the second reading.

Mr. WILLIAMS, of Tennessee, submitted the following motion for consideration:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of increasing the pay of the officers, non-commissioned officers, musicians, and privates, of the Army of the United States.

The Senate resumed the consideration of the motion of the 24th instant, "That the Committee on the Judiciary be instructed to inquire 'as to the expediency of establishing, by law, a 'circuit court of the United States, to be holden 'at Portland, within and for the District of 'Maine;" and agreed thereto.

The Senate resumed the consideration of the motion of the 24th instant, "That the President 'of the United States be requested to cause to 'be laid before the Senate, such information as 'he may possess, touching the execution of so 'much of the first article of the late Treaty of 'Peace and Amity between His Britannic Majesty and the United States of America, as relates to the restitution of slaves, and which has 'not been communicated;" and agreed thereto.

The Senate resumed the consideration of the motion of the 24th instant, "That the Committee on Public Lands be instructed to inquire 'into the expediency of continuing in force the 'act, entitled 'An act to suspend, for a limited 'time, the sale or forfeiture of lands for failure 'in completing the payment thereon," until the 31st day of March, 1821; and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the removal of the Library of Congress to the north wing of the Capitol, and no amendment having been made, it was reported to the House; and ordered to be engrossed, and read a third time.

AMENDMENT TO THE CONSTITUTION.

Mr. SANFORD offered the following proceedings and instructions of the Legislature of the State of New York, which were received and read:

STATE OF NEW YORK,
in Senate, April 14, 1818.

Whereas the Legislature of the State of North Carolina hath proposed an amendment to the Constitution of the United States, in the words following, to wit:

"That, for the purpose of choosing representatives in the Congress of the United States, each State shall, by its legislature, be divided into a number of districts equal to the number of representatives to which said State may be entitled. The districts shall be formed of contiguous territory, and contain, as nearly as may be, an equal number of inhabitants entitled by the Constitution to be represented. In each district the qualified voters shall elect one representative and no more. That, for the purpose of appointing electors for the President and Vice President of the United States, in each district entitled to elect a representative in the Congress of the United States, the persons qualified to vote for representatives shall appoint one elector and no more. The additional two electors, to which each State is entitled, shall be appointed in such manner as the legislature thereof may direct. The electors when convened, shall have power, in case any of them appointed as above prescribed shall fail to attend for the purposes of their said appointment, on the day prescribed for giving their votes for President and Vice President of the United States, to appoint another or others, to act in the place of him or them so failing to attend. Neither the districts for choosing representatives nor those for appointing electors shall be altered in any State, until a census and apportionment of representatives under it, subsequent to the division of the States into districts, shall be made. The division of States into districts, hereby provided for, shall take place immediately after this amendment shall be adopted; and afterwards, whenever a census and apportionment of representatives under it shall be made. The division of each State into districts, for the purposes both of choosing representatives and of appointing electors, shall be altered agreeable to the provisions of this amendment, and on no other occasion." Thereupon,

Resolved, (if the honorable the Assembly concur herein,) That our Senators in the Congress of the United States be instructed, and our Representatives requested, to endeavor to obtain the said amendment to the Constitution of the United States.

Resolved, (if the honorable the Assembly concur herein,) That his Excellency the Governor of this State be requested to forward a copy of the preceding resolution to each of our Senators and Representatives in the Congress of the United States; and also to the Governors of the several States, with a request that the same may be laid before their respective Legislatures for their consideration and adoption.

STATE OF NEW YORK,
in Assembly, April 16, 1818.

Resolved, That the Assembly do concur with the honorable the Senate in all of their preceding resolutions, with the recital.

By order of the Assembly.
AARON CLARK, *Clerk.*

Mr. STORER offered the following proceedings and instructions of the Legislature of the State of New Hampshire, which were also received and read:

STATE OF NEW HAMPSHIRE,
in Senate, June 26, 1818.

Whereas the General Assembly of the State of New Jersey hath proposed an amendment to the Constitution of the United States, in the following words, to wit:

"That, for the purpose of choosing representatives in the Congress of the United States, each State shall

by its legislature, be divided into a number of districts equal to the number of representatives to which such State may be entitled. The districts shall be formed of contiguous territory, and contain, as nearly as may be, an equal number of inhabitants entitled by the Constitution to be represented. In each district the qualified voters shall elect one representative and no more. That, for the purpose of appointing electors for the President and Vice President of the United States, in each district entitled to elect a representative in the Congress of the United States, the persons qualified to vote for representatives shall appoint one elector and no more. The additional two electors, to which each State is entitled, shall be appointed in such manner as the Legislature thereof may direct. The electors, when convened, shall have power in case any of them appointed as above prescribed shall fail to attend for the purposes of their said appointment, on the day prescribed for giving their votes for President and Vice President of the United States, to appoint another or others, to act in the place of him or them so failing to attend. Neither the districts for choosing representatives nor those for appointing electors shall be altered in any State, until a census and apportionment of representatives under it, subsequent to the division of the States into districts, shall be made. The division of States into districts, hereby provided for, shall take place immediately after this amendment shall be adopted and ratified as a part of the Constitution of the United States; and successively, immediately afterwards, whenever a census and apportionment of representatives under it shall be made. The division of each State into districts for the purposes both of choosing representatives and of appointing electors, shall be altered agreeable to the provisions of this amendment, and on no other occasion."

Resolved, That our Senators in the Congress of the United States be instructed, and our Representatives requested, to endeavor to obtain the said amendment to the Constitution of the United States.

Resolved, That his Excellency the Governor of this State be requested to forward a copy of the preceding resolution to each of our Senators and Representatives in the Congress of the United States, and also to the Governors of the several States, with a request that the same may be laid before their respective Legislatures for their consideration and adoption.

JONATHAN HARVEY, *President.*

Approved, June 30, 1818.

WILLIAM PLUMER.

THURSDAY, November 26.

The PRESIDENT communicated a letter from the Secretary of War, transmitting a report showing the organization and strength of the militia of the several States and Territories, as far as returns have been made, together with such militia laws as have been received by that Department, conformably to a resolution of the Senate of March 17, 1818; and the communications were read, and referred to the Committee on the Militia.

Mr. BARBOUR presented the petition of John Jamison, Indian agent at Natchitoches, praying an increase of compensation; which was read, and referred.

Mr. MORRIL presented the petition of James Pike, of New Hampshire, praying a pension; and the petition was read, and referred to the Committee on Pensions.

Mr. NOBLE presented the petition of William Crawford, of Indiana, praying a pension; and the petition was read, and referred to the same committee, to consider and report thereon.

Mr. MORRIL presented the petition of Stephen Fuller, of New Hampshire, praying an increase of pension; and the petition was read, and referred to the same committee, to consider and report thereon.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the resolution declaring the admission of the State of Illinois into the Union, reported the same without amendment.

Mr. BURRILL submitted the following motion for consideration:

Resolved, That the President of the United States be requested to lay before the Senate copies of the several documents and papers referred to in his Message to Congress, at the commencement of this session.

Mr. RUGGLES, from the committee, reported the bill to provide for the removal of the Library of Congress to the north wing of the Capitol, correctly engrossed; and it was read a third time, and the blank filled with "two thousand." The bill was then passed.

The Senate resumed the consideration of the motion of the 25th inst., "That the Committee on Military Affairs be instructed to inquire into the expediency of increasing the pay of the officers, non-commissioned officers, musicians, and privates, of the Army of the United States;" and agreed thereto.

On motion by Mr. FROMENTIN, the petition of Anthony Cavalier and Peter Petit, of the State of Louisiana, praying the confirmation of their title to a certain tract of land in said State; the memorial of the General Assembly of the State of Louisiana, relative to the land claims of Florida, and also the representation and protest of certain members of the Legislature of the State of Louisiana, against the memorial of said Legislature, respecting titles to lands in the Florida district, which were before the Senate at the last session, were severally referred to the Committee on Public Lands, to consider and report thereon.

The resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where they now lie, was read the second time.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to establish a judicial district in Virginia, west of the Alleghany mountain;" also a resolution authorizing the transmission of certain documents free of postage; in which bill and resolution they request the concurrence of the Senate.

The bill and resolution last mentioned, were read, and severally passed to the second reading. And the resolution was read the second time by unanimous consent.

Mr. MACON submitted the following motion for consideration:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of authorizing the President of the United States to cause a survey to be made of the shoals of Cape Hatteras, Cape Lookout, and the Frying Pans; and to have such an examination made of them respectively as will ascertain the practicability of erecting a light-house, lighted beacon, or buoy, on, or near the extreme points of them, or either of them.

COMPENSATION OF CERTAIN OFFICERS.

The bill to increase the compensation of certain officers of Government [the Secretaries of the Departments, the Attorney General, and Postmaster General] was taken up for consideration.

Mr. BARBOUR rose to offer a few remarks on the propriety of this bill, which he had introduced. He adverted to the proceedings on this subject at the last session, and observed, that, from all the information which had come before him then, he had thought an increase of one-third of the present compensation of those officers would be just and proper; a majority, however, had deemed an addition of twenty-five per cent. sufficient; in this opinion he had cheerfully acquiesced; and, at the proper time, when the blanks in the bill came to be filled, it was his intention to propose such an increase. It had been admitted, on all hands, Mr. B. said, that the salaries at present allowed to those officers were totally inadequate to their decent and comfortable support; the necessary and inevitable consequences of which, if the compensation was not increased, was, that none but men who possessed large fortunes and were willing to sacrifice them in the public service, could fill those offices, and the gentlemen who now filled must abandon them. It was contrary, he well knew, to the spirit of our institutions, to allow exorbitant salaries, but it was equally improper to deny what was just and reasonable—the true object was to find the medium between the two extremes, and such was his desire in the present proposition.

Mr. BURRILL moved to add to the bill a new section, embracing an increase of the salaries of the Chief Justice and Judges of the Supreme Court. He submitted it to the Senate whether the compensation of these officers did not also require increase; and, if so, whether it was not better and fairer to provide for it in the present bill. He remarked, further, that if gentlemen, as was probable, thought additional compensation due to the district judges also, an amendment to that effect could be likewise offered, and thus the whole subject be brought at once before Congress.

Mr. BARBOUR said that, as regarded the principle of the amendment, his opinion was testified by his vote in its favor at the last session; but he objected to associating that question with the proposition to increase the compensation of the Heads of Departments, &c. The questions, he said, were perfectly distinct, and, if this amendment were admitted in the bill, other gentlemen would press the increase of the salaries of other officers, and, said Mr. B., we shall go on in a circle until the bill be so loaded with amendments as to sink under their weight. He thought i proper to decide the insulated question proposed by the bill: on this question there was, he believed, no doubt or difference of sentiment; on the other there might be doubts, and the copartnery proposed by the amendment might be fatal to the first proposition, and the individuals involved in it suffer injustice. If an increase of salary was proper for the judges, why not, he asked, present the proposition separately, when, if it was the will of Congress, the increase would be dispensed to them? But, if the present motion was here persisted in, the connexion might destroy that which all admitted to be necessary, and the public will be thus thwarted? But this was not the only objection, Mr. B. said. He adverted to the difficulties which had occurred from the presumed want of jurisdiction in the State courts to execute the laws of the Union, and the necessity which might make additional judges necessary fully to administer the laws in the States, if the State authorities went on denying their power to act under the laws of the Union: in this case the duties of the present judges would cease to be itinerant, their duties would be lightened, and their present compensation be deemed sufficient. Mr. B. made incidentally a few remarks, on the salutary effect of some such change in the constitution of the Judiciary Department, and concluded by repeating his desire that the proposition contained in the amendment might be kept distinct from the present bill.

Mr. BURRILL's motion was then negatived—yeas 9; and the bill ordered to be engrossed (in blanks) for a third reading.

FRIDAY, November 27.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I lay before the Senate a report from the Commissioner of the Public Buildings, made in compliance with a resolution of the 28th of January last, requiring a statement of the expenditures upon the Public Buildings, and an account of their progress, to be annually exhibited to Congress.

JAMES MONROE.

NOVEMBER 26, 1818.

The Message and accompanying report were read, and referred to the Committee for the District of Columbia.

Mr. STORER presented the petition of James H. Clark, a purser in the Navy of the United States, praying relief in the settlement of his accounts, in consequence of his having been robbed of a certain sum of money, as stated in the petition; which was read, and referred to the Committee on Naval Affairs.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act concerning invalid pensions;" a bill, entitled "An act concerning the western district court of Pennsylvania;" and a bill, entitled

"An act to increase the number of clerks in the Department of War," in which bills they request the concurrence of the Senate.

The three last mentioned bills were read, and severally passed to the second reading.

On motion by Mr. LACOCK, the bill, entitled "An act concerning the western district court of Pennsylvania," was read the second time by unanimous consent, and referred to the Committee on the Judiciary.

On motion of Mr. WILLIAMS, of Tennessee, the bill, entitled "An act to incease the number of clerks in the Department of War," was read the second time by unanimous consent; and referred to the Committee on Military Affairs.

Mr. JOHNSON presented the petition of Rosalie P. Deslonde, the petition of J. Pellet, the petition of Joseph Lefevre, the petition of Jacques Villere, the petition of Barthelemy Duverge, the petition of Francis B. Languille, the petition of John Rodreguez, the petition of Joseph McNeal, the petition of B. & P. Jourdan, the petition of Lewis H. Guerlin, the petition of Thaddeus Mayherr, the petition of L. B. Macarty; the petition of Pierce Dennis de la Ronde, and the petition of Alexander Milne, of the State of Louisiana, praying indemnification for losses sustained by them during the late war, by invasion of the enemy, as stated in the several petitions; which were read, and severally referred to the Committee of Claims to consider and report thereon.

Mr. JOHNSON also presented the petition of Nathaniel Amory, of Boston, and John Carrere and Henry Messonier, of Baltimore, praying confirmation of their title to a tract of land in the State of Louisiana, known as Bastrop's Grant; and the petition was read and referred to the Committee on Public Lands.

Mr. MELLEN presented the petition of John G. Brown, praying the remission of duties on certain goods imported into the United States, as stated in the petition; which was read, and referred to the Committee on Finance.

The bill to increase the salaries of certain officers of the Government was read a third time, and passed.

The Senate resumed the motion of the 26th instant, "That the President of the United States be requested to lay before the Senate, copies of the several documents and papers, referred to in his Message to Congress, at the commencement of this session;" and the consideration thereof was postponed until Monday next.

The Senate resumed the consideration of the motion of the 26th instant, for instructing the Committee on Naval Affairs to inquire into the expediency of causing a survey to be made of the shoals of Cape Hatteras, Cape Lookout, and the Frying Pans, &c.; and agreed thereto.

The bill entitled "An act to establish a judicial district in Virginia, west of the Alleghany mountains," was read the second time, and referred to the Committee on the Judiciary.

The Senate resumed, as in Committee of the Whole, the resolution declaring the admission of the State of Illinois into the Union, and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the resolution authorizing the transmission of certain documents free of postage; and it was referred to the Committee on the Post Office and Post Roads.

The Senate resumed, as in Committee of the Whole, the resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where they now lie; and the further consideration thereof was postponed until Monday next.

MONDAY, November 30.

ISHAM TALBOT, from the State of Kentucky, attended this day.

Mr. TICHNOR submitted the following motion for consideration:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of changing the present judicial system of the United States, so far as to provide for the gradual diminution of the number of judges who at present compose the Supreme Court; for the restricting of the functions and duties of the judges of that court to the holding of the sessions thereof, and the other duties incidental thereto; of establishing and organizing a circuit court in each State of the Union; and of providing for the appointment of a competent number of judges for the holding the said courts.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the bill, entitled "An act to increase the number of clerks in the Department of War," reported the same without amendment.

Mr. LACOCK presented the petition of the Mayor, Aldermen, and Common Council, of the city of Washington, praying for a renewal of the act of incorporation, and the several supplements thereto, with certain amendments; and the petition was read and referred to the Committee for the District of Columbia.

Mr. EATON presented the petition of Matthew Barrow, of Tennessee, praying remuneration for a certain sum recovered of him, acting as principal forage master for Major General William Carroll's division of militia, in the fall of the year 1814, as stated in the petition; which was read and referred to the Committee on Military Affairs.

Mr. BURRILL, from the Committee on the Judiciary, to whom was referred the memorial of Matthew Lyon, of Eddyville, in the State of Kentucky, praying reimbursement of a certain fine imposed in the year 1798, at the suit of the United States, together with the costs and other losses attending the same, reported that the petition ought not to be granted; and the report was read.

Mr. SANFORD submitted the following motion for consideration:

Resolved, That the Committee of Finance inquire into the expediency of continuing in force the act of the 29th April, 1816, regulating the currency of certain foreign coins within the United States.

Mr. DAGGETT gave notice that to-morrow he should ask leave to introduce a bill, further to extend the Judicial system of the United States.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with the resolution of the 17th of April, I transmit to the Senate a report from the acting Secretary of the Navy, which, with the documents accompanying it, will be found to contain all the information required.

JAMES MONROE.

NOVEMBER 30, 1818.

The Message, together with the report and accompanying documents, were read and referred to the Committee on Naval Affairs.

The Senate resumed the consideration of the motion of the 26th instant, "That the President of the United States be requested to lay before the Senate, copies of the several documents and papers referred to in his Message to Congress at the commencement of this session; and agreed thereto.

The bill, entitled "An act concerning invalid pensions," was read the second time, and referred to the Committee on Pensions.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where they now lie; and, on motion by Mr. ROBERTS, it was referred to a select committee to consider and report thereon; and Mr. GOLDSBOROUGH, Mr. ROBERTS, and Mr. BURRILL, were appointed the committee.

Mr. WILSON, from the Committee on the Post Office and Post Roads, to whom was referred the resolution authorizing the transmission of certain documents free of postage, reported the same with an amendment; which was read.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution declaring the admission of the State of Illinois into the Union; and no amendment having been made thereto, it was reported to the House, and ordered to a third reading.

Mr. BURRILL, from the Committee on the Judiciary, reported a bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges; and the bill was read, and passed to a second reading.

TUESDAY, December 1.

Agreeably to notice given, Mr. DAGGETT asked and obtained leave to introduce a bill further to extend the judicial system of the United States; and the bill was read and passed to a second reading.

On motion by Mr. SANFORD, the Committee on Naval Affairs, to whom was referred the petition of James H. Clark, a purser in the Navy of the United States, were discharged from the further consideration thereof, and it was referred to the Committee of Claims.

Mr. DICKERSON gave notice that, to-morrow, he should ask leave to introduce a resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of Representatives in the Congress of the United States.

Mr. DAGGETT gave notice that, to-morrow, he should ask leave to introduce a bill, more effectually to provide for the punishment of certain crimes against the United States, and for other purposes.

Mr. FORSYTH submitted the following motion for consideration:

Resolved, That the Committee on Finance be instructed to inquire into the expediency of prohibiting the exportation of the gold, silver, and copper coins of the United States.

The Senate resumed the consideration of the motion of the 30th ultimo, "That the Committee of Finance inquire into the expediency of continuing in force the act of the 29th of April, 1816, regulating the currency of certain foreign coins within the United States;" and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to increase the number of clerks in the Department of War;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it was ordered to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution authorizing the transmission of certain documents free of postage, together with the amendment reported thereto, by the Committee of the Post Office and Post Roads; and the amendment having been agreed to, the PRESIDENT reported the resolution to the House amended accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the resolution be read a third time as amended.

The Senate resumed the consideration of the report of the Committee on the Judiciary, to whom was referred the memorial of Matthew Lyon, of Eddyville, in the State of Kentucky; and the further consideration thereof was postponed until to-morrow.

The resolution declaring the admission of the State of Illinois into the Union, was read a third time, and passed.

Mr. GOLDSBOROUGH presented the petition of Joseph Forrest, of the city of Washington, praying compensation for the loss of a certain schooner called the William Yeaton, chartered in the month of May, 1812, to the agent of the United States, to take a cargo of provisions from New York to Laguira, which was seized and condemned, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Samuel F. Hooker, of New York, made a report; which was read.

Mr. GOLDSBOROUGH also reported a bill for the

relief of Samuel F. Hooker; and the bill was read and passed to the second reading.

The Senate resumed the motion of the 30th ultimo, for instructing the Committee on the Judiciary to inquire into the expediency of changing the present judicial system of the United States; and the further consideration thereof was postponed until to-morrow.

WEDNESDAY, December 2.

MONTFORD STOKES, from the State of North Carolina, attended this day.

Mr. GOLDSBOROUGH, from the Committee to whom was referred the resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where they now lie, reported the same amended, as follows: Strike out the word "*Resolved,*" wherever it occurs, and to insert in lieu thereof, "*Be it enacted;*" and the amendment was read.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Richard H. Wilde, made a report, accompanied by a bill to authorize the settlement of the account of James Wilde; and the report and bill were read, and the bill was passed to the second reading.

Mr. SANFORD, from the Committee on Naval Affairs, to whom the subject was referred, reported a resolution directing a survey of certain parts of the coast of North Carolina; and the resolution was read, and passed to the second reading.

Mr. SANFORD submitted the following motion for consideration:

Resolved, That the Committee on Pensions inquire into the propriety of granting a pension to George Bell.

Mr. RUGGLES submitted the following motion for consideration:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of making provision, by law, for clothing the Army of the United States in domestic manufactures.

Agreeably to notice given, Mr. DICKERSON asked and obtained leave to introduce a resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of Representatives in the Congress of the United States; and the resolution was read, and passed to the second reading.

Mr. LEAKE submitted the following motion for consideration:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of so amending the several laws providing for the disposal of public lands, as to divide the fractions into quarter sections, where the same is practicable; and to authorize the sale of fractions in quarter sections, in the same manner as the other lands of the United States.

And also, where lands have reverted to the United States for non-payment, to direct the sale thereof again at public sale, upon the same terms and conditions of all other public sales, unless the same shall have been sold, within six months after such reversion, at private sale, for a price not less than that for which it had before been sold.

On request, Mr. TICHENOR had leave to withdraw the motion submitted by him, on the 30th ultimo, for instructing the Committee on the Judiciary to inquire into the expediency of changing the present judicial system of the United States.

The Senate resumed the consideration of the motion of the 1st instant: "That the Committee on Finance be instructed to inquire into the expediency of prohibiting the exportation of the gold, silver, and copper coins of the United States;" and agreed thereto.

The Senate resumed the report of the Committee on the Judiciary, on the memorial of Matthew Lyon, of Eddyville, in the State of Kentucky; and the consideration thereof was further postponed until to-morrow.

Agreeably to notice given, Mr. DAGGETT asked and obtained leave to introduce a bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes; and the bill was read, and passed to the second reading.

Mr. KING presented the memorial of the Governors of the New York Hospital, relative to distressed American seamen, relieved by that institution; and the memorial was read, and referred to the Secretary of the Treasury, to consider and report thereon to the Senate.

The bill, entitled "An act to increase the number of clerks in the Department of War," was read a third time, and passed.

The amendment to the resolution authorizing the transmission of certain documents free of postage, having been reported by the committee correctly engrossed, the resolution was read a third time, as amended, and passed.

Mr. LACOCK, from the Committee of Pensions, to whom was referred the petition of George Stone, reported as follows:

"That the said petitioner sets forth that he served three years in the Massachusetts line, in the Revolutionary war; that he was, while in the discharge of his duty, wounded in the shoulder, which has ever since considerably lessened and disabled his arm, which, together with the infirmities of old age, and misfortunes, renders it necessary for him to ask of his country to make his situation in advanced life comfortable.

Your committee, on this occasion, would observe, that, notwitstanding the facts set forth in the petition appear to be proven by numerous vouchers, it would be inexpedient to grant the prayer of the petitioner, inasmuch as the existing laws on the subject of pensions prescribe the mode of taking testimony, and every other prerequisite by which they may be obtained, in a full, ample, and it is conceived, liberal manner, and, to depart from those general rules and regulations, and to make each individual case a subject of legislative inquiry and enactment, would be extremely burdensome and inconvenient, and perhaps in some cases might subject the Government to im-

position and fraud. They, therefore, offer the following resolution:

Resolved, That the petitioner have leave to withdraw his petition."

Mr. LACOCK, from the same committee, to whom was referred the petition of John Brown, made report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted. The report and resolution were read.

Mr. LACOCK, from the same committee, to whom was referred the petition of Luce Cottineau, also made a report, accompanied by a resolution, that she have leave to withdraw her petition. The report and resolution were read.

THURSDAY, December 3.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act granting to Mehitabel Cole, the lands therein mentioned;" and a bill, entitled "An act for the relief of Major General John Stark;" in which bills they request the concurrence of the Senate.

The two bills last mentioned were read, and passed to the second reading.

The PRESIDENT communicated a report of the Secretary of the Treasury, made in obedience to a resolution of the Senate, of the 16th of April last, in relation to the offices of the customs, which it may be proper to suppress; and the report, together with the accompanying documents, were read, and ordered to be printed for the use of the Senate.

Mr. RUGGLES presented the petition of Gabriel Godfroy, of Michigan Territory, praying compensation for the destruction of his property during the late war with Great Britain; and the petition was referred to the Committee of Claims.

Mr. SMITH presented the petition of Mary Cassin, of South Carolina, praying payment of arrearages of certain soldiers' pay, as stated in the petition; which was read, and referred to the Committee of Claims.

The bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges, was read the second time.

The Senate resumed the report of the Committee on the Judiciary, on the memorial of Matthew Lyon, of Eddyville, in the State of Kentucky; and the consideration thereof was further postponed until Monday next.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I transmit to the Senate copies of such of the documents referred to in the Message of the 17th of last month, as have been prepared since that period. They contain a copy of the reports of Mr. Rodney, and Mr. Graham, two of the Commissioners to South America, who returned first from the mission, and of the papers connected with those reports.* They also present a full view of the operations of our troops employed in the Seminole war in Florida.

It would be gratifying to me, to have communicated with the Message, all the documents referred to in it, but as two of our Commissioners from South America made their reports a few days only before the meeting of Congress, and the third, on the day of its meeting, it was impossible to transmit at that time more than one copy of the two reports first made.

The residue of the documents, will be communicated as soon as they are prepared.

JAMES MONROE.

DECEMBER 2, 1818.

[The papers accompanying the Message, so far as they relate to South America, are those which were previously laid before the other House; and, so far as respects the Seminole War, of letters between the War Department and General Gaines, and the War Department and General Jackson, and of the proceedings of the court martial for the trial of Arbuthnot and Ambrister.]

The Message and documents were ordered to lie on the table.

The following Message was also received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with the resolution of the Senate, of the 25th of last month, requesting to be furnished with such information as may be possessed by the Executive, touching the execution of so much of the first article of the late Treaty of Peace and Amity between His Britannic Majesty and the United States, as relates to the restitution of slaves, and which has not heretofore been communicated, I lay before the Senate a report made by the Secretary of State, on the 1st instant, in relation to that subject.

JAMES MONROE.

DECEMBER 2, 1818.

DEPARTMENT OF STATE, *Dec.* 1, 1818.

The Secretary of State, to whom has been referred the resolution of the Senate, of the 13th ultimo, requesting information not heretofore communicated, relating to restitution of slaves, conformably to the first article of the late Treaty of Peace between the United States and Great Britain, has the honor of reporting to the President of the United States, that the difference of construction given by the two Governments to that part of the first article of the Treaty, and the claim of the citizens of the United States to indemnity for slaves carried away contrary to its stipulations, form one of the subjects of negotiation now pending in England; which negotiation having commenced towards the close of the month of August, no report of its progress has yet been received at this Department, from the Plenipotentiaries, to whom, on the part of the United States, it has been committed.

JOHN QUINCY ADAMS.

The Message and documents were read, and ordered to lie on the table.

FRIDAY, December 4.

WILLIAM HUNTER, from the State of Rhode Island and Providence Plantations, attended this day.

Mr. EPPES, from the Committee on Finance, to whom was referred the petition of John G.

* For these reports, see Appendix to 1st session, 15th Congress.

Brown, made a report, accompanied with a resolution, that he have leave to withdraw his petition. The report and resolution were read.

Mr. LACOCK, from the Committee on Pensions, to whom was referred the petition of Stephen Fuller, made a report, accompanied by a resolution, that he have leave to withdraw his petition. The report and resolution were read.

Mr. BURRILL, from the Committee on the Judiciary, to whom was referred the bill, entitled "An act to establish a judicial district in Virginia, west of the Alleghany mountain," reported the same without amendment.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom the subject was referred, reported a bill for the relief of Matthew Barrow; and the bill was read, and passed to the second reading.

Mr. WILSON submitted the following motion for consideration:

Resolved, That a joint committee of the two Houses of Congress be appointed to consider and report, whether any, and if any, what further provisions by law are necessary to insure despatch, accuracy, and neatness, in the printing done by order of the two Houses, respectively; and that they have leave to report by bill.

Mr. LACOCK submitted the following motion for consideration:

Resolved, That the Message of the President and documents relative to the Seminole war, be referred to a select committee, who shall have authority, if necessary, to send for persons and papers.

On motion, by Mr. BURRILL, five hundred copies of the Message of the President of the United States, of the 2d instant, together with the documents relative to the Seminole war, were ordered to be printed for the use of the Senate.

Mr. LACOCK submitted the following motion for consideration:

Resolved, That no paper or document shall hereafter be printed for the use of the Senate, but by special order, except Messages from the President of the United States, or communications from the House of Representatives.

Mr. MELLEN presented the petition of John G. Brown, praying the passage of an act to authorize the payment of a forfeiture remitted by the Secretary of the Treasury, as stated in the petition; which was read, and referred to the Committee on Finance.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill further to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payment thereon; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the motion of the 2d instant, "That the Committee on Military Affairs be instructed to inquire ino the expediency of making provision, by law, for clothing the Army of the United States in domestic manufactures;" and agreed thereto.

The Senate resumed the consideration of the motion of the 2d instant, "That the Committee on Pensions inquire into the propriety of granting a pension to George Bell;" and agreed thereto.

The Senate resumed the consideration of the motion of the 2d instant, for instructing the Committee on Public Lands to inquire into the expediency of amending the several laws providing for the disposal of public lands; and agreed thereto.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of George Stone; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

NINIAN EDWARDS and JESSE B. THOMAS, respectively appointed Senators by the Legislature of the State of Illinois, produced their credentials, were qualified, and they took their seats in the Senate.

On motion by Mr. MORROW,

Resolved, That the Senate proceed to ascertain the classes in which the Senators of the State of Illinois shall be inserted, in conformity to the resolution of the 14th of May, 1789, and as the Constitution requires.

Ordered, That the Secretary put into the ballot box two papers of equal size, numbered 1 and 3; each of the said Senators shall draw out one paper. The Senator who shall draw No. 1 shall be inserted in the class of Senators whose term of service will expire on the 3d of March, 1819; and the Senator who shall draw No. 3, in the class of Senators whose term of service will expire on the 3d of March, 1823.

Whereupon, the numbers abovementioned were by the Secretary rolled up and put into a box; when Mr. EDWARDS drew No. 1, and is accordingly of the class of Senators whose term of service will expire on the 3d of March, 1819; and Mr. THOMAS drew No. 3, and is accordingly of the class whose term of service will expire on the 3d of March, 1823.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of John Brown; and in concurrence therewith, resolved, that the prayer of the petitioner ought not to be granted.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Luce Cottineau; and, on motion, by Mr. ROBERTS, the further consideration thereof was postponed until the second Monday in January next.

The bill further to extend the judicial system of the United States was read the second time; and, on motion, by Mr. DAGGETT, the further consideration thereof was postponed to, and made the order the day for, Monday next.

The bill for the relief of Samuel F. Hooker, was read the second time.

The bill to authorize the settlement of the account of James Wilde was read the second time.

The resolution directing a survey of certain parts of the coast of North Carolina was read the second time.

The resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of Representatives in the Congress of the United States, was read the second time; and on motion, by Mr. DICKERSON, it was referred to a select committee, to consist of five members, to consider and report thereon; and Mr. DICKERSON, Mr. EDWARDS, Mr. KING, Mr. BARBOUR, and Mr. MACON, were appointed the committee.

The bill, entitled "An act granting to Mehitabel Cole the lands therein mentioned," was read the second time, and referred to the Committee on Public Lands.

The bill, entitled "An act for the relief of Major General John Stark," was read the second time, and referred to the Committee on Pensions.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where they now lie, together with the amendment reported thereto by a select committee; and the amendment having been agreed to, on motion, by Mr. DAGGETT, the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges; and the further consideration thereof was postponed to, and made the order of the day for, Monday next.

On motion by Mr. SANFORD, the Message from the President of the United States, of April 20, 1818, received at the last session, together with the rules, regulations, and instructions, for the naval service, prepared by the Board of Navy Commissioners, in obedience to an act of Congress, passed 7th of February, 1815, entitled "An act to alter and amend the several acts for establishing a Navy Department, by adding thereto a Board of Commissioners," transmitted therewith, were referred to the Committee on Naval Affairs, to consider and report thereon.

The Senate adjourned to Monday.

MONDAY, December 7.

The PRESIDENT communicated a letter from John Gardiner, presenting to the Senate maps of the Alabama Territory, and of the military bounty lands in the Missouri Territory; and the letter was read.

Mr. WILLIAMS, of Mississippi, presented the petition of merchants, traders, and inhabitants of St. Stephens, in the Alabama Territory, praying to be made a port of entry; and the petition was read, and referred to the Committee on Commerce and Manufactures.

Mr. MORRIL presented the petition of David Stephens, of Ohio, praying the privilege of reentering a certain quarter section of land for the original consideration; and the petition was read, and referred to the Committee on Public Lands.

Mr. JOHNSON presented the petition of Solomon Provost, praying compensation for property taken for the use of the Army of the United States; the petition of Noel Destrahan, for and in behalf of the heirs of E. Macarty, praying indemnification for property destroyed during the late war; and also the petition of Peter Lacoste, praying indemnification for the loss of slaves, taken away by the British during the late war; and the petitions were respectively read, and referred to the Committee of Claims.

Mr. JOHNSON submitted the following motion for consideration:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of passing a law, authorizing the President of the United States to take provisional possession of East Florida, or of such parts of it as he may deem essential, now or hereafter, to control the Indians, and to prevent them from committing hostilities against the citizens of the United States.

Mr. BURRILL, from the Committee on the Judiciary, to whom was referred the bill, entitled "An act concerning the western district court of Pennsylvania," reported the same without amendment.

Mr. LACOCK, from the Committee on Pensions, to whom was referred the bill, entitled "An act for the relief of Major General John Stark," reported the same without amendment.

The Senate resumed the consideration of the report of the Committee on the Judiciary, on the memorial of Matthew Lyon; and the consideration thereof was postponed until to-morrow.

The bill for the relief of Matthew Barrow was read the second time.

The bill further to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payment thereon, was read the second time.

The bill, introduced some days ago by Mr. DAGGETT, to extend the judicial system of the United States, was next taken up as in Committee of the Whole.

Mr. DAGGETT rose in support of this bill, and, after observing that it was, with the exception of a few of its features, similar to the bill on the same subject before the House of Representatives at the last session, proceeded to explain briefly, but distinctly, its several provisions, showing the expediency of some and the absolute necessity of others. When Mr. D. concluded his remarks, the bill was, on his motion, referred to the Judiciary Committee.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges; and Mr. BARBOUR having submitted a motion to recommit the bill to the Committee on the Judiciary, with instructions; on motion by Mr. OTIS, the further consideration thereof was postponed until Wednesday next.

The Senate resumed the consideration of the motion of the 4th instant, for the appointment of a joint committee, to consider and report, whether any further provisions by law are necessary, in relation to the printing done by order of Congress; and agreed thereto.

The Senate resumed the consideration of the motion of the 4th instant, "That the Message of the President and documents relative to the Seminole war, be referred to a select committee, who shall have authority, if necessary, to send for persons and papers;" and, on motion by Mr. LACOCK, the further consideration thereof was postponed until Wednesday next.

The Senate resumed the consideration of the motion of the 4th instant, "That no paper or document shall hereafter be printed, for the use of the Senate, but by special order, except messages from the President of the United States, or communications from the House of Representatives;" and agreed thereto.

The bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes, was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where they now lie; and, on motion by Mr. HANSON, the further consideration thereof was postponed until this day fortnight.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Samuel F. Hooker; and, on motion by Mr. WILSON, the further consideration thereof was postponed until this day fortnight.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the petition of John G. Brown; and in concurrence therewith, resolved that the prayer of the petition ought not to be granted.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Stephen Fuller; and in concurrence therewith, resolved that he have leave to withdraw his petition.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize the settlement of the account of James Wilde; and, on motion by Mr. WILSON, it was recommitted to the Committee of Claims, further to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution, directing the survey of certain parts of the coast of North Carolina; and the same having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, the resolution was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to establish a judicial district in Virginia, west of the Alleghany mountain;" and, on motion by Mr. WILLIAMS, of Mississippi, the further consideration thereof was postponed until this day fortnight.

AMENDMENT TO THE CONSTITUTION.

Mr. DAGGETT communicated the following resolutions of the Legislature of the State of Connecticut, which were read:

At a General Assembly of the State of Connecticut, held at Hartford, in said State, on the second Thursday of May, in the year of our Lord, one thousand eight hundred and eighteen.

Resolved by this Assembly, That, for the purpose of choosing Representatives in the Congress of the United States, each State shall, by its Legislature, be divided into a number of districts equal to the number of Representatives to which such State may be entitled. The districts shall be formed of contiguous territory, and contain, as nearly as may be, an equal number of inhabitants entitled by the Constitution to be represented. In each district the qualified voters shall elect one Representative, and no more. That for the purpose of appointing Electors for the President and Vice President of the United States, in each district entitled to elect a Representative in the Congress of the United States, the persons qualified to vote for Representatives, shall appoint one Elector, and no more. The additional two Electors to which each State is entitled, shall be appointed in such manner as the Legislature thereof may direct. The Electors when convened, shall have power, in case any of them appointed as above prescribed, shall fail to attend for the purposes of their said appointment, on the day prescribed for giving their votes for President and Vice President of the United States, to appoint another, or others, to act in the place of him or them so failing to attend.

Neither the districts for choosing Representatives, nor those for appointing Electors, shall be altered in any State, until a census and apportionment of Representatives under it, subsequent to the division of the States into districts, shall be made. The division of States into districts, hereby provided for, shall take place immediately after this amendment shall be adopted, and ratified as a part of the Constitution of the United States; and successively, immediately afterwards, whenever a census and apportionment of Representatives under it shall be made. The division of each State into districts, for the purpose both of choosing Representatives and of appointing Electors, shall be altered agreeably to the provisions of this amendment, and on no other occasion.

Resolved, That our Senators in the Congress of the United States be instructed, and our Representatives requested, to endeavor to obtain the said amendment to the Constitution of the United States.

Resolved, That his Excellency the Governor of this State be requested to forward a copy of the preceding resolution to each of our Senators and Representatives in the Congress of the United States, and also to the Governors of the several States, with a request, that the same may be laid before their respective Legislatures, for their consideration and adoption

BANK OF THE UNITED STATES.

The PRESIDENT communicated a report of the Secretary of the Treasury, made in obedience to a resolution of the Senate, of the 15th of April last, requiring him to procure from the Bank of the United States sundry statements of its con-

cerns and transactions, and to lay them before the Senate; which was read, as follows:

TREASURY DEPARTMENT, *Dec.* 4, 1818.

SIR: In obedience to a resolution of the Senate of the 15th of April last, requiring the Secretary of the Treasury to procure from the Bank of the United States sundry statements of its concerns and transactions, and to lay them before the Senate immediately after the commencement of the next session of Congress, I have the honor to submit the enclosed statements and communications made to this Department by that institution.

I have the honor to be, &c.

WM. H. CRAWFORD.

Hon. JOHN GAILLARD,
President of the Senate pro tem.

TREASURY DEPARTMENT, *June* 11, 1818.

SIR: The enclosed resolution is submitted to the president and directors of the Bank of the United States, for the purpose of obtaining the information required by it in time to be communicated to the Senate at the commencement of the next session of Congress. It is presumed that the statement required by the second member of the resolution may be furnished up to the 30th of September next.

I am, very respectfully, &c.

WM. H. CRAWFORD.

WILLIAM JONES, Esq.,
President of the Bank of the U. S.

BANK OF THE UNITED STATES,
November 11, 1818.

SIR: I have the honor to transmit the statements required by the resolution of the Senate of the 15th of April, a copy of which you were pleased to communicate in your letter of the 11th of June last.

The statements are numbered in the order of the several members of the resolution, and the details and accompanying remarks it is considered will render them perfectly intelligible.

In respect to the payments made on account of the cash part of the second and third instalments of the capital of the bank, it is impossible to designate the amount actually paid in coin.

When the second instalment became due, the Bank of the United States was in operation, and had issued a large amount of its notes; bills were also discounted and passed to the credit of individuals, and specie received on deposite; therefore, the notes of and checks on the bank were equivalent to specie, and would have drawn out the specie to pay the cash part of the instalment, if the literal formality of paying in specie had been required. The general course pursued by the subscribers was to deposite the coin and notes in the bank, and draw a check for the precise amount of the cash part of the instalment.

The banks in the principal cities resumed specie payment on the 20th of February, 1817, and the third instalment became due on the 1st of July following; their notes were, of course, received in all payments due to the bank and to the revenue, and also on deposite, for which specie was liable to be drawn; of course, the notes of and checks on the Bank of the United States, and the notes of the banks actually paying specie, were indiscriminately received with gold and silver in payment of the cash part of this instalment.

In the statement exhibiting the debts due to the bank and its offices, the amount of bills discounted bears an undue proportion to the relative trade and importance of the respective places; but the efforts of the board of directors to produce a more equal apportionment have been counteracted by circumstances which they could not control, the origin of which may be referred to the state of the currency and of domestic exchange at the period immediately preceding the establishment of the bank, the consequences of which are yet visible in the moneyed operations of those places.

The funds of the cities east of Philadelphia, derived from the sale of their imported commodities, had been suffered to accumulate during the late war, and until the establishment of the bank, chiefly in the cities of Philadelphia and Baltimore, to an immense amount, in anticipation of that event and the prospects entertained of the consequent improvement in the currency. The public revenue had also accumulated in the middle and western sections of the United States, to the amount of many millions, particularly in the banks of Philadelphia, Baltimore, and the District of Columbia; and the banks of those places were greatly indebted to those to the eastward of them respectively.

Shortly after this period, as you will recollect, sir, the banks of New York, Philadelphia, Baltimore, and Virginia, agreed to resume specie payments on the 20th of February, under a special agreement with the Bank of the United States, which, in order to bring about this desirable and indispensable event, engaged its credit and resources in protecting the debtor banks, and in liquidating these immense balances by actual remittances to the eastward in specie and bills at par as the only possible means of maintaining what had been so happily begun. In the mean time, the public deposites in the banks of those places which had been transferred to the Bank of the United States, and the revenue subsequently collected in the same, were chiefly expended in the cities east of the Susquehannah.

These circumstances have constantly maintained so great a demand for exchange in the eastern cities, that the directors have been unable to extend the discounts at the offices at New York and Boston, as they have earnestly desired to do, without getting in debt to the banks of those places, and incurring the immediate liability to a demand of payment in specie; of the large importations of which by the Bank of the United States, at a great expense, not one dollar has been expended south or west of Philadelphia. It is a fact, corroborated by the experience of all banks, that their operations must necessarily be regulated by those of the banks in their immediate vicinity, otherwise those which are most prudent or parsmonious will become the creditors of those who are the most liberal or extravagant; the consequence of which is an immediate specie responsibility. The Bank of the United States and its offices do not form an exception to this rule; and facts have demonstrated that a bank of very limited resources, governed by an avaricious policy, and applying its means not to the purpose of public accommodation, but to the traffic in specie, by collecting the bills of other banks, drawing out the specie for sale, and repeating the operation daily, may subject the largest capital to incessant contribution. It is conceived that what has been said will satisfactorily prove that the Bank of the United States could not remit and liquidate debts of the southern, western, and mid-

dle sections, to the eastern cities, and at the same time loan a large additional capital to the latter; and that, if the latter have not participated in the loans of the bank in proportion to their great wealth and commerce, they have at least derived as substantial benefits from the operations of the bank as any other section of the Union.

In regard to the discounts on bills secured by the pledge of public and corporate stocks, it is respectfully observed, that these loans originated in the sudden redemption of $13,000,000 of the funded debt, part of the capital of the bank, with the public funds which had been transferred to the bank in the manner represented. This event took place in a few months after the bank had commenced its operations, when few of its offices were in operation, and while the circumstances of the institution precluded the possibility of an equitable distribution of its capital. It therefore became a desirable object to employ this capital for the benefit of the institution without delay; and the only question which the case appeared to involve was, whether the loans ought to be made on the collateral security of public and corporate stocks, or on the more precarious security of mere personal responsibility, where that species of accommodation did not appear to admit of so great an extension. The board determined upon the former course, and proceeded to discount bills on the pledge of stock, without regard to persons or place, and indiscriminately, to the extent which it was offered; and, of course, the greatest loans have been where the greatest amount of stock was held. The whole amount of the loans on pledged stock of every description has not at any time reached by two millions the amount of the funded debt redeemed by the Government, although the original amount of the funded debt, part of the capital of the bank, was intended to have been $28,000,000. To have loaned these funds in New York and Boston, would have required their previous conversion into specie, or the funds of those cities, which, from the course of exchange, and the extraordinary demand for specie, was impracticable; and to have demanded the immediate payment of specie due by the banks in Philadelphia, Baltimore, District of Columbia, and the western country, would have been to require impossibilities. The funds were therefore loaned where they were current, and in their operation produced the gradual diminution of the debts due by the banks in those places to the Bank of the United States, which they had not the ability to discharge in specie on demand. The reason why no part of the coin in possession of the bank is exhibited in the statement No. 2 of the existing capital of the bank is assigned in the note annexed to that statement; but the whole amount of specie in the bank and its offices at that time was $2,815,208 96, as exhibited in the general statement rendered to the Department.

The crisis in which the directors of the Bank of the United States have acted, has been one of peculiar delicacy and difficulty. The policy and effect of their administration cannot be appreciated by an abstract view of any single measure; it must be taken in connexion with every other which it involves. They have earnestly endeavored to promote the interest of the public and of the institution, but they disclaim the presumption that would exempt them from error.

I have the honor to remain, &c.

WM. JONES, *Pres't.*

Hon. WM. H. CRAWFORD.

The Secretary of the Treasury to the President of the Bank of the United States.

TREASURY DEPARTMENT, *Nov.* 27, 1818.

SIR: I have the honor to return the statements which were enclosed in your letter of the 11th instant. By comparing these statements with the reports of the Register of the Treasury, which are now transmitted for your consideration, it will appear that the amount of the funded debt purchased or redeemed by the Commissioners of the Sinking Fund from the bank, exceeds the whole amount stated by you to have been received by the bank; whilst it is admitted that about $400,000 of the funded debt was in the possession of the bank at the date of those statements. The information required by the resolution is more detailed than that which is furnished by the bank. You have given the amount of funded debt subscribed to the bank, at each of the payments, without distinguishing between the different species of stock of which the several payments were composed. It is, I think, manifest, that the resolution requires this distinction.

The difference between the amount of stock stated to have been received by the bank at the different periods of the payment, and that which has been redeemed, arises, probably, from the circumstance of excluding, in the statement made by the bank, all the stock which was received at dates subsequent to the several periods when the different instalments became due.

As soon as the statements required by the resolution of the Senate are received, they will be communicated to that body. I am, &c.

WM. H. CRAWFORD.

WM. JONES, Esq., *President U. S. Bank.*

The President of the Bank of the United States to the Secretary of the Treasury.

BANK OF THE UNITED STATES,
December 1, 1818.

SIR: I have the honor to transmit the statements required by the resolution of the Senate of the 15th of April last, which were communicated with my explanatory letter of the 11th ultimo, and returned under cover with your letter of the 27th ultimo, having substituted, agreeably to your construction of the first member of that resolution, a statement more in detail, exhibiting the amount of the several species of funded debt subscribed to the bank, and including as well the payments made subsequently to the times prescribed by the charter, as the payments made at those periods, which the words of the resolution appeared alone to require; thus at once embracing the whole amount of the capital stock actually paid in gold and silver coin, or bank notes and checks equivalent thereto, and in funded debt; from which the amount of funded debt redeemed by the Government from the bank being deducted, shows the balance of funded debt remaining as a part of the capital stock of the bank at this time. The result accords with the statement No. 1 of the Register of the Treasury, showing the amount of the several species of funded debt redeemed from the bank, with the books of the bank and the loan office carefully examined. I have the honor, &c.

WM. JONES.

HON. WM. H. CRAWFORD,
Secretary of the Treasury.

The President of the Bank of the United States to the Secretary of the Treasury.

BANK OF THE UNITED STATES,
December 1, 1818.

SIR: I have the honor to return the statement No. 2, of the Register of the Treasury, showing the "amount of stock to the credit of the Bank of the United States, per dividends, to the 30th June, 1818." This statement refers to the date just mentioned, but appears also to be brought up to the 21st October, as the moiety only of the Louisiana debt held by the bank at the former date is included in the amount.

The notes, however, which I have added to the foot of the statement, reconcile the statement No. 1, rendered by order of the Senate, with the statement No. 2 of the Register, with which it agrees within one cent.

I have the honor to be, &c.

W. JONES.

Hon. WM. H. CRAWFORD,
Secretary of the Treasury.

TUESDAY, December 8.

The PRESIDENT communicated a report from the Secretary of the Treasury, made in obedience to a resolution of the Senate of the 18th of April last, referring the reports of the Commissioners for the districts east and west of Pearl river, in West Florida, relative to land claims, together with the memorials, petitions, and other papers addressed to the Senate upon the same subject, to the Secretary of the Treasury, and directing him to report a plan to the Senate at their next session, for the adjustment of the claims to lands in said districts, accompanied by a draft of a bill for that purpose; which were read.—Referred to the Committee on Public Lands.

Mr. WILSON, from the Committee of Claims, to whom was referred the bill to authorize the settlement of the account of James Wilde, reported the same with an amendment; which was read.

Mr. WILSON, from the same committee, to whom was referred the petition of Thomas Chapman, collector of the customs for Georgetown district, in the State of South Carolina, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted. The report and resolution were read.

Mr. SANFORD, from the Committee on Commerce and Manufactures, reported a bill to increase the compensation of the surveyor of the port of Patuxet, in Rhode Island; and the bill was read, and passed to the second reading.

Mr. BURRILL gave notice that to-morrow he should ask leave to introduce a bill respecting the transportation of persons of color, for sale, or to be held to labor.

MEMORIAL OF MATTHEW LYON.

The Senate resumed the consideration of the report of the Committee on the Judiciary, to whom was referred the memorial of Matthew Lyon, of Eddyville, in the State of Kentucky, praying reimbursement of a certain fine, imposed in the year 1798, at the suit of the United States, together with the costs and other losses attending the same, to wit: "That the prayer of the petition ought not to be granted." Whereupon,

Mr. CRITTENDEN submitted the following motion as an amendment:

Resolved, That all persons, who were prosecuted and fined under and by virtue of the second section of the act of Congress, commonly called the sedition law, approved the 14th day of July, 1798, and entitled "An act in addition to the act entitled 'An act for the punishment of certain crimes against the United States,'" ought to be reimbursed and indemnified out of the public Treasury, to the amount of the fines imposed upon, and paid by them, respectively.

Mr. CRITTENDEN said he considered the sedition act as having been unconstitutional, not only from a defect of power in Congress to pass such a law, but because its passage was expressly forbidden by the Constitution. The sense of the nation had unquestionably pronounced it unconstitutional, and that opinion being generally entertained, it ought to be solemnly pronounced by the Legislature, that history and the records of the country may not hand it down to posterity as a precedent for acts of similar usurpation. If a revision of the proceedings in that case was important in a public point of view, it was certainly so as it related to the individuals who became the subjects of prosecution under that act. To each of them, and to every citizen of the United States, the Constitution of the United States had guarantied certain rights, which had been violated by that law. This guarantee entitled them to indemnity in cases wherein those rights were violated; of this indemnity, the decisions of courts ought not to deprive them. If they did, he said, there is no redeeming spirit in the Constitution. Legal sanctions cannot vitiate Constitutional provisions. The Judiciary is a valuable part of Government, and ought to be highly respected; but is not infallible. The Constitution is our guide—our supreme law. Blind homage can never be rendered by freemen to any power. In all cases of alleged violations of the Constitution, it was for Congress to make a just discrimination. In doubtful cases, he said, he would not interfere; but, when the Constitution forbade a law, he would not hesitate to interpose for the relief of those who suffered by its inflictions. The case now before the Senate, he considered a fair case for the interposition of Congress. It had a peculiar character. The individual had a right to remuneration; this right ought not to be sacrificed to contingencies, or to speculative opinions. We may not do wrong that right may come of it. Justice to the individuals, to the Constitution, to the country, all required this course. Let us add, said Mr. C., new defences and guards to the Constitution in this assailable point. Let us secure it, as far as in our power, from future infraction on the ground of precedent.

Mr. BURRILL said he hoped the amendment would not prevail. If it was negatived, the gentleman would yet have it in his power to try the general question by introducing a bill embracing his proposition. But, Mr. B. said, not a fact alle-

ged in the petition now before the Senate was supported by any proof, though the facts were extraordinary in their nature, and not to be believed without proof. The petitioner had asked relief from Congress, on the ground of not having had a fair trial. Ought not this to be proved, instead of being merely asserted? He had called Judge Patterson a second Jeffries, himself an Algernon Sydney; but this was not a ground on which the Senate could found a legislative act. The question regarding the Constitutionality of the act of Congress, which had been agitated, Mr. B. said he would not argue; not that he had any doubts on the subject, but because it was unnecessary now to discuss it. The question really before the Senate was one which could be discussed without reference to the character of Judge Patterson, and without reflecting on the administration of justice in the courts of our country. The facts alleged were not proved, and Mr. B. believed they were not susceptible of proof. There might have existed in the public mind, amidst the conflict of parties, prejudices for and against Matthew Lyon; but Judge Patterson never could have been guilty of the acts alleged. It was proposed now to interfere with the judicial proceedings of the country, in a manner in which they never had been interfered with in this or any other country, by setting aside decisions of the courts, and indemnifying the parties who were the subject of them, and that, too, without proof. He did not, he said, believe in the infallibility of the Judiciary; but neither did he in that of Congress. The gentleman himself, who thought himself quite right, might be mistaken in his views, as infallibility did not belong to humanity. What right, Mr. B. asked, had Congress to pass on the Constitutionality of this law? They could repeal laws, but they could not revise the adjudications under them. The law had been passed by Congress, and been executed by the courts of the United States, after solemn examination. If Congress were to interfere in this case, they might in all others; and the Senate would see to what consequences the establishment of this principle would lead. Against such evils as the petitioner alleged, they might guard by law, with a view to prevention; but, having occurred, they could only interfere in extreme cases, and that in the manner prescribed in the Constitution—by impeachment and removal of the Judge. To proceed as now proposed, would be, instead of considering the Judiciary in its true light of a co-ordinate branch of the Government, to render it dependent and subordinate. If Congress were so to act, said he, posterity might impute to them party feelings, as we now do to those who have gone before us. Let us not then pronounce censure on any past Congress, or on the acts of the Judiciary.

Mr. BARBOUR said he had not intended to speak on this question, unless impelled by an imperious sense of duty. He was happy, he said, that the question presented to the Senate, instead of being decided on the merit or demerit of an individual, was to be decided on the broad ground of principle. Was the course proposed in the amendment, he asked, an unusual course? Was it not a daily practice to include all who were in the same predicament in the same remedy? An individual, Mr. B. said, was responsible for any charges he made; and they are not to be received as facts until satisfactorily proved. Let not, therefore, the great Constitutional question now presented rest on the merit of the claim of a single individual, or be encumbered by questions of fact peculiar to an isolated case. The true question now to be decided, was, did the Government, by the sedition act of 1798, from improper motives or party feelings, violate the Constitution and oppress individuals? If they did, ought not the new trustees to whom the people had confided their authority, to remedy the evil as far as in their power? The public sentiment, he said, called upon Congress to repair the wrongs which had been inflicted, and to administer, like the good Samaritan, the healing balm to every wound. This, he thought, was a propitious moment to retrace the former steps, in deference to the opinion of the people, and erect a barrier against the recurrence of similar aggressions of power on inherent and Constitutional right. This, he said, was not the tribunal to take cognizance of judicial delinquency: that was the province of the other House. But it was quite within the power of this body, as one branch of the Legislature, to pronounce that those who gave the authority exercised by the judiciary had no right to do so, and that, therefore, the judiciary had proceeded unconstitutionally in executing the law, the Constitution being the paramount law. He believed, he said, our courts were the purest in the world; but those who composed them were mere men, and some of them, possibly, bad men. Was there anything, he asked, in the ermine robe, which conferred on the wearer exemption from human frailties? It was rather calculated to inflate the vanity, and increase the confidence of the judge in his own infallibility. He would not, he said, act indelicately towards the judiciary, or any member of it; but, in regard to the violation of the Constitution, in the passage and execution of the sedition law, a tribunal from which there was no appeal had decided on it. There was among the people, at this day, scarcely a dissentient voice on that subject. Would the decision of four or five individuals counterbalance this unanimous opinion? The sedition act, Mr. B. proceeded to say, was one of the most conspicuous among the acts of misrule, in consequence of which the party who then held the reins of Government was precipitated from power. The law, he said, was unconstitutional, and Congress ought to say so, and to repair the ravages made under color of its authority. Suppose Congress had decreed the punishment of death and corruption of blood for the offences designated in the act; they had the same right to do that as what they did do. Suppose the victim had been immolated, and his property confiscated, and that the heirs had applied for a reversal of the attainder, the same answer might

be given as was now given by the gentleman from Rhode Island, that we ought not to interfere. This, he said, was not the answer due by Congress to such an application. Apprehensions had been expressed, that, from a different course, great inconveniences were to be feared. Mr. B. thought not. It would teach men in authority that, too often, in possession of power, they forgot right: it would teach them to look forward to the sentiments which posterity would entertain of their conduct. Our halcyon days, said he, may not always continue. We ought to erect land marks for the benefit of future ages; we ought to encourage future patriots to resist usurpation. Our Government, he said, was made for the people, and for the conservation of their rights; and we ought to repair injuries unrighteously inflicted on them. But, if precedents were to be sought in the history of other Governments, there were precedents to be found in British history.

The successors of the Stuarts repaired, as far as in their power, the injuries they had done. In the case of Russell, he was permitted to resume the right of blood and property—and other cases might be cited. When Congress, the President, or the Judiciary, exceeds the powers delegated them by the Constitution, the people have a right to resist unto blood. By way of illustration, Mr. B. put a case: had Burr, he said, been imposed on the nation as President by Congress, bloody vengeance would have pursued the usurper and his confederates. In the case of the sedition law there was no need of a resort to force; the redeeming spirit of the people was appealed to; it was roused, and it was effective. The actors in these scenes were driven from power, and covered with popular displeasure. But had anything been done to redress the individual wrongs inflicted? Certainly not. For one, he said, he wished to enter his solemn protest in this case, that, if a name so insignificant as his should ever meet the eye of posterity, it might be seen how he had acted on this occasion. What had been unconstitutionally exacted Congress ought to restore. The Senate, he said, ought to look at the consequences of acting on different grounds. What individual, he asked, would have patriotism and firmness enough hereafter to resist oppression, unless this excitement of indemnity for injury should be held out? The case of the sufferers under the sedition law would forewarn them from attempting to resist the exercise of arbitrary authority. Mr. B. concluded his animated speech by a brief recapitulation of his argument. Independent of all consideration of the merits or demerits of the particular case before the Senate, he was in favor of granting relief, generally, in all that class of cases, on the principle, that, when a man has been injured by an unconstitutional law, it is the bounden duty of Congress to repair the breach, and enter up a protest against the injury. This, he said, was an unique case, and one in which this great fundamental principle could be safely established. To show at least what his opinion was on the subject, Mr. B. required the question on the motion to be taken by yeas and nays.

Mr. OTIS said, this debate was wholly unexpected by him, until the gentleman from Kentucky gave him an intimation a day or two ago, that he intended to oppose the report of the committee. He did not then intend to interfere, as he believed the few observations he might make would be wholly unprofitable; and nothing but some allusions which had been made, would induce him to address the Senate. He was the only member of Congress, now in the Senate, who voted for the sedition law; and there were but four or five in the other House, who had aided in passing this law. It might be expected he would let the world see he was not ashamed of his old friends, nor of his old principles. He was not now an advocate for a sedition law. The public opinion, as clearly ascertained, forbade it. He respected this opinion as sincerely as those who much oftener referred to it. It was his inclination, as well as his duty, to conform to it. But, though he would not repeat the offence, he could not repent it. In supporting that law on its passage, he acted from a sense of duty. Those who acted with him, were governed by motives equally honorable. He admitted the law was inexpedient, but he thought gentlemen mistaken when they pronounced it unconstitutional. This question had been ably discussed, as well by those who were opposed to the law, as by those who advocated it; and he should not now enter deeply into the subject. Every Government had an inherent right to punish offences which endangered its existence; and on this definition he relied for a justification of the law. If the President and Congress were convinced there was a necessity for such a law, they had a right to enact it. It was passed in a period of great danger and alarm. It was true, it had been said these were chimerical. He trusted this would not now be said. It was a period of war, and of threatened invasion. Our ministers of peace had been spurned by the French Republic, who had demanded more money. The nation was preparing to resist. At this moment the law was passed. It was a measure of defence—a part of the general system. Of this system WASHINGTON approved, and accepted the command of the Army. Mr. O. did not wish to excite unpleasant feelings, and would endeavor to avoid it. There was one argument more he would urge. Had gentlemen lately read the law? If they had, they would remember that its second section only punished the publication of false, scandalous, and malicious matter, and admitted the truth to be given in the defence. He had always been surprised that this section was found fault with, while the first section, defining a conspiracy, and prescribing its punishment, had been passed over without animadversion. The law was doubtless inexpedient, but it was not new in principle. Similar provisions existed in several of the States; and this act was deemed essential for the defence of the Constitution and its authorities. It was not intended to affect the poor individuals who be-

came its victims; but it was thought that France, who was everywhere endeavoring to extend her influence by intrigue and corruption, would, by her agents, busy herself in our concerns, and, that the provisions of this act were necessary to defeat their efforts, and preserve the Government. No matter whether those apprehensions were unfounded or not—they existed. Nor need it be wondered at. We had since seen and heard it asserted, that the finger of Great Britain was discovered in the proceedings of men, whose principles, services, lives, families, and fortunes, were certain pledges of their fidelity to their country. But, admitting that gentlemen are correct, and that indelible stigma should be stamped on the law and its authors, can Congress remedy the wrong done? We have no Constitutional power to declare any law unconstitutional, in any other mode than by repealing it. If gentlemen thought we had, he would thank them to point out the clause. They could not do it. We have no such power. The Judiciary could do justice in such cases, but the Legislature cannot. Have we any precedent? He would not admit the extreme cases put by the gentleman from Virginia. This was an ordinary case—had we any precedent for interfering here? None. Would there be any use in adopting this measure? It might be a precedent for another Congress to pass a resolution restoring the Constitution to the construction given it by the sedition law. The honorable gentleman was not sent here to do this act; it was not connected with his legislative powers. He dreaded the consequences which might flow from the proposed resolution. Gentlemen seemed to have lost sight of analogies; and the sedition law alone was the "hydra and chimera dire." But, take the embargo laws and their execution. Many eminent statesmen deemed them unconstitutional. They believed the power given to Congress, to regulate commerce, did not carry with it the power to destroy commerce. Mr. DEXTER had publicly and boldly denounced the embargo as unconstitutional; and he might fairly be deemed the parent of all the heresies, if such they were, which prevailed in the East on this subject. Yet, he soon found favor with the Government. Some ten, fifteen, or twenty years hence, the question may be raised concerning the constitutionality of the embargo laws, and the propriety of restoring fines and forfeitures under them. Suppose a gentleman should then address the Senate, as the gentleman from Virginia now does, with the same zeal and eloquence, would he not be able to arouse our prejudices and feelings against the embargo laws? But were there no other cases? The United States Bank was once deemed unconstitutional, and had been so pronounced by the great inquest of the nation, of which the gentleman from Virginia had spoken. But this opinion had passed away, and it had been found useful and necessary, and admitted to be Constitutional. Is there nothing else on which controversies like this may hereafter arise? Yes—roads and canals. Was there not a great difference of opinion as to the constitutionality of these? Suppose these should hereafter be called in question, and motions made to restore fines and penalties incurred under them? Would not this create great difficulties and injuries? These effects naturally flowed from this act; and we ought to avoid them. The great corrective of errors of our Government was in public opinion—this was the redeeming spirit. But gentlemen said the remedy this afforded was not perfect. Were any of our laws or institutions perfect? To our feeble perceptions, were the dispensations of God himself perfect? Individual cases ought not to interfere with the general safety or welfare. But, by what test will the gentleman from Virginia satisfy you that the revolution in the Government was effected by the sedition act? Was not this act combined with many other measures, which have been since re-enacted and adopted by the majority with whom that gentleman acts? Suppose a dialogue should take place between a gentleman now in the majority, and one formerly so—and such a dialogue might be carried on in perfect good humor. The former might say "you acted extremely wrong and indiscreet when you were in power, and well deserved to be displaced." That may be, replies the other, but I should like to be informed in what particulars? "Why, you raised a standing army." True, we raised a provisional army in time of war; but you maintain a standing army, much larger, in time of profound peace. "But you established a navy!" We did—and your most eloquent men opposed it with all their energy; but you have found, on experience, that you must have a navy, and to your honor you have imitated the example we set you. "But you borrowed money, at eight per cent." So did you, at almost double that rate of interest. But what else did we do? "You passed alien and sedition acts." Well, you did not pass an alien act; but an act concerning alien enemies, not much unlike it. You did not pass a sedition law—but this was only one link in the chain, and was not the means of the change which took place. The whole of our measures, taken in connexion, occasioned our expulsion from power; you have adopted them all but one, and remain in. The people bear you out, and would not us. We are content. God speed you. On the whole, Mr. O. said, he thought it inexpedient and improper for Congress to form itself into a high court of errors, and interfere in the present case, and thus arouse party feelings, and establish a dangerous precedent.

Mr. SMITH said, that, being of the committee who reported against the petition, and of opinion that the prayer of it ought not to be granted, he deemed it a duty to offer his reasons for differing from the gentlemen from Kentucky and Virginia. He was in favor of the report, and against the amendment. His political principles were and always had been republican or (as they had been formerly called, by way of reproach) democratic. His principles had never changed, nor was it probable they ever would. He was sorry gentlemen had gone so deep into the question, as it might awaken feelings which had better be permitted

to slumber. When the sedition law passed, public opinion revolted against its principles and provisions, not because it was unconstitutional, but because of the temper manifested in enacting and executing it, which induced a belief that the object was to crush all opposition to the party in power. That party were continually pouring in addresses upon the President, applauding his measures, and denouncing those who differed from them in opinion. The very children presented their adulatory offerings; and it was remarked by some one at the time, that the President had as many addresses in his bureau as James the First had. The Democrats were denounced, and the President called on to remove them all from office; and on every removal of one of them, addresses were sent to the President approbating his conduct. This created the alarm. To this violence the sedition law owed the opposition it experienced, and not to the belief that it was unconstitutional. The times were not now what they were in 1798. The Government now admitted its opponents to a participation in its offices, and its friends did not clamor for their dismissal.

But he would drop this subject, and return to the question. The gentlemen from Massachusetts and Rhode Island justly opposed the assumption by Congress to decide on the constitutionality of a law. Our Constitution had very properly separated the powers of Government—the Executive, Legislative, and Judicial. They should be kept separate. The Judiciary was to construe laws. Congress could not reverse their decisions, nor repair their injuries. When they had passed a law, and the President signed it, they could not touch it, unless to repeal or amend it. The opinions of legal men ought to have great weight. The Judiciary was composed of such. They were selected for their legal acquirements. They deliberated well before they decided. They would not have stooped to party purposes, but they gave the law its full operation. This could give Congress no right to interfere. Are you to presume the judges were perjured and prostituted? We ought not do so without proof; and we have here only the suggestions and recollections of eighteen or twenty years ago. And he must here say, the petitioner had here given evidence that he can now write bitterly, if he did not then. He appealed to gentlemen who had professionally studied law, whether the sedition act was unconstitutional. He was not satisfied it was so, but inclined to think otherwise. In this case at least, the applicant ought not to be believed, as there was no evidence of the truth of his allegations. In the infancy of our Government, the common law of England was adopted. This forbade the proof of any fact alleged, and was much more severe than the sedition law. Under the common law, instead of admitting the truth as a justification, "The greater the truth, the greater the libel." The jury could only decide on the fact of publication, and the court could fine and imprison at their discretion. There was no offence punishable by the sedition act but was indictable at common law, save perhaps in a single case; and while under the former the truth might be given in evidence, and the jury had cognizance both of law and fact, under the latter the truth but aggravated the offence, and the offender was at the mercy of the court. The sedition law was therefore an amelioration of the common law. But the great evil was in the spirit which prevailed in its enaction and administration. He should not follow the gentleman from Massachusetts on the subject of the embargo laws, &c., but, if you indemnify Matthew Lyon under this unconstitutional law, suppose the party who passed the law should regain the ascendency—which he was not without apprehension of, notwithstanding they extended to us the right hand of fellowship, and professed to think we were "all Republicans, all Federalists"—they might repeal this law, take the money again out of his hands, and put it into the Treasury, as we were about to take it out of the Treasury and put it into his hands. Another Congress might reverse this proceeding, and refund him the money. This zigzag course might be endless. This was too apparent to be questioned. He had always gone with the party in power, in most of their measures. He still should do so, when they were right. He thought they were not so in this proposition; that we had no right to adopt it; that it would be dangerous as a precedent; and that precedents were already obtaining too much influence in legislation. They are likely soon to have more authority than the Constitution. If you refund Matthew Lyon's fine, where are we to stop? He would like to be informed, for he could not himself see.

Mr. MACON had hoped the resolution would be discussed on its merits, as it did not even mention Matthew Lyon's name. The true question was, will you review the proceedings under the sedition law, now, while party spirit is hushed, and all is calm? This calm he did not wish to disturb. But if you agree to the report, and reject the petition, how will you bring the question before you? He was told the precedent would be dangerous. He would meet this at once. If any party in power thought it their duty to follow it, let them do so. He did not admire precedent more than the gentleman from South Carolina, but, when wrong was done, it ought to be righted. The adoption of the Constitution, and the state of things abroad and at home, which ensued, had excited heats in the country; and he supposed both parties were sometimes wrong. The country is now peaceful, and we can act free from prejudice or party. He should not attempt to discuss the constitutionality of the sedition law. He had often been heard on this subject, and he supposed every man had made up his mind on the question. If the Senate was satisfied the law was unconstitutional, they ought to adopt the resolution; if they had doubts, they ought to reject it. Some facts were stated in the petition not known to him; but he believed Matthew Lyon had remunerated all the members who advanced money to relieve him from his fine. Ac-

cording to some gentlemen we were to regard the judiciary more than the law, and both more than the Constitution. It was a misfortune the judges were not equal in infallibility to the God who made them. The truth was, if the judge was a party man out of power, he would be a party man in. The office would not change human nature. He had no doubt that the sedition law, and the proceedings under it, had more effect in revolutionizing the Government than all its other acts. He well remembered the language of the times—pay your taxes, but don't speak against Government. The gentleman from Massachusetts admits the inexpediency of the law, but not its unconstitutionality. This was of itself a great concession. Would he, or the gentleman from South Carolina, put his finger on the clause of the Constitution which authorized that law? He would not impute evil motives—he had nothing to do with them, but with acts. He would have preferred a silent vote; but, being referred to in the petition, he could not be silent. Money is paid back daily from the Treasury to individuals, without its being called revising the decision of the judges. He did not agree with the gentleman from Massachusetts about the powers of the Government. That gentleman thought it might do any act necessary to its preservation. He, Mr. M. believed it could not go beyond the Constitution. We have in this country two governments. The Constitution defines the powers of the General Government, and leaves the State governments untouched. He thought the position clear, that if there was no Constitutional power to pass the law, the money was taken wrongfully, and ought to be restored. Mr. MACON was sorry the names of judges had been introduced. We ought to pass lightly over the ashes of the dead. Let them sleep quietly with their fathers—he would not disturb them. He regretted that the gentleman from South Carolina had spoken of the manner in which the petition was drawn. The effect of this might be to create disgust with the man, and thus weaken the arguments in favor of the claim. We had nothing to do with the person but with the principle. He thought the gentleman was also mistaken in the law of England on the subject of libels. He had read a speech of Mr. Erskine, on what occasion he did not recollect, which he thought conclusive and satisfactory, that the truth might there be given in evidence.

Mr. SMITH explained. He said his friend from North Carolina had misconceived some of his arguments. He had not meant to enforce his arguments by traducing the petitioner; and, perhaps, he had better not have mentioned him. He had not said the sedition law was Constitutional; but, as the Judiciary had decided it was so, he could not withhold his assent. The common law of England was the law of many of the States at the time the sedition law was enacted. He did not particularly recollect the speech which the gentleman from North Carolina adverted to; but had no doubt the representation he had given of it was correct. In England the common law had been ameliorated in some measure by a bill introduced by Mr. Fox, which admitted the truth to be given in evidence in relation to public officers. The Constitution had been quoted—"Congress shall make no law abridging the freedom of speech or of the press." This was intended to secure the liberty of the press, but not its licentiousness. It meant to protect the truth—not falsehood. He thought Congress had no right to construe their own laws—this power belonged exclusively to the Judiciary. If we may abrogate one law by explanation, we may another; and thus frustrate the ends of government.

Mr. MACON said he thought the power of punishing libels remained in the State governments, and was not conveyed to the General Government. He added a few words, which were not distinctly heard.

The Senate adjourned, without taking the question.

WEDNESDAY, December 9.

The PRESIDENT communicated a letter from the Secretary of the Treasury, transmitting a report of the Director of the Mint, giving the result of sundry assays made of the several species of foreign gold and silver coins made current in the United States, by an act of Congress, passed the 29th of April, 1816; and the letter and report were read.—Referred to the Committee on Finance.

The Senate resumed the consideration of the motion of the 4th instant, referring, to a select committee, the Message of the President, and documents relative to the Seminole war; and, on motion by Mr. LACOCK, the further consideration thereof was postponed until Friday next.

Agreeably to notice given, Mr. BURRILL asked, and obtained leave, to introduce a bill, respecting the transportation of persons of color, for sale, or to be held to labor; and the bill was read, and it passed to the second reading.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Thomas Chapman, collector of the customs for the Georgetown District, in the State of South Carolina; and in concurrence therewith, resolved that the prayer of the petitioner ought not to be granted.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges, together with the motion to recommit the bill with instructions; and, after debate, the further consideration thereof was postponed until Wednesday next.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of William Barton;" a bill, entitled "An act for the relief of William King;" "A bill entitled "An act for the relief of the heirs of Adolphus Burghart, deceased;" and also, a bill, entitled "An act making a partial appropriation for the military service

of the United States, for the year 1819, and to make good a deficit in the appropriation for holding treaties with the Indians;" in which bills they request the concurrence of the Senate. They have concurred in the resolution of the Senate for the appointment of a joint committee, to consider and report whether any further provisions by law are necessary, relative to the printing done by order of Congress, with an amendment, in which they request the concurrence of the Senate.

The Senate proceeded to consider the amendment of the House of Representatives to the resolution last mentioned, and concurred therein; and Mr. WILSON, Mr. LACOCK, and Mr. BURRILL, were appointed the committee on their part.

The four bills last brought up for concurrence were read, and passed to the second reading.

The engrossed resolution directing a survey of certain parts of the coast of North Carolina was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Matthew Barrow; and, no amendment having been made thereto, the PRESIDENT reported it to the House, and the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payment thereon; and the further consideration thereof was postponed to Monday next.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act respecting invalids;" a bill, entitled "An act for the relief of William B. Lewis;" and a bill, entitled "An act for the relief of Frederick Brown;" in which bills they request the concurrence of the Senate.

CESSION OF FLORIDA.

Mr. JOHNSON, of Louisiana, having obtained leave, withdrew the resolution submitted by him some days ago, respecting a provisional occupation of East Florida; and in lieu thereof submitted the following, which lies on the table one day of course:

Resolved, That the President of the United States be requested to lay before the Senate, copies of the correspondence between the Government of the United States, and the Government of Spain, relative to the cession of the Floridas to the United States, which has not already been communicated and which, in his opinion, may be communicated with safety to the public interest.

In withdrawing the one resolution, and offering the other, Mr. JOHNSON said, in substance, that he was not influenced by any change of opinion on the subject of his first proposition; he believed it to be the proper course to be ultimately pursued; an opinion confirmed by information he had seen in the New Orleans papers, that hostilities were yet rife between the Seminoles and the frontier settlers. But, having understood, that a correspondence had been going on between our Government and the Minister of Spain, he had thought it would be proper to understand first what was the result of this correspondence, as it might have some bearing on the object he had in view. He, therefore, for the present waived his motion, desiring it to be understood that he reserved the right of renewing it, should it still appear necessary, after the information required by his present motion should be received.

MEMORIAL OF MATTHEW LYON.

The Senate resumed the consideration of the report of the Judiciary Committee unfavorable to the petition of Matthew Lyon; Mr. CRITTENDEN's motion to reverse the report, and to make general provision for the indemnification of all similar cases occurring under the sedition law, being yet under consideration:

Mr. MORRIL said, the discussion had taken a course which was unexpected; and he felt it a duty to make some remarks, and assign the reasons which would govern his vote. The question turned on the constitutionality of the sedition law. He was opposed to the resolution, because he believed the law Constitutional. The law only punished false, licentious, and malicious writings. The Constitution did not mean to prohibit a law to punish these. It was intended to cherish virtue and morality, and to preserve our rights and privileges; and which of these did we esteem higher than reputation? The Constitution prohibited any law abridging the freedom of speech or of the press. Now, freedom and liberty are synonymous and convertible terms. The law was not intended to abridge the liberty of the press, but its licentiousness. The second section allowed the truth to be given in evidence. If the publication was licentious, the charge could not be supported, and the offender would be punished. If it contained facts, they could be maintained, and an acquittal would take place. He was opposed to the resolution on another ground—this was not the proper tribunal to decide the question of unconstitutionality. The judiciary was the proper tribunal. If Congress should indemnify in one case, they might in others—and where would we stop? All would be confusion and uncertainty. The consequence appeared to him alarming. We have no proof of corruption in the judges—no evidence of the facts stated in the petition. All were unsupported allegations upon which we were called to act in this case; though, in support of claims, it was usual to require the oaths of parties, as well as other testimony. Another reason why he was opposed to this resolution, was, that we had many claims more just and equitable. He believed the law Constitutional, and that the petitioner suffered justly according to law. But there were many sufferers by the late war—many bereaved widows and helpless orphans, who needed and deserved our assistance. These claimed the preference, and ought to be first relieved.

Mr. CRITTENDEN felt himself bound to reply to some observations which had been made. The

public voice had determined the unconstitutionality of the sedition law: it had removed one party from power, and elevated another. He had expected Congress would confirm the decision of the people. He should be sorry if he were disappointed; but it would be a great consolation that the opinion of the nation was with him. The proposition that the law was unconstitutional, appeared to him so plain, that he feared an attempt at demonstration would but involve in darkness a question as clear as sunshine. The Constitution says "Congress shall pass no law abridging the freedom of the press." If this law did not abridge that freedom, why was it passed? No law of the General Government then existed on the subject: the State authorities alone took cognizance of libels. That the Constitution was meant as a mere moral restraint, was a novel idea. The convention who formed it, was not a conventicle of Puritans, but an assemblage of statesmen. The morals of the nation were left to other tribunals: political motives alone led to its formation and adoption, and to the provision referred to. The framers of it well knew that the licentiousness of the press was not as much to be feared as the power to restrain its freedom. History was full of examples on this point. Our Government was different from all others in its principles, objects, and provisions. The press, so far from being dangerous to it, was its greatest safeguard. No ruler was above its animadversion, nor beyond its influence. Tyrants, all over the world, dreaded its effects in imparting light and energy to the human mind. But what had our Government—a Government of the people—to fear from it? It could not injure, it could not affect it. Experience had verified this. When all the offices in the country were in the hands of a party, wealthy, influential, and powerful, all could not save them. On the other hand, had not our former illustrious Chief Magistrate, who was brought into power by means of the sedition law, and other correspondent measures, been assailed with the most infamous and vindictive abuse and slander? Had it sullied his public or private character? Had it lessened the affection or confidence of the people? No—the press could only have influence when it conformed to public sentiment; its licentiousness can only be dangerous to those who misrule. It was but a faithful sentinel, to announce the approach of public danger, and excite the people to vigilance. Mr. C. admitted that the States might pass such laws as the one alluded to; but the General Government could not. The former possessed the right—to the latter, the power was never delegated. The fair construction of the sedition law was, that it could punish anything that tended to bring the rulers into contempt or disrepute. Opinions, however well-founded, were not susceptible of proof—yet they were subject to punishment. Truth, if it could not be proved, was as punishable as falsehood. The gentleman from South Carolina had called it an amelioration of the common law. O tender mercies of the sedition law! Happy amelioration of the common law! How blind had the people been to the benevolent intentions of the law! How ungrateful for the protection it afforded them! But the gentleman had forgotten that, when this act passed, there was no common law on the subject in the General Government, and that this act introduced the first restraint on the press. Ought we then to withhold the money paid under this unconstitutional law? If the law was a violation of the national compact, which guarantied to every individual freedom to speak and to publish what he chose, could we retain fines incurred under this law? In a moral point of view, the money ought to be refunded; and he knew not on what ground the claim could be resisted. For the judiciary he felt a proper respect; but he would not bow submissively to everything the judiciary should say. As a man, and as a member of the Senate, he had a right to form opinions for himself. The Constitution he regarded as the supreme law, and entitled to our first attention and respect. By this resolution we should cast no stigma on any judge or court: it was not revising any judicial decision; it was no indelicacy to the judiciary. The blame attached to Congress more than to the judiciary. We ourselves have done an injurious act; it is for us to repair the wrong. There was no more indelicacy in the present case, than there would be in moving the repeal of a law. He thought gentlemen quite too sensitive on this subject. He had no wish to cast a stigma on either the judiciary or Congress—no desire to impute impure motives to either; but purity of motive could not make the law Constitutional. Victorious parties might pursue their adversaries too far, as well in the Senate as in the field; hence arose the act in question. The stability of the judiciary was not to be affected by this resolution. He judged the law by the Constitution. He did not like the judiciary less than others, but he loved the Constitution more. He deemed it both proper and necessary to adopt this resolution. He was surprised to hear gentlemen, and Republicans too, say the law was not deemed unconstitutional. He thought this point had long been put beyond controversy, and his object was to evoke and call forth from Congress an expression of opinion against the law, that the freedom of speech and of the press might be established by authority as well as argument. He believed that ninety-nine out of an hundred deemed the law unconstitutional. No man would now dare to attempt its renewal; no man would thus expose his head and his character to the imprecations and reproaches he would draw upon himself. But shall we leave the law, and decisions under it, for future example and precedent? He was for banishing them from our records; he was for making amends, as far as possible, for the violation of our Constitution. The sum in controversy was small, very small, indeed, to the nation, though something to a poor individual; but, small as it was, it had created great alarm in the mind of the gentleman from New Hampshire, lest, if it was refunded, the widows and orphans of the late war would be deprived of the aid of Government, and left to suffer! The gentleman need not, he thought, be alarmed. The

fines under the sedition law were not numerous, and their amount was small. Mr. Jefferson had remitted Callender's fine, and this was high authority for us. Congress had acted on the same principle in a great variety of cases—on the application of General Brown, and many others. Was this considered a stigma on the judiciary? Yet the principle was precisely the same. The law was unconstitutional, and we ought to restore all the money taken under it. We have the power to repair as well as to violate. No branch of the Government is infallible, and, when we do wrong, we ought to repair it; and we ought to erect some barrier against future injurious and unconstitutional acts on this subject. Mr. C. apologized for having occupied the attention of the Senate so long.

Mr. OTIS said he should not enter into the argument of the question; but would merely suggest a fact which he had before omitted. He believed the people of the United States had never demonstrated their opinion that the sedition law was unconstitutional. After the Virginia Legislature had passed their resolutions, denouncing this law, and circulars enclosing their proceedings were sent to the Legislatures of the several States, those of New England unanimously declined expressing their disapprobation of the law, and so far gave their sanction to it. Virginia again took up the subject, and gave a comprehensive view of all the arguments against the law; and this was carried through the Legislature but by about two to one. He thought at least one-half of the people of the United States might be considered as having expressed their opinion that the law was Constitutional; yet, he would not at this time so far outrage public opinion as to vote for a renewal of this law. He hoped it might be done without; but it might have to be recurred to in times of imminent public danger. A crisis might arrive, when it would not be safe to let the press denounce the President of the United States as an usurper and highwayman, and the Congress as swindlers, and participators in his plunder; and to declare that the people had no resource but in a convention of delegates.

Mr. SMITH asked leave to explain. His friend from Kentucky had misconceived him. He had never been an admirer of the sedition law—he liked it as little as any other person. He had not said it was deemed Constitutional in South Carolina; he did not know that this was a fact. But he thought, if it were passed now, little alarm would be excited, and litte said against it. He feared he was also misunderstood respecting the judiciary; he did not deem them infallible, but they were the proper expositors of the law. If they did wrong, they were impeachable. Congress were unauthorized to give laws a construction. As a sound lawyer, he would appeal to the gentleman from Kentucky, if any such authority existed; he could point to none. Popular opinion was, nine times out of ten, right; but, when called on to give a vote, he must consult his own judgment. He went on the ground that Congress had no cognizance of the case, and that the consequences of interfering, would be injurious to the country.

Mr. MORRIL made a few remarks in explanation. He was not in favor of sedition laws, nor did he think that law was expedient. But he believed it was Constitutional, and that the present resolution was inexpedient and unnecessary.

The question was taken on Mr. CRITTENDEN'S proposition, and decided in the negative—yeas 17, nays, 20, as follows:

YEAS—Messrs. Barbour, Crittenden, Edwards, Eppes, Forsyth, Lacock, Macon, Morrow, Palmer, Roberts, Ruggles, Sanford, Stokes, Talbot, Thomas, Williams of Mississippi, and Wilson—17.

NAYS—Messrs. Burrill, Daggett, Fromentin, Gaillard, Hanson, Hunter, Johnson, King, Leake, Mellen, Morril, Noble, Otis, Smith, Storer, Taylor, Tichenor, Van Dyke, and Williams of Tennessee.

The report of the Committee was then concurred in—ayes 20.

THURSDAY, December 10.

Mr. OTIS presented the memorial of the representatives of the yearly meeting of the Friends of New England, representing the condition of the Indian natives, within and near the United States, and praying the fostering aid of the Government; and the memorial was read, and referred to the Committee on Indian Affairs.

Mr. OTIS also presented the petition of Joseph Marquand, collector of the customs for the port of Newburyport, praying additional compensation for services performed; and the petition was read, and referred to the Secretary of the Treasury, to consider and report thereon to the Senate.

Mr. NOBLE presented the memorial of Jonathan Parker, and others, inhabitants of the States of Indiana and Ohio, praying an extension of the act of March, 1817, to suspend the sale or forfeiture of lands; and the memorial was read, and referred to the Committee on Public Lands.

The three bills last brought up yesterday for concurrence were read, and passed to the second reading.

The Senate resumed the consideration of the motion of the 9th instant, requesting a copy of the correspondence relative to the cession of the Floridas to the United States; and, on motion, by Mr. BARBOUR, the further consideration thereof was postponed until this day four weeks.

The bill to increase the compensation of the surveyor of the port of Patuxet, in Rhode Island, was read the second time.

The bill, entitled "An act for the relief of William Barton," was read the second time, and referred to the Committee on Public Lands.

The bill, entitled "An act for the relief of William King," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act for the relief of the heirs of Adolphus Burghart," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act making a partial appropriation for the military service of the United states, for the year 1819, and to make good a de-

ficit in the appropriation for holding treaties with the Indians;" was read the second time, and referred to the Committee on Finance.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning the western district court of Pennsylvania;" and, no amendment having been made thereto, the PRESIDENT reported it to the House, and it was passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill more effectually to provide for the punishment of certain crimes against the United States; and on motion, by Mr. DAGGETT, it was referred to the Committee on the Judiciary to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, to authorize the settlement of the account of James Wilde, together with the amendment reported thereto by the Committee of Claims; and the amendment having been agreed to, the bill was reported to the House, amended accordingly; and, the amendment being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Major General John Stark;" and the further consideration thereof was postponed until Wednesday next.

The PRESIDENT communicated a report of the Secretary of the Treasury, to whom was referred the memorial of the governors of the New York hospital, relative to distressed American seamen relieved by that institution; and the report was read, and referred to the Committee on Commerce and Manufactures.

FRIDAY, December 11.

CHARLES TAIT, from the State of Georgia, attended this day.

Mr. MELLEN submitted the following motion for consideration:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of increasing the compensation now by law allowed to the postmaster at Kennebunk, in the District of Maine.

Mr. WILSON presented the petition of William Robertson, of the city of Trenton, in the State of New Jersey, praying for an addition to his pension; and the petition was read, and referred to the Committee on Pensions.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of John H. Clarke, a purser in the Navy of the United States, made a report, accompanied by a resolution that the prayer of the petitioner is unreasonable, and ought not to be granted. The report and resolution were read.

On motion, by Mr. JOHNSON, the report of the Secretary of the Treasury, of the eighth instant, made in obedience to a resolution of the Senate, of the 18th of April last, of a plan for the adjustment of the claims to land in the districts east and west of Pearl river, in West Florida, together with a draught of the bill for that purpose, were ordered to be printed for the use of the Senate.

Mr. TAIT presented the memorial of the Legislative Council and House of Representatives of the Alabama Territory, praying admission into the Union as a State; and the memorial was read, and referred to a select committee, to consist of five members, to consider and report thereon, by bill or otherwise; and Messrs. TAIT, MORROW, WILLIAMS, of Mississippi, EDWARDS, and WILLIAMS, of Tennessee, were appointed the committee.

Mr. HUNTER presented the petition of Thomas Arnold of Rhode Island, praying payment of the commutation provided by law for the officers serving in the Revolutionary war, and erroneously surrendered by the petitioner, from a mistake of the law; and the petition was read and referred to the Committee of Claims.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act granting to Mehitabel Cole the lands therein mentioned," reported the same without amendment.

Mr. MORROW, from the same committee, to whom was referred the bill, entitled "An act for the relief of William Barton," reported the same without amendment.

Mr. EPPES, from the Committee on Finance, to whom was referred the bill, entitled "An act making a partial appropriation for the military service of the United States, for the year 1819, and to make good a deficit in the appropriation for holding treaties with the Indians," reported the same without amendment, and the bill was considered as in Committee of the Whole; and, no amendment having been made, it was passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed the motion of the 4th instant, for referring to a select committee the Message of the President of the United States, and documents relative to the Seminole war; and, on motion by Mr. LACOCK, the consideration thereof was further postponed until Monday next.

The bill entitled "An act concerning invalids," was read the second time, and referred to the Committee on Pensions.

The bill entitled "An act for the relief of William B. Lewis," was read the second time, and referred to the Committee of Claims.

The bill entitled "An act for the relief of Frederick Brown," was read the second time, and referred to the Committee of Claims.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to increase the compensation of the surveyor of the port of Patuxet, in Rhode Island; and no amendment having been made, it was reported to the House; and the blank having been filled with "two hundred," the bill was ordered to be engrossed and read a third time.

The bill to authorize the settlement of the account of James Wilde was read a third time, and passed.

Mr. RUGGLES presented the petition of Shubael Conant, praying the remission of certain duties upon goods, transported from New York to Detroit, by the way of Canada; and the petition was read, and referred to the Committee on Finance.

The Senate adjourned to Monday.

MONDAY, December 14.

Mr. TAIT presented the memorial of M. B. Forsyth, and others, inspectors for the port and district of Savannah, in the State of Georgia, praying some further provision to be made for them; and the memorial was read, and referred to the Committee on Commerce and Manufactures.

Mr. SANFORD submitted the following motion for consideration:

Resolved, That the Committee on the Judiciary inquire what provisions may be necessary to give effect to the laws of the United States in the State of Illinois.

Mr. LEAKE presented the memorial of the Mississippi convention, praying an extension of the limits of that State; and also the memorial of the Legislative Council and House of Representatives of the Alabama Territory, against the said extension; and the memorials were respectively read, and severally referred to the committee to whom was referred the memorial of the Legislative Council and House of Representatives of the Alabama Territory, praying to be admitted into the Union as a State, to consider and report thereon by bill or otherwise.

Mr. EATON presented the petition of Nicholas Perkins, of Nashville, in the State of Tennessee, praying to be confirmed in his title to a certain tract of land in the Alabama Territory; and the petition was read, and referred to the Committee on Public Lands.

Mr. TAIT presented the memorial of Andrew Jackson, and others, proprietors of land in the northern district of the Alabama Territory, praying the adoption of measures, by Congress, for the improvement of the navigation of the Tennessee river at the Muscle Shoals; and the memorial was read, and referred to the Committee on Public Lands.

Mr. TAIT presented the memorial of the Legislative Council and House of Representatives of the Alabama Territory, praying certain amendments to their judicial system; and the memorial was read, and referred to the Committee on the Judiciary.

The Senate resumed the motion for referring the Message of the President of the United States, and documents relative to the Seminole war, to a select committee; and, on motion by Mr. LACOCK, the consideration thereof was further postponed until Wednesday next.

The Senate resumed the consideration of the motion of the 11th instant, "That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of increasing the compensation now by law allowed to the postmaster at Kennebunk, in the District of Maine;" and agreed thereto.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of James H. Clarke, a purser in the Navy of the United States; and the report was recommitted to the Committee of Claims further to consider and report thereon.

The bill respecting the transportation of persons of color, for sale, or to be held to labor, was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payment thereon, and the further consideration thereof was postponed until Thursday next.

Mr. EATON submitted the following motion for consideration:

Resolved, That a committee be appointed to inquire if any, and what, amendments are necessary, to the present existing laws, the more effectually to prevent the importation of slaves into the United States.

Mr. KING submitted the following motion for consideration:

Resolved, That the Committee of Finance be, and are hereby, instructed to inquire into the expediency of such alteration in the laws concerning the coasting trade as shall authorize ships and vessels of twenty tons and upwards, licensed to trade between the different districts of the United States, to carry on such trade between the said districts in the manner, and subject only to the regulations, required to be observed in carrying on trade from district to district, in the same State, or from a district in one State to a district in the next adjoining State.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of William Barton;" and no amendment having been made, the bill was reported to the House; and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act granting to Mehitabel Cole the lands therein mentioned; and no amendment having been made, it was reported to the House; and it was passed to a third reading.

The engrossed bill for the relief of Matthew Barrow was read a third time, and passed.

The bill to increase the compensation of the surveyor of the port of Patuxet, in Rhode Island, was read a third time, and passed.

Mr. KING presented the petition of Thomas Ludlow Ogden, of the city of New York, in behalf of himself and others, praying compensation and indemnity for the use and occupation of certain real estate near Sackett's Harbor, by the troops of the United States, during the late war with Great Britain; and the petition was read, and referred to the Committee of Claims.

On motion the Senate adjourned.

TUESDAY, December 15.

A message from the House of Representatives informed the Senate that the House have appointed a committee on their part, conformably with the provisions of the resolution, for the appointment of a joint committee to inquire and report upon the subject of the public printing.

They have passed a bill entitled "An act concerning widows of the militia;" and also a bill entitled "An act authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig Syren;" in which bills they request the concurrence of the Senate.

The two bills last mentioned were read, and passed to the second reading.

Mr. ROBERTS, from the Committee of Claims, to whom was recommitted the report of said committee, on the petition of James H. Clarke, a purser in the Navy of the United States, reported the same without amendment.

Mr. KING presented the memorial of Aquilla Giles, who was a major in the Revolutionary army, stating that in December, 1782, he received a warrant from the War Office, drawn on the Paymaster General of the Army, for five hundred dollars, being the amount of pay due him for that year, which was not paid, the paymaster not having funds, and praying the passage of an act, authorizing the officers of the Treasury to pay the same, together with interest thereon; and the memorial was read, and referred to the Committee of Claims.

The Senate resumed the consideration of the motion of the 14th instant, "That a committee be appointed to inquire if any, and what, amendments are necessary, to the present existing laws, the more effectually to prevent the importation of slaves into the United States;" and agreed thereto; and Messrs. EATON, BURRILL, SMITH, MACON, and HORSEY, were appointed the committee.

The Senate resumed, as in Committee of the Whole, the consideration of the bill respecting the transportation of persons of color for sale, or to be held to labor; and, on motion by Mr. BURRILL, it was referred to the committee last appointed, to consider and report thereon.

The Senate resumed the consideration of the motion of the 14th instant, "That the Committee on the Judiciary inquire what provisions may be necessary to give effect to the laws of the United States in the State of Illinois;" and agreed thereto.

The Senate resumed the consideration of the motion of the 14th instant, for instructing the Committee of Finance to inquire into the expediency of altering the laws concerning the coasting trade, and agreed thereto.

Mr. DICKERSON, from the committee to whom was referred the resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of representatives in the Congress of the United States, reported the same with amendments; which were read.

Mr. FROMENTIN submitted the following motion for consideration:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of extending the right to a bounty in lands to the soldiers who were enlisted to serve in the company of bombardiers, sappers and miners, and in the corps of ordnance.

The bill entitled "An act for the relief of William Barton" was read a third time, and passed.

The bill entitled "An act granting to Mehitabel Cole the lands therein mentioned," was read a third time, and passed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I transmit to the Senate copies of the remainder of the documents referred to in the Message of the 17th of last month.

JAMES MONROE.

DECEMBER 15, 1818.

The Message and accompanying documents were read.

The PRESIDENT communicated a report of the Secretary of the Treasury, to whom was referred the petition of Joseph Marquand, collector of the customs for the port of Newburyport; and the report was read.

Mr. EDWARDS presented the petition of John Rice Jones, of the Territory of Missouri, praying compensation for services rendered, as interpreter and translator to the Board of Commissioners, appointed under the act of Congress of 20th February, 1812, for the revision of former confirmations, and for confirming certain claims to land in the district of Kaskaskia; and the petition was read, and referred to the Committee on Public Lands.

Mr. RUGGLES presented the petition of Alexander Macomb, praying to be confirmed in his title to certain islands situate at the mouth of the river Detroit; and the petition was read, and referred to the Committee on Public Lands.

WEDNESDAY, December 16.

Mr. SANFORD submitted the following motion for consideration:

Resolved, That the Committee of Commerce and Manufactures consider and report what provisions may be proper for obtaining more accurate statements of the annual exports and imports of the United States.

Mr. LACOCK submitted the following motion for consideration:

Resolved, That the President of the United States be requested to lay before the Senate copies of the correspondence between the Government of the United States and the Government of Spain, relative to the Seminole war, and the execution of Arbuthnot and Ambrister; and also copies of the correspondence between the Government of the United States and General Andrew Jackson, on the subject of the destruction of the Chehaw village, and the conduct of Captain Wright on that occasion; together with copies of the

correspondence of this Government with Governor Rabun, of Georgia, on that subject, or such part thereof as, in the opinion of the President, may be communicated with safety to the Government.

Mr. KING presented the memorial of the Religious Society of Friends, in the State of New York, and parts adjacent, respecting the Indians; and the memorial was read, and referred.

The Senate resumed the motion of the 4th instant, for referring to a select committee the Message of the President, and documents relative to the Seminole war; and, on motion by Mr. LACOCK, the further consideration thereof was postponed until Friday next.

The Senate resumed the consideration of the motion of the 15th instant, for instructing the Committee on Military Affairs to inquire into the expediency of extending the right to a bounty in lands to certain soldiers therein mentioned, and agreed thereto.

The bill entitled "An act authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig Syren," was read the second time, and referred to the Committee on Naval Affairs.

The bill entitled "An act concerning widows of the militia," was read the second time, and referred to the Committee on Pensions.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of James H. Clarke, a purser in the Navy of the United States; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges, together with the motion to recommit the bill with instructions; and, on motion by Mr. FROMENTIN, the further consideration thereof was postponed until Wednesday next.

Mr. EPPES, from the Committee on Finance, to whom the subject was referred, reported a bill for the relief of Louis and Antoine Dequindre; and the bill was read, and passed to the second reading.

Mr. E., from the same committee, communicated a letter from the Secretary of the Treasury, with a statement, giving a comparative view of the duties which have accrued upon imports and tonnage during the two first quarters of the years 1817 and 1818; which were read.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of representatives in Congress of the United States, together with the amendment reported thereto by a select committee; and the amendment having been agreed to, on motion by Mr. MORRIL, the further consideration thereof was postponed to, and made the order of the day for, the first Monday in January next.

GENERAL JOHN STARK.

The Senate proceeded again to the consideration of the bill for the relief of General Stark, an amendment having been heretofore agreed to, on motion of Mr. TICHENOR, to change the commencement of the pension from the 4th of July, 1817, to the 16th of August, (the anniversary of the battle of Bennington, in which General Stark so greatly signalized himself,) and the question was on ordering it to a third reading.

Mr. ROBERTS commenced a brief debate on the bill, by objecting to its passage, though under the highest sense of General Stark's merits, on the general ground of being adverse to a system of pensions, when not justified by disability incurred in the public service; that, if a pension were granted in this case, the same argument would justify pensions in numerous other cases; and because, in this instance, the relief was not solicited by General Stark himself, but by others for him.

Mr. FROMENTIN replied to Mr. ROBERTS, and advocated the bill with much earnestness, remarking, in substance, that he would act on this single case, without extending his views to other possible cases to which his attention was not called; that the very silence of General Stark was the most eloquent appeal he could possibly make for support, because age and infirmity had rendered him incapable of making his own petition; that, on the score of expense, there was little to apprehend on that account; for, so far from the probability that General Stark would be a burden to the Treasury, there was danger that, ere the present bill could receive the approbation necessary to make it a law, the object of it (now ninety odd years of age) would have descended to the tomb, as was almost the fact in the case of General St. Clair, who did not enjoy his pension more than three months, when he became a tenant of the grave.

Mr. KING rose merely to remark that, if the Senate were composed altogether of men of his age, he believed there would not be a dissenting voice heard against the bill; because they would all have then, as he had, personal recollection of the singular and extraordinary Revolutionary services of General Stark. Mr. K. mentioned, as particular examples, the unrivalled conduct and services of General Stark at the battle of Bunker Hill; his subsequent success in arresting the triumphant progress of Burgoyne; the feelings of joy and encouragement in the cause, which were diffused throughout all the northern section of the States, by the achievements and success of Stark, and which, if every member were old enough to remember, as he did, there would, he repeated, be not a solitary objection to this bill.

Mr. SMITH followed in opposition to the bill. He argued, in reply to its advocates, that, if General Stark was so near his end as was represented, there was the less necessity for this bill, because he could not live to enjoy it, and the doctrine was

long since exploded that a man had use for money after his decease—passage-money was no longer deemed necessary. If it was for relief, it was unnecessary; but, if it was intended as a compliment, that was another question. In either view he was opposed to it. Mr. S. denied the power of giving pensions for the purpose of distinction, and he had therefore never given his assent to any pension not previously provided for by law. He did by no means deny the great merits of General Stark; but this being another case in the improper system of pensions, now becoming common, he was opposed to it, and hoped it would not pass.

Mr. MORRIL made a few remarks in reply to some of the observations made by gentlemen on this subject, when before under consideration, and added a few words on the uncommon merits of General Stark—briefly noticing his gallant conduct at Bunker Hill, at Bennington, at Trenton, at Princeton, &c., adducing the voluntary letters of compliment from Mr. Jefferson and Mr. Madison, respectively, on their succeeding to the Presidency, and concluded by saying, that if merit was to be estimated by services rendered to one's country, there was none so deserving as the veteran hero the Senate was now called on to relieve from penury.

The question was then taken on ordering the bill to a third reading, and decided in the affirmative, as follows:

YEAS—Messrs. Burrill, Crittenden, Dickerson, Eaton, Edwards, Forsyth, Fromentin, Gaillard, Horsey, Hunter, Johnson, King, Leake, Mellen, Morril, Morrow, Otis, Palmer, Ruggles, Sanford, Stokes, Storer, Talbot, Taylor, Thomas, Tichenor, Williams of Mississippi, Williams of Tennessee, and Wilson—29.

NAYS—Messrs. Eppes, Lacock, Macon, Noble, Roberts, and Smith—6.

THURSDAY, December 17.

Mr. MORROW presented the memorial of the representatives of the Yearly Meeting of Friends, held in Baltimore, for the Western Shore of Maryland, and the adjacent parts of Pennsylvania and Virginia, respecting the Indian tribes bordering on the western and northwestern frontiers of the United States; and the memorial was read, and referred.

Mr. EPPES, from the Committee of Finance, to whom was referred the petition of Nathaniel Goddard, and others, formerly owners of the ship Ariadne, and her cargo, made a report, accompanied by a resolution, that the prayer of the petition ought *not* to be granted. The report and resolution were read.

Mr. BURRILL, from the Committee on the Judiciary, to whom was referred the memorial of the Legislative Council of Alabama, praying for certain amendments in the judicial system, made a report, that, as there was reason to believe that the Territory of Alabama would, within a short period, be received into the Union as one of the States, it was unnecessary for Congress, at the present session, to make any changes in the organization or location of their courts; which report was read.

Mr. B., from the same committee, reported a bill, prescribing the mode of commencing, prosecuting, and deciding controversies, between two or more States; and the bill was read, and passed to the second reading.

Mr. B., from the same committee, reported a bill for the due execution of the laws of the United States within the State of Illinois; and the bill was read, and passed to the second reading.

Mr. EATON presented the memorial of the receiver and register of the land office at Huntsville, in Alabama Territory, praying a revision of the act of the 20th of April, 1818, entitled "An act for changing the compensation of the receivers and registers of the land offices," and that it may be so altered, as to allow them sufficient compensation for their services; and the memorial was read, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the motion of the 16th instant, "that the Committee on Commerce and Manufactures consider and report what provisions may be proper for obtaining more accurate statements of the annual exports and imports of the United States;" and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, further to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payment thereon; and the further consideration thereof was postponed until to-morrow.

The Senate resumed the consideration of the motion of the 16th instant, for requesting of the President of the United States copies of certain documents relative to the Seminole war; and the same having been modified, was agreed to as follows:

Resolved, That the President of the United States be requested to lay before the Senate, copies of the correspondence between this and the Government of Spain, and of her officers with the officers of this Government, in relation to the Seminole war, and the execution of Arbuthnot, and Armbrister, with the orders which authorized Major General Jackson to advance into Florida; also, copies of the correspondence between this Government and Major General Jackson, on the subject of the destruction of the Chehaw village, and the conduct of Captain Wright, on that occasion, with Governor Rabun's correspondence, or such parts thereof, as may be communicated with a view to public safety.

The bill for the relief of Louis and Antoine Dequindre, was read the second time.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to extend, for a further term of five years, the pensions heretofore granted to the widows and orphans of the officers and soldiers, who died, or were killed, in the late war;" a bill, entitled "An act to incorporate a company to build a bridge over the Eastern Branch of the Potomac, between Eleventh and Twelfth streets

east, in the City of Washington;" a bill, entitled "An act for the relief of Thomas B. Farish;" and a bill, entitled "An act for the relief of Samuel H. Harper;" in which bills they request the concurrence of the Senate.

The four bills last mentioned were read, and severally passed to the second reading.

Mr. WILSON, from the joint committee on the subject of the public printing, made a report, accompanied by the following resolution:

Resolved, That, when any printing is done by virtue of a joint rule or resolution of the two Houses, the Secretary of the Senate and Clerk of the House of Representatives, and when ordered by either House, the Secretary and Clerk, respectively, be authorized and required to employ such printer or printers as will most expedite its execution, and allow him or them the same prices now allowed to the printer employed by the said Secretary and Clerk, giving the latter the preference, when it shall be practicable for him to execute and deliver it as soon as it can be done by any other printer or printers.

The report and resolution were read, and agreed to.

FRIDAY, December 18.

The PRESIDENT communicated the petition of the "Saint Andrew's Society of the city of Charleston," in the State of South Carolina, praying the remission of duties on a set of chandeliers imported for the use of said society; and the petition was read, and referred to the Committee on Finance.

Mr. TAIT, from the committee to whom the subject was referred, reported a bill to enable the people of the Alabama Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States; and the bill was read, and passed to the second reading.

Mr. WILSON, of New Jersey, rose to offer a resolution. He observed that the resolution he was about to submit required a few words of explanation. The traffic in slaves and servants of color had been carried on to considerable extent from the State of New Jersey; and, under color of this traffic, it was believed many free persons, or who were soon to become free, had been consigned to slavery for life. The Legislature of New Jersey, at its late session, had *unanimously* passed a law to prevent this traffic; but it was feared this law could not be carried into complete effect, without the co-operation of the revenue officers of the United States, authorized by an act of Congress. The Legislature had therefore instructed their Senators, and requested their Representatives in Congress, to use their endeavors to procure the passing of an act to prevent the transportation of slaves, or servants of color, from any State to any other part of the United States, in cases where, by the laws of such State, such transportation is prohibited. In conformity with these instructions, as well as agreeably to his own feelings and principles, he therefore begged leave to submit the following resolution:

Resolved, That the committee on the subject of the slave trade be instructed to inquire into the expediency of making provision, by law, "to prevent the transportation of slaves, or servants of color, from any one State to any other part of the United States, in cases where, by the laws of such State, such transportation is prohibited."

Mr. MORRIL submitted the following motion for consideration:

Resolved, That the Committee for the District of Columbia be requested to inquire into the expediency of making some further provision, by law, for preventing and extinguishing *fires*, which may happen in this city.

The Senate resumed the consideration of the motion of the 4th instant, for referring to a select committee the Message from the President, and documents, relative to the Seminole war; and, on motion by Mr. EATON, the same having been amended, was agreed to as follows:

Resolved, That the Message of the President, and documents, relative to the Seminole war, be referred to a select committee, who shall have authority, if necessary, to send for persons and papers: that said committee inquire relative to the advance of the United States troops into West Florida; whether the officers in command at Pensacola and St. Marks were amenable to, and under the control of Spain; and, particularly, what circumstances existed, to authorize or justify the Commanding General in taking possession of those posts.

Messrs. LACOCK, EATON, FORSYTH, KING, and BURRILL, were appointed the committee.

The bill entitled "An act to extend, for a further term of five years, the pensions heretofore granted to the widows and orphans of the officers and soldiers who died, or were killed, in the late war," was read the second time; and referred to the Committee on Pensions.

The bill entitled "An act to incorporate a company to build a bridge over the Eastern Branch of the Potomac, between Eleventh and Twelfth streets, east, in the City of Washington," was read the second time; and referred to the Committee for the District of Columbia.

The bill entitled "An act for the relief of Thomas B. Farish," was read the second time, and referred to the Committee of Claims.

The bill entitled "An act for the relief of Samuel H. Harper," was read the second time, and referred to the Committee on Public Lands.

The bill to provide for the due execution of the laws of the United States, within the State of Illinois, was read the second time, and considered as in Committee of the Whole; and, on motion by Mr. BURRILL, the bill having been amended, it was reported to the House accordingly, and ordered to be engrossed, and read a third time.

The bill entitled "An act for the relief of Major General John Stark," was read a third time as amended, and passed.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the petition of Nathaniel Goddard, and others, formerly owners of the ship Ariadne

and her cargo; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further to suspend, for a limited time, the sale or forfeiture of lands, for failure in completing the payment thereon; and the further consideration thereof was postponed until Monday next.

Mr. KING submitted the following motion for consideration:

Resolved, That the Committee on Public Lands be, and hereby are, instructed to inquire into the expediency of so altering the laws concerning the sale of the public lands, that from and after the —— day of —— credit shall not be given on such sales, but the public lands shall be sold for money only.

On motion, by Mr. OTIS, the petition of Joseph Marquand, collector of the customs for the port of Newburyport, praying additional compensation, together with the report of the Secretary of the Treasury thereon, was referred to the Committee on Commerce and Manufactures.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, for the relief of Louis and Antoine Dequindre; and no amendment having been made, the bill was reported to the House; and ordered to be engrossed and read a third time.

The Senate adjourned to Monday.

MONDAY, December 21.

Mr. LACOCK presented the memorial of a number of citizens of the United States, residing in New York and Pennsylvania, praying a revision and amendment 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, 1808;" and the memorial was read, and referred.

Mr. HUNTER presented the memorial of Christopher Fowler, of Newport, in the State of Rhode Island, surviving administrator of the estate of Samuel Fowler, deceased, praying indemnification for certain final settlement certificates as stated in the memorial; which was read, and referred to the Committee of Claims.

Mr. LACOCK presented the petition of Charles Higgins, contractor for the supply of rations to the United States' troops, stationed within the State of Pennsylvania, stating that the sum of two thousand dollars had been illegally paid to Jared Irwin, and debited to him on the books of the War Department, and praying relief; and the petition was read, and referred to the Committee of Claims.

Mr. SANFORD presented the petition of John Troop, of New York, who was owner of a certain ship, called the New York, with her cargo, which has been libelled and condemned as forfeited to the United States, in violation of the non-intercourse laws, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. STORER presented the petition of Abner Greenleaf, of Portsmouth, in the State of New Hampshire, praying an additional allowance for brass and copper foundery and plumbing work, furnished for the United States ship Washington, built at the navy yard at Portsmouth, for reasons stated in the petition; which was read, and referred to the Committee on Naval Affairs.

Mr. NOBLE submitted the following motion for consideration:

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of so amending the "act to enable the people of the Indiana Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States," as to authorize the Legislature of the State of Indiana, at their discretion, to locate the lands granted to the said State, for the purpose of fixing their seat of government, in quarter sections and fractions.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Frederick Brown;" the bill, entitled "An act for the relief of the heirs of Adolphus Burghart;" the bill, entitled "An act for the relief of William King;" and also the bill, entitled "An act for the relief of William B. Lewis;" reported the same severally without amendment.

Mr. LACOCK, from the Committee on Pensions, to whom was referred the bill, entitled "An act concerning widows of the militia;" and also the bill, entitled "An act to extend, for a further term of five years, the pensions heretofore granted to the widows and orphans of the officers and soldiers, who died or were killed in the late war," reported the same severally without amendment.

Mr. ROBERTS, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of Aquilla Giles; and the bill was read, and passed to the second reading.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Thomas Arnold, made a report accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

The PRESIDENT communicated a report of the Secretary of the Treasury, comprehending the statements relating to the internal duties and direct tax, required by the 33d section of the act of Congress, of the 22d of July, 1818; and the report was read.

The Senate resumed the consideration of the motion of the 18th instant, for instructing the committee on the subject of the slave trade to inquire into the expediency of making provision, by law, to prevent the transportation of slaves, or servants of color, from any State, to any other part of the United States, in certain cases; and agreed thereto.

The Senate resumed the consideration of the motion of the 18th instant, "That the Committee for the District of Columbia be required to inquire into the expediency of making some further provision by law, for preventing and extinguishing fires in this city;" and agreed thereto.

The Senate resumed the consideration of the motion of the 18th instant, for instructing the Committee on Public Lands to inquire into the

expediency of altering the laws concerning the sale of public lands; and agreed thereto.

The bill to enable the people of the Alabama Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, was read the second time.

Mr. DAGGETT submitted the following motion for consideration:

Resolved, That the Committee on Pensions be instructed to inquire into the propriety of so amending the act, entitled "An act to provide for certain persons, engaged in the land and naval service of the United States in the Revolutionary war," approved on the 18th of March, 1818, as that lieutenants of marines, acting under a warrant, shall be considered as entitled to the provision therein made for lieutenants of the navy, acting under a commission.

The Senate resumed the consideration of the report of the Committee of Finance, to whom was referred the petition of Nathaniel Goddard, and others, formerly owners of the ship Ariadne, and her cargo; and the further consideration thereof was postponed until the first Monday in January next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of James H. Clarke, a purser in the Navy of the United States; and, on motion by Mr. STORER, to amend the resolution reported by the committee, so as to read "*Resolved*, That the prayer of the petitioner is reasonable, and ought to be granted;"

On motion by Mr. ROBERTS, it was agreed to take the question by yeas and nays; and, after debate, the further consideration thereof was postponed until the first Monday in January next.

The PRESIDENT communicated a report of the Secretary of the Treasury, comprehending statements of the sales of public lands, during the year 1817, and the three first quarters of the year 1818; and the report was read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, further to suspend, for a limited time, the sale or forfeiture of lands, for failure in completing the payment thereon; and the further consideration thereof was postponed until Wednesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to establish a judicial district in Virginia, west of the Alleghany mountain."

On motion by Mr. EPPES, the bill was referred to the Committee on the Judiciary, with the letter and proceedings of the delegation in the Virginia Assembly, to consider and report thereon.

The bill to provide for the due execution of the laws of the United States within the State of Illinois, was read a third time, and passed.

The bill for the relief of Louis and Antoine Dequindre, was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Samuel F. Hooker; and the further consideration thereof was postponed until Thursday next.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act directing the payment of certain bills drawn by General Armstrong, in favor of William Morgan;" a bill, entitled "An act for the relief of Doctor Mottrom Ball;" a bill, entitled "An act regulating passenger ships and vessels;" and a bill, entitled "An act for the relief of the legal representatives of Alexander Montgomery, deceased;" in which bills they request the concurrence of the Senate.

The said four bills were read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution to erect a monument over the remains of the late General George Washington, where they now lie: and the further consideration thereof was postponed until Monday next.

TUESDAY, December 22.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the bill, entitled "An act authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig Syren," reported the same without amendment.

The Senate resumed the consideration of the motion of the 21st instant, to instruct the Committee on Public Lands, to inquire into the expediency of amending the act, authorizing a State constitution in Indiana; and agreed thereto.

The Senate resumed the consideration of the motion of the 21st instant, to instruct the Committee on Pensions to inquire into the expediency of amending the act of the 18th of March, 1818, entitled "An act to provide for certain persons engaged in the land and naval service of the United States in the Revolutionary war;" and agreed thereto.

Mr. GOLDSBOROUGH presented the memorial of John Davis, and others, praying to be invested with the power to make a turnpike road from the City of Washington, to the boundary line of the District of Columbia, in the direction to Rockville, Maryland; and the memorial was read, and referred to the Committee for the District of Columbia.

The bill for the relief of Aquilla Giles was read the second time.

The bill, entitled "An act regulating passenger ships and vessels," was read the second time, and referred to the Committee on Commerce and Manufactures.

The bill, entitled "An act for the relief of the legal representatives of Alexander Montgomery, deceased," was read the second time, and referred to the Committee on Public Lands.

The bill, entitled "An act for the relief of Doctor Mattrom Ball," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act directing the payment of certain bills, drawn by General Armstrong, in favor of William Morgan," was read

the second time, and referred to the Committee on Finance.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Thomas Arnold; and, on motion by Mr. BURRILL, the further consideration thereof was postponed until this day three weeks.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to enable the people of the Alabama Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States; and after progress adjourned.

WEDNESDAY, December 23.

Mr. RUGGLES presented the memorial of the representatives of the Religious Society of Friends, in the States of Ohio, Indiana, and Illinois, praying the adoption of measures for the civilization and improvement of the Indians; and the memorial was read, and referred.

Mr. ROBERTS presented the petition of John Clark, of York, in the State of Pennsylvania, praying compensation for services rendered during the Revolutionary war, as stipulated and agreed upon by the Board of Treasury of the United States, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. GOLDSBOROUGH presented the petition of Michael Hogan, of the city of New York, praying indemnification for damages sustained by him, in consequence of the use and occupation of a valuable house belonging to him, in the village of Utica, by a detachment of United States troops, on their march from Buffalo to Sackett's Harbor, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. TALBOT presented the memorial of the inhabitants of the county of Macomb, in the Territory of Michigan, praying a delegate in Congress to represent said Territory; and the memorial was read, and referred to the Committee on Public Lands, to consider and report thereon.

Mr. RUGGLES presented the petition of William Bell, of Ohio, praying the confirmation of his title to a piece of land therein described; and the petition was read, and referred to the same committee, to consider and report thereon.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Daniel Renner, and Nathaniel H. Heath;" and also a bill, entitled "An act making appropriations for the support of the Navy of the United States, for the year 1819;" in which bills they request the concurrence of the Senate.

The two bills last mentioned were read, and passed to the second reading.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Peter Lacoste, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill for the relief of John Rice Jones, and the bill was read, and passed to the second reading.

Mr. WILLIAMS, of Mississippi, submitted the following motion for consideration:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of granting by law, to the State of Mississippi, certain portions of the public lands, for the seat of Government, and for the support of seminaries of learning within the said State.

On motion by Mr. JOHNSON, the Committee on Public Lands, to whom was referred the petition of N. Amory, and others, were discharged from the further consideration thereof, and they had leave to withdraw their petition and papers.

The bill prescribing the mode of commencing, prosecuting, and deciding controversies, between two or more States, was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to enable the people of the Alabama Territory to form a constitution and State Government, and for the admission of such State into the Union on an equal footing with the original States; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the convenient organization of the courts of the United States, and the appointment of circuit judges; and, on motion by Mr. MACON, the further consideration thereof was postponed until the first Monday in January next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further to suspend, for a limited time, the sale or forfeiture of lands, for failure in completing the payment thereon; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Frederick Brown;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of the heirs of Adolphus Burghart;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of William King;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of William B. Lewis;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An

act concerning widows of the militia;" and, on motion by Mr. LACOCK, the further consideration thereof was postponed to, and made the order of the day for, Tuesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to extend for a further term of five years, the pensions heretofore granted to the widows and orphans of the officers and soldiers who died, or were killed in the late war;" and, on motion by Mr. LACOCK, the further consideration thereof was postponed to, and made the order of the day for, Tuesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig Syren;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Aquila Giles; and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

THURSDAY, December 24.

Mr. SANFORD presented the memorial of the New York Society for promoting the manumission of slaves, and for protecting such of them as have been, or may be, liberated; and the memorial was read, and referred to the committee on that subject.

Mr. MORRIL presented the petition of Daniel Merrill, praying compensation for his services in the Revolutionary war; and the petition was read, and referred to the Committee of Claims.

Mr. STOKES, from the Committee on the Post Office and Post Roads, who were instructed by a resolution of the 14th instant to "inquire into the expediency of increasing the compensation by law allowed to the postmaster of Kennebunk, in the District of Maine;" made a report, accompanied by a resolution, that it is inexpedient at this time to increase the compensation allowed by law to the postmaster at Kennebunk, in the District of Maine. The report and resolution were read.

Mr. WILLIAMS, of Mississippi, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of the legal representatives of Alexander Montgomery, deceased," reported the same without amendment.

The bill, entitled "An act making appropriations for the support of the Navy of the United States, for the year 1819," was read the second time, and referred to the Committee on Naval Affairs.

The bill, entitled "An act for the relief of Daniel Renner and Nathaniel H. Heath," was read the second time, and referred to the Committee of Claims.

The Senate resumed the consideration of the motion of the 23d instant, for instructing the Committee on Public Lands to inquire into the expediency of granting by law to the State of Mississippi certain portions of the public lands for certain purposes; and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill prescribing the mode of commencing, prosecuting, and deciding controversies between two or more States; and, on motion by Mr. BURRILL, the further consideration thereof was postponed until the first Monday in January next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Samuel F. Hooker; and the further consideration thereof was postponed until Monday next.

On motion by Mr. NOBLE,

Resolved, That the Secretary of the Treasury be directed to lay before the Senate information relative to the effect of an act to suspend for a limited time the sale or forfeiture of lands, of the 18th of April last, upon the receipts into the Treasury, and the probable effect, by continuing in force the act aforesaid for one year, with a condition "that, if the purchasers complete their payments on or before the expiration of the period aforesaid, interest shall only be required on the instalments due from the time that they became due until paid."

The bill for the relief of John Rice Jones was read the second time.

The bill for the relief of Aquila Giles having been reported by the committee correctly engrossed, was read a third time and passed.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Peter Lacoste; and the further consideration thereof was postponed until Monday next.

The Senate adjourned to Monday.

MONDAY, December 28.

Mr. GOLDSBOROUGH presented the petition of Richard J. Jones, praying compensation for certain property destroyed by the enemy during the late war with Great Britain; and the petition was read and referred to the Committee of Claims.

Mr. LACOCK, from the Committee on Pensions, to whom was referred the bill, entitled "An act concerning invalid pensions," reported the same with amendments; which were read.

On motion by Mr. LACOCK, the Committee on Pensions, to whom was referred the petition of William Robertson for an addition to his pension, were discharged from the further consideration thereof, and it was referred to the Committee on Naval Affairs to consider and report thereon.

On motion by Mr. LACOCK, the Committee on Pensions, to whom was referred the petition of Martha Whitmore, were discharged from the further consideration thereof; and the petitioner had leave to withdraw her petition and documents.

On motion by Mr. LACOCK, the Committee on Pensions, who were instructed to inquire into the propriety of granting a pension to George Bell, were discharged from the further considera-

tion thereof; and the petitioner had leave to withdraw his documents.

Mr. FORSYTH presented the petition of Samuel J. Axson, a surgeon in the Revolutionary army, praying the half pay and land, to which he states himself to be entitled; and the petition was read and referred to the Committee on Pensions.

Mr. NOBLE presented the petition of Jacob Wetzell, of Franklin county, in the State of Indiana, praying compensation for his expenses in voluntarily opening a road in said State; and the petition was read, and referred to the Committee of Claims.

Mr. KING gave notice, that to-morrow he should ask leave to introduce a bill for the relief of Samuel Ward.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Joseph Forrest, of the city of Washington, made a report, accompanied by a bill for the relief of Joseph Forrest; and the report and bill were read, and the bill passed to a second reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with a resolution of the Senate, of the 17th instant, I transmit to that House a report from the Secretary of State, with the papers and documents accompanying it.

JAMES MONROE.

DECEMBER 28, 1818.

The Message and accompanying documents were read, and referred to the committee to whom was referred, on the 18th instant, the Message of the President and documents relative to the Seminole war, to consider and report thereon.

The Senate resumed the consideration of the report of the Committee of Claims, on the petition of Peter Lacoste; and the further consideration thereof was postponed until Monday next.

The Senate resumed the consideration of the report of the Committee on the Post Office and Post Roads, who were instructed to inquire into the expediency of increasing the compensation by law allowed to the postmaster of Kennebunk, in the District of Maine; and in concurrence therewith, resolved, that it is inexpedient at this time to increase the compensation by law allowed to the postmaster of Kennebunk, in the District of Maine.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, to enable the people of the Alabama Territory, to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States; and the further consideration thereof was postponed until Thursday next.

Mr. ROBERTS presented the memorial of the American Convention for promoting the abolition of slavery, and improving the condition of the African race; and the memorial was read, and referred.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Samuel F. Hooker; and, on motion of Mr. ROBERTS, the further consideration thereof was postponed until the first Monday in March next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payment thereon; and the further consideration thereof was postponed until Thursday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Frederick Brown;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of the heirs of Adolphus Burghart;" and, on motion by Mr. ROBERTS, the further consideration thereof was postponed until the second Monday in March next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of William King;" and, on motion by Mr. ROBERTS, the further consideration thereof was postponed until the second Monday in March next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of William B. Lewis;" and no amendment having been made it was reported to the House, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig Syren;" and the further consideration thereof was postponed until Thursday next.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where they now lie; and, on motion by Mr. DAGGETT, the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of the legal representatives of Alexander Montgomery, deceased;" and no amendment having been made it was reported to the House, and it passed to the third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of John Rice Jones; and no amendment having been made it was reported to the House, and ordered to be engrossed and read a third time.

Mr. WILLIAMS, of Mississippi, presented the petition of John B. Timberlake, praying provision for an equitable adjustment of his accounts, as purser, with the Navy Department; and the petition was read, and referred to the Committee on Naval Affairs.

TUESDAY, December 29.

Mr. RUGGLES presented the memorial of the representatives of the Religious Society of Friends

in Ohio, Indiana and Illinois, and the adjacent parts of Pennsylvania and Virginia, representing the condition of the African race, and praying amendments to the acts of Congress therein referred to; and the memorial was read, and referred.

Mr. TICHENOR presented the petition of Daniel Pettibone, praying a renewal of a patent, issued in the year 1806, for his improvements in the art of forming edge tools; and the petition was read, and referred to a select committee to consider and report thereon, and Messrs. KING, DAGGETT, and TICHENOR, were appointed the committee.

Mr. ROBERTS submitted the following motion for consideration:

Resolved, That the Committee on Naval Affairs be, and they are hereby, instructed to inquire whether the rules, regulations, and instructions for the naval service of the United States, communicated to the Senate by the Message of the President of the 20th of April last, are conformable to the provisions of the act, entitled "An act to alter and amend the several acts for establishing a Navy Department, by adding thereto a Board of Commissioners;" and whether, or not, they inconveniently interfere with other acts of Congress relative to the Naval Establishment; and how far they may appear to be expedient; and also whether any, and if any, what legislative provision may be necessary to give them the force and effect of law.

The bill for the relief of Joseph Forrest was read the second time.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to extend, for a further term of five years, the pensions heretofore granted to the widows and orphans of the officers and soldiers who died, or were killed, in the late war; and, on motion by Mr. ROBERTS, the further consideration thereof was postponed until Monday next.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning widows of the militia;" and, on motion by Mr. ROBERTS, the consideration thereof was further postponed to Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning invalid pensions," together with the amendments reported thereto, by the Committee on Pensions; and, on motion by Mr. ROBERTS, the further consideration thereof was postponed until Monday next.

The bill for the relief of John Rice Jones was read the third time, and passed.

Agreeably to notice, Mr. KING asked and obtained leave to bring in a bill for the relief of Samuel Ward; and the bill was read, and passed to the second reading.

The bill, entitled "An act for the relief of the legal representatives of Alexander Montgomery, deceased," was read the third time, and passed.

The bill, entitled "An act for the relief of William B. Lewis," was read the third time.

On motion by Mr. EATON, the bill was amended by unanimous consent, and passed.

Then, on motion, the Senate adjourned.

WEDNESDAY, December 30.

Mr. LACOCK presented the memorial of a number of citizens of the United States, residing at Carlisle, in the State of Pennsylvania, praying an amendment of the laws to prohibit the importation of slaves into the United States; and the memorial was read, and referred.

Mr. RUGGLES presented the petition of Mark and Conant, of Detroit, praying reimbursement of a certain sum of money advanced by them to promote the public service during the late war with Great Britain, as stated in the petition; which was read, and referred to the Committee on Military Affairs.

Mr. TICHENOR presented the memorial of Paul Beck, jr., and Thomas Sparks, of the city of Philadelphia, manufacturers of shot, praying an additional duty on imported shot, for reasons stated in the memorial; which was read, and referred to the Committee on Commerce and Manufactures.

Mr. FORSYTH presented the petition of Joseph Thorn, a citizen of Savannah, in the State of Georgia, praying the remission of certain duties paid, and the actual expense incurred by him in the prosecution of his claim, as stated in the petition; which was read, and referred to the Committee on Finance.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of John Troop, of New York, made a report, accompanied by a resolution that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the petition of Abner Greenleaf, of Portsmouth, New Hampshire, made a report, accompanied by a resolution that it is inexpedient to grant the prayer of the petitioner, and that he have leave to withdraw his petition. The report and resolution were read.

Mr. TAIT submitted the following motion for consideration:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of authorizing, by law, the purchase of live oak timber, suitable for building sloops of war, or other small vessels necessary for the naval service.

The Senate proceeded to consider the motion of the 29th instant, for instructing the Committee on Naval Affairs relative to the rules, regulations and instructions for the naval service of the United States, communicated to the Senate by the Message of the President of the United States of the 20th of April last, and agreed thereto.

The bill for the relief of Samuel Ward was read the second time, and referred to the Committee of Claims.

A message from the House of Representatives informed the Senate that they have concurred in the amendment of the Senate to the bill entitled "An act for the relief of William B. Lewis." The House have passed a bill, entitled "An act for the relief of Harold Smyth;" a bill, entitled "An act for the relief of Samuel F. Hooker;" a

bill, entitled "An act for the relief of Sampson S. King;" a bill, entitled "An act authorizing the election of a delegate from the Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory;" and also a bill, entitled "An act to authorize the payment, in certain cases, on account of Treasury notes which have been lost or destroyed;" in which bills they request the concurrence of the Senate.

THURSDAY, December 31.

On request, Mr. GOLDSBOROUGH had leave to withdraw the report of the Committee of Claims on the petition of Joseph Troop, of New York.

Mr. KING presented the petition of Augustus Sacket, praying compensation for certain property destroyed by the enemy during the late war with Great Britain; and the petition was read, and referred to the Committee of Claims.

Mr. LACOCK presented the petition of Rees Hill, praying relief in the settlement of his accounts; and the petition was read, and referred to the Committee of Claims.

Mr. STORER moved to reconsider the vote on postponing the further consideration of the bill for the relief of Samuel F. Hooker, until the first Monday in March next; and, on motion by Mr. LACOCK, the further consideration thereof was postponed until Monday next.

A message from the House of Representatives informed the Senate of the death of the honorable GEORGE MUMFORD, late a member of the House of Representatives from the State of North Carolina, and that his funeral will take place to-morrow morning at 10 o'clock.

On motion by Mr. MACON,

Resolved unanimously, That the Senate will attend the funeral of the honorable George Mumford, late a member of the House of Representatives from the State of North Carolina, to-morrow morning at 10 o'clock; and as a testimony of respect for the memory of the deceased, they will go into mourning, and wear a black crape round the left arm for thirty days.

The Senate adjourned to Monday morning.

MONDAY, January 4, 1819.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom was referred the memorial of Nicholas Brown and Thomas P. Ives, of Providence, in the State of Rhode Island, made a report, which was read.

On motion by Mr. TALBOT, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of empowering the Postmaster General to contract for the transportation of the mail of the United States in steamboats.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I lay before the Senate a report from the Secretary of State, accompanied with a copy of a letter from Governor Rabun, which was not communicated on a former occasion from that department.

JAMES MONROE.

JANUARY 4, 1819.

The Message and accompanying documents were read, and referred to the committee to whom was referred, on the 18th of last month, the Message of the President and documents relative to the Seminole war.

Mr. WILLIAMS, of Tennessee, presented the petition of Frederick C. Warnack, agent for the heirs of his uncle Frederick C. Warnack, deceased, who served as a lieutenant colonel of a corps of engineers in the Virginia line, during the Revolutionary war; and in consideration of his services, was entitled under the laws of the State of Virginia to six thousand acres of land, which his heirs, being aliens, cannot inherit, and praying relief from Congress; and the petition was read, and referred to the Committee on Public Lands.

Mr. ROBERTS presented the memorial of a number of citizens of the United States, residing in Philadelphia, praying an amendment of the act, entitled "An act to prohibit the importation of slaves into the United States;" and the memorial was read, and referred.

Mr. HANSON presented the petition of Robert Sewall, praying compensation for a house which, with the furniture therein, was destroyed by the enemy on their invasion of the city of Washington, in August, 1814, in consequence of its having been converted into a military fortress, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. TICHENOR submitted the following motion for consideration:

Resolved, That the Secretary of War be directed to lay before the Senate, as soon as may be, a statement of the effective force now composing the military establishment of the United States; also, a statement of the different posts and garrisons, at and within which troops are stationed, and the actual number of officers, non-commissioned officers and privates at each post and garrison respectively; also, to designate in such statement the number of artillerists, and the number and calibre of ordnance, at each of the said posts and garrisons.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the petition of William Robertson, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. MELLEN submitted the following motion for consideration:

Resolved, That the Committee on the District of Columbia be instructed to inquire into the expediency of surrounding the Capitol Square with a stone side walk, of a suitable width for foot passengers, and having the same completed before the meeting of the next Congress.

The five bills brought up on the 30th of last month for concurrence were read, and severally passed to the second reading.

The Senate resumed the consideration of the

motion made on the 31st of last month, to reconsider the vote of the Senate on postponing the further consideration of the bill for the relief of Samuel F. Hooker until the first Monday in March next; and, on the question to agree thereto, it was determined in the negative.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the petition of Nathaniel Goddard, and others; and the further consideration thereof was postponed until Thursday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Peter Lacoste; and, on motion by Mr. FROMENTIN, the further consideration thereof was postponed until Monday, the 18th instant.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of James H. Clarke, a Purser in the Navy of the United States; and the further consideration thereof was postponed until to-morrow.

The Senate resumed the consideration of the report of the Committee on Naval Affairs, to whom was referred the petition of Abner Greenleaf; and in concurrence therewith, resolved, that it is inexpedient to grant the prayer of the petitioner, and that he have leave to withdraw his petition.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of Representatives in the Congress of the United States; and, on motion by Mr. TALBOT, the further consideration thereof was postponed to, and made the order of the day for, Wednesday next.

ORGANIZATION OF THE COURTS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges; and, the question recurring on the following motion submitted by Mr. BARBOUR:

Resolved, That the bill be recommitted to the committee that brought it in, with instructions so to amend it as to abolish the circuit courts, and transfer their jurisdiction to the district courts, to authorize an appeal directly from such courts, to the Supreme Court, and enlarge the right of appeal, by reducing the amount on which the right may be exercised."

Mr. BARBOUR addressed the Chair as follows:

Mr. President: I entirely agree with the friends of the bill, that a change in our judicial system is necessary: so far, at least, as will relieve the judges of the Supreme Court from traversing the widely extended territory of the United States. The truth is, we require of them to perform duties which are highly incompatible. In a judge of the Supreme Court, we look for a capacity and a character which belong only to one advanced in life; and yet we exact a service, of some of them at least, which can be performed only by youth and a robust constitution. For example, we require a judge to traverse the States of Ohio, and Tennessee, and Kentucky, twice a year, and his attendance also at Washington in the depth of Winter. The history of the appointments to that high station will justify me in the above remark, viz., that none but men considerably advanced in life have received the appointment; and we are, therefore, justifiable in concluding, that none others will be appointed. If, which is also a fair calculation, they should continue on the bench till they become infirm, the incompatibility of their duties will become the more palpable, by their utter incapacity to perform them. In addition to this difficulty, I would suggest another, that, even now, we are told they are compelled to adjourn the Supreme Court before the business is disposed of, for the purpose of attending their respective circuits. Thus their docket, instead of diminishing, continually increases: an evil of no ordinary magnitude; for all experience evinces that a tardy administration of justice aggravates litigation.

To remedy this serious inconvenience, not to say great evil, is an object deserving of the wisdom of Congress. But, in the attempt, let us not produce a greater: let us not subject ourselves to an alarming increase of judges and the consequent expense, which the bill, if it pass, must produce. The course I have had the honor of proposing will remedy the one evil, and avoid the other. By my plan, I confine the judges of the Supreme Court to the duties of that court exclusively; and, by preserving the districts, a federal jurisdiction is carried, without inconvenience to the judge, and without expense to the Government, to every State; and, where large, to different districts in the same State. As, for instance, Massachusetts, New York, Pennsylvania, and Virginia—it being now proposed to divide Virginia. It has been objected to my plan, that, from the duties of the judge of the district court, he should always be at the place of holding his court. The answer to that objection is readily furnished, by the fact, that he does not now even reside at the place of holding his court. The truth is, that, in some of the States, they hold their courts at different places; and, besides, are co-ordinate members of the circuit court; so that, in giving them circuit jurisdiction, the only change in the system would be, to deprive them of the aid of the judge of the Supreme Court. Besides, when called on to act judicially, the case being always on record, though he should not be present, yet the facility and rapidity of communication by mail removes, if not time, at least space, and, in effect, gives him the attribute of ubiquity. It is objected, that the judges of the district court were appointed with no view to the important duties which this bill devolves upon them, and, therefore, that they are incompetent. In the first place, the fact is not true; because they were at all times associate judges of the circuit court,

and had heretofore the precise duties to perform that will be now assigned them. And, secondly, I deny their incompetency; for, as far as my knowledge extends, which I am free to admit is limited to Virginia, the gentleman who holds that station there ranks, in point of reputation, with the most distinguished legal characters in the United States. It is said, however, that it is too high a trust to devolve on a single judge the cognizance of criminal trials involving capital punishments. Sir, on that subject, I at least can have no apprehension; because, in Virginia, the criminal justice of the whole State is administered by a single judge to each criminal court. This has been the case for a number of years; and yet I have never heard, in a solitary instance, of even a murmur of complaint that any man has been improperly punished. The fact is, in criminal trials in this country, the judge rather sits to preserve order than to take part in the trial. The great security of innocence, without meaning any disparagement of the judges, is to be found in the grand jury and the jury of the vicinage. The latter, I have ever thought, and in and out of this place have declared it, the happiest effort of the human mind; and that to this institution, and a free and enlightened press, under Providence, would our liberty be indebted for the immortality of its duration. Far from regretting the extinction of the circuit courts, I doubt whether it will not be an advantage. You rid suitors of the necessity of multiplied appeals. In the event of a case of great importance, and of a doubtful nature, the unsuccessful party will be as little satisfied with the judgment of the circuit court as of the district court. They will be content only with the decision of the court of the last resort; and going through the circuit will be attended with no other consequence than a loss of time and an accumulation of costs. The very right to appeal will, most generally, supersede the necessity of resorting to it. The judge, should such a monster ever appear on our bench, who would be otherwise corruptly disposed, would lose all temptation to commit iniquity, as the rod of correction, through the right of appeal, would be continually brandished over his head; and a remedy, by this right, at all times within reach of the party aggrieved. Sir, in a measure so important as this, it behooves Congress to advance with extreme caution and circumspection. This scene has already been acted in the United States. The sixteen, by some called the midnight judges, were created only to be destroyed. What a spectacle are we about to exhibit to the people of the United States! Your predecessors in power, some seventeen or eighteen years past, made a similar experiment; differing in nothing from this except in extent; and if this should obtain, in a few revolving years we need have no cause to doubt but that, in this regard, the resemblance will be complete. What was the result? The people spoke out; and, in defiance of the charge that the repeal of the law was unconstitutional, and in defiance of the threats of one State, Delaware, of its high displeasure at your proceedings, the law, and the judges with it, passed away. This took place in the commencement of your career, when you reflected the image of the public sentiment. If now you revive the system then so strongly reprobated, and for whose destruction you received such deserved commendation, what will be said of you? That you were dissatisfied, not with the law itself, nor yet the offices which it created, but because you were excluded from all participation in the benefits thereof.

Although I readily and cheerfully exempt every gentleman here from any such motive, yet I am at a loss to conceive what apology can be assigned for this capricious and changeful course. Is it pretended, sir, that the business in these courts (I mean the circuit) has increased? I affirm, from all that I have heard, (for I am no lawyer,) that it has diminished. It is true, sir, that during our restrictive system, when disloyalty and cunning sought to elude and destroy its salutary effects, the business of these courts might have increased; but, upon the restoration of peace, and the re-establishment of our accustomed relations, this source of litigation dried up, and business everywhere diminished, except in the two States of Kentucky and Tennessee, which will be hereafter satisfactorily accounted for. If this be not a correct statement of the fact, let it be corrected by those who are better advised. But, sir, is it not a little remarkable, when so great a change as the present is proposed, we have been furnished with no official documents (the dockets of the respective courts, for instance) to ascertain to us the extent of the business therein depending, so that we might have something sure to stand on? I am, therefore, at liberty to contend, till the contrary appears, and by evidence of record, that the business has diminished, with the exception alone of Tennessee and Kentucky. The state of the business there results from causes peculiar to those two States. The suits depending in the courts of those States, said to amount to several hundred, result from conflicting land claims. The States of Virginia and North Carolina, of which they were once parts, in the disposition of their waste lands, permitted a mode of appropriation which not unfrequently produced from two to ten (perhaps more) claims for the same portion of soil—as it granted to every applicant a patent, if its emanation were not contested. To adjust these conflicting claims, is the great source of litigation in the courts of those States. But, thanks to the superior wisdom of Congress, resulting from the experience, and warned by the disastrous consequences of the course adopted by Virginia and North Carolina, no such result can occur in the States whose soil was disposed of by Congress. Its division into ranges, townships, and sections, and even quarter sections, places all land claims upon the footing of mathematical certainty, and excludes the possibility of a contest between different patentees. How indefensible, therefore, is this plan, which goes to a modification of the whole judicial system of the United States, by which the number of judges is most unreasonably increased, when it is not pretended

that an evil of the same kind exists elsewhere, and when, by the plan I propose, the remedy may be applied precisely and exclusively to the evil complained of. There is one consideration which I cannot forbear to advert to, and which I think entitled to some, if not to considerable weight; and that is, if, upon experiment, the plan I propose should prove defective, it may be easily remedied—on the contrary, should the bill, in its present shape, become a law, although you should find that your new judges should have little or nothing to do, and thereby become sinecures, yet the good people of the United States are remediless; for I know not by what process you are to get clear of them.

In questions of great importance, it will become us to recur to just principles; and, where doubt and difficulty exist, to take the spirit of the Constitution, and the origin of its existence, as our guide. Sir, the Federal Government owes its birth to purposes exclusively international. The States designed to retain to themselves whatever was internal or municipal. The Federal courts, in their jurisdiction, should be limited to the just spirit of the Constitution—to subjects external or foreign in their nature, while the State courts should exercise unlimited jurisdiction upon all other subjects. I would, therefore, erect no federal court but what was absolutely necessary: such I consider the supreme and district courts—the circuit courts are not. I do not like the policy of erecting federal tribunals, not necessarily called for, but whose effect will be to draw off subjects of legislation from the State courts, where they ought to be adjudicated.

When we advert to the progress of the courts in the country to which we generally refer for lessons of experience, it is not an idle apprehension we express, when we say we are fearful lest these federal tribunals will go on, gradually, to draw within their cognizance, by fictions, which they so easily glide into, the whole range of judicial authority. The courts of the States, being abandoned, will be considered as an unnecessary burden, and their entire extinction will be an easy and natural death. Comparing great things with small, permit me to say, the very consequence against which I am warning you, is already occurring in Virginia. The county courts in that State, were long the favorite object of our policy. I thought them, and still think them, the best part of our judicial system. The persons who compose those courts, are our most respectable citizens; they serve without any reward; their motive is disinterested patriotism, and may, without a figure, be called the salt of the land; their jurisdiction, both in common law cases and in equity, was unlimited. Some few years since, however, a superior court, composed of one judge of the general court, was sent to every county; and I learn, and it is with deep regret, that a policy has been uniformly pursued since, to give these superior courts something to do, by continually encroaching on the county courts; or, by some means or other, withdrawing the business from the county courts—while chancery courts are extending themselves in every direction, so as to absorb the whole of their equitable jurisdiction. It requires no spirit of prophecy to foretel the probable result. The intelligent and patriotic citizen will withdraw himself from so humble a situation—and, their authority falling into unworthy hands, they will become contemptible, and hence lose all value. And such, I fear, will be the progress of the Federal courts in relation to the State courts. The old adage, that the big fish eat the little ones, will apply with as much force to the moral as the physical world. In fine, the result of my best reflections upon this interesting subject, is, that we are bound to reject this bill, whether we are governed by a regard to economy or policy. We are called upon, by the bill, to multiply judges, while their business is diminishing, except in a small portion of the United States, where causes of a peculiar kind have existed, but from their nature are transient, and in so far to violate every consideration of economy, which, in the consideration of this question, is entitled to particular regard, as our judicial system is the most expensive in the world, not excepting England, whose prodigality is proverbial: it results, in part from our singular Government—the necessity of keeping up two distinct systems. If we comprehend the justices of the peace, the judges of the Supreme Court, of the general court, of the court of appeals, of the judges in chancery, in the States, and our district and supreme judges, in the Federal courts, we may fairly set down the number of from ten to fifteen thousand persons, who are engaged in dispensing justice to the people of the United States. Add to this, though not entirely relevant to the question, that we have this day not less than three thousand legislators engaged in framing laws for their government, and the host of Executive officers, from the President down to the lowest Executive subaltern, and we are presented with a number of public officers, that is truly prodigious. It is not only the money they cost us—a subject, however, of serious amount—but it is the diversion of such a mass of intelligence from productive and beneficial pursuits, that constitutes, with me, the greatest objection. To limit the number as much as is practicable, is therefore desirable. But, in point of policy, the objection to this bill, in its present form, rests on considerations still more important: it is protruding the sphere of Federal authority so as to infringe on that of the States; the sequel of which collision, according to the universal law to which all human things are subject, must be the injury of the latter, as being the weaker.

When Mr. B. had concluded, the question was determined in the negative, yeas 11, nays 23, as follows:

YEAS—Messrs. Barbour, Dickerson, Lacock, Macon, Roberts, Sanford, Smith, Stokes, Taylor, Thomas, and Williams of Mississippi.

NAYS—Messrs. Burrill, Daggett, Eaton, Edwards, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Mellen, Morril, Morrow, Otis, Palmer, Storer, Tait, Talbot, Tichenor, Van Dyke, and Williams of Tennessee.

TUESDAY, January 5.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of John Troop, of New York, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. GOLDSBOROUGH presented the memorial of the Presidents of the Marine Insurance Companies of the city of Baltimore, praying the improvement of the navigation of the river Patapsco, and of the Chesapeake bay; and the memorial was read, and referred to the Committee on Commerce and Manufactures.

Mr. SMITH presented the petition of John Buchanan, and Hugh Milling, officers in the Revolutionary war, praying grants of land in the Alabama Territory, in lieu of those granted them in the State of Ohio; and the petition was read, and referred to the Committee on Public Lands.

The PRESIDENT communicated the memorial of Benjamin H. Latrobe, late Surveyor of the Public Buildings in the City of Washington, in vindication of his professional character; and the memorial was read, and referred to the Committee on the District of Columbia.

Mr. HUNTER presented the memorial of a number of the inhabitants of Newport, Rhode Island, praying amendments to the act to prohibit the importation of slaves into the United States; and the memorial was read, and referred.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom the subject was referred, reported a bill to provide relief for sick and disabled seamen; and the bill was read, and passed to the second reading.

On motion by Mr. LACOCK, the Committee on Pensions, who were instructed to inquire into the propriety of granting a pension to Michael Bannon, were discharged from the further consideration thereof; and he had leave to withdraw his papers.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Thomas B. Farish," reported the same with an amendment; which was read.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the bill, entitled "An act for the relief of Doctor Mattrom Ball," reported the same with an amendment.

Mr. OTIS gave notice that to-morrow he should ask leave to introduce a bill to extend the jurisdiction of the circuit courts of the United States to cases arising under the law relating to patents.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of Samuel H. Harper," reported the same without amendment.

The PRESIDENT communicated a letter from the Secretary of War, transmitting a copy of the Army Register of this date, for each member of the Senate, conformably to a resolution of the Senate, of December 15, 1815; and the letter was read.

The bill, entitled "An act for the relief of Harold Smyth," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act to authorize the payment, in certain cases, on account of Treasury notes, which have been lost or destroyed," was read the second time, and referred to the Committee on Finance.

The bill, entitled "An act for the relief of Samuel F. Hooker," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act authorizing the election of a delegate from the Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory," was read the second time, and referred to the Committee on Public Lands.

The bill, entitled "An act for the relief of Sampson S. King," was read the second time, and referred to the Committee of Claims.

The Senate proceeded to consider the motion of the 4th instant, for instructing the Committee on the District of Columbia to inquire into the expediency of surrounding the Capitol Square with a stone side-walk, for foot passengers; and agreed thereto.

The Senate proceeded to consider the motion of the 4th instant, for information respecting the Military Establishment of the United States; and the same having been amended, was agreed to as follows:

Resolved, That the President of the United States be requested to cause to be laid before the Senate, as soon as may be, a statement of the effective force now composing the Military Establishment of the United States: Also, a statement of the different posts and garrisons, at, and within which, troops are stationed, and the actual number of officers, non-commissioned officers, and privates, at each post and garrison respectively: Also, to designate in such statement, the number of artillerists, and the number and calibre of ordnance, at each of the said posts and garrisons.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of James H. Clarke, a Purser in the Navy of the United States.

On motion, by Mr. STORER, the resolution having been amended, it was resolved that the prayer of the petitioner is reasonable, and ought to be granted, and the Committee of Claims were instructed to report a bill accordingly.

The Senate proceeded to consider the report of the Committee on Naval Affairs, to whom was referred the petition of William Robertson; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

On motion, by Mr. GOLDSBOROUGH, the Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Joseph Forrest; and, on his motion, the further consideration thereof was postponed until Monday next, and the Secretary of the Senate was authorized to

furnish the circuit court for the District of Columbia with the papers filed therewith, to be used in evidence in a suit pending in said court.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges; and, after further progress, the further consideration thereof was postponed until to-morrow.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I transmit to Congress a proclamation, dated the 22d of last month, of the Convention made and concluded at Madrid, between the Plenipotentiaries of the United States and His Catholic Majesty, on the 11th of August, 1802; the ratifications of which were not exchanged until the 21st ultimo, together with the translation of a letter from the Minister of Spain, to the Secretary of State.

JAMES MONROE.

WASHINGTON, *January* 4, 1819.

The Message and accompanying documents were read.

The PRESIDENT communicated a letter from the Secretary of the Navy, transmitting fifty copies of the Naval Register for the use of the Senate of the United States, in compliance with their resolution of the 13th of December, 1815; and the letter was read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill prescribing the mode of commencing, prosecuting, and deciding controversies between two or more States; and on motion, by Mr. CRITTENDEN, the further consideration thereof was postponed to, and made the order of the day for, Thursday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Frederick Brown;" and the bill having been amended, it was reported to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the bill be read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to enable the people of the Alabama Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, together with a proposed amendment; and, after debate, the Senate adjourned.

WEDNESDAY, January 6.

DANIEL D. TOMPKINS, Vice President of the United States and President of the Senate, attended, and took the Chair.

Mr. ROBERTS presented the memorial of the American Convention for promoting the abolition of slavery, and improving the condition of the African race; and the memorial was read.

Mr. RUGGLES presented the petition of a number of inhabitants of the State of Ohio, praying amendments to the laws to prohibit the importation of slaves into the United States; and the memorial was read and referred.

Mr. RUGGLES also presented the petition of a number of inhabitants of the State of Ohio, praying an extension of the time for completing the payments for public lands, purchased by them, for reasons stated in the petition; which was read.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Jacob Whetzell, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

The PRESIDENT communicated a report of the Secretary of the Treasury, made in obedience to a resolution of the 24th ultimo, directing him to lay before the Senate information relative to the effect of an act to suspend, for a limited time, the sale or forfeiture of lands, of the 18th of April last, upon the receipts into the Treasury, and the probable effect by continuing in force the act aforesaid for one year, with a certain condition; and the report was read.

On motion, by Mr. RUGGLES, the Committee on Pensions were instructed to inquire into the expediency of amending the act of last session, entitled "An act to provide for certain persons engaged in the land and naval service of the United States in the Revolutionary war;" so as to provide for a more certain and uniform rule of taking testimony, and more effectually to guard against abuses that may be committed under the said act.

Mr. BURRILL, from the Committee on the Judiciary, to whom was referred the bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes; reported the same without amendment.

Mr. BURRILL, from the same committee, to whom was referred the bill further to extend the judicial system of the United States, reported the same without amendment.

Agreeably to notice given, Mr. OTIS asked and obtained leave to introduce a bill to extend the jurisdiction of the circuit courts of the United States, to cases arising under the law relating to patents; and the bill was read, and passed to the second reading.

The Senate proceeded to consider the report of the Committee of Claims, to whom was referred the petition of John Troop of New York; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of Representatives in the Congress of the United States; and on motion, by Mr. BARBOUR, the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide

for the more convenient organization of the courts of the United States, and the appointment of circuit judges; and the bill having been further amended, and a motion being made to recommit it with instructions, the further consideration thereof was postponed until to-morrow.

The amendment to the bill, entitled "An act for the relief of Frederick Brown," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to incorporate the Medical Society of the District of Columbia;" a bill, entitled "An act to incorporate the Provident Association of Clerks in the civil Department of the Government of the United States, in the District of Columbia;" a bill, entitled "An act authorizing the Corporation of the City of Washington, to open and extend certain streets in said city, through a public reservation;" and a bill, entitled "An act to authorize the President and Managers of the Rockville and Washington Turnpike Road Company, of the State of Maryland, to extend and make their turnpike road to, or from the boundary of the City of Washington, in the District of Columbia, through the said District to the line thereof;" and also a resolution for the distribution of Seybert's Statistical Annals, and directing Pitkin's Commercial Statistics to be deposited in the library; in which bills and resolution they request the concurrence of the Senate.

The four bills and resolution last mentioned were read, and severally passed to the second reading.

THURSDAY, January 7.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Charles Higgins, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition.

Mr. GOLDSBOROUGH, from the same committee, pursuant to instructions, reported a bill for the relief of James H. Clark; and the bill was read, and passed to the second reading.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the bill, entitled "An act for the relief of Daniel Renner and Nathaniel H. Heath," reported the same with an amendment; which was read.

Mr. DAGGETT presented the petition of William Prout, of the City of Washington, praying payment for certain property in said city, as stated in the petition; which was read, and referred to the Committee on the District of Columbia.

Mr. WILLIAMS, of Tennessee, presented the petition of Elizabeth B. H. Forsyth, widow of Colonel Benjamin Forsyth, praying the extension of the term to which the act granting pensions to the widows and orphans of deceased officers and soldiers was limited; and the petition was read, and referred to the Committee on Pensions.

Mr. BURRILL, from the Committee on the Judiciary, to whom was referred the bill, entitled "An act to establish a judicial district in Virginia, west of the Alleghany mountain," reported the same with an amendment; which was read.

The Senate resumed the consideration of the report of the Committee on Commerce and Manufactures, to whom was referred the memorial of Nicholas Brown and Thomas P. Ives, of Providence in the State of Rhode Island; and, on motion by Mr. BURRILL, the further consideration thereof was postponed until Monday, the 25th instant.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Jacob Whetzell; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the petition of Nathaniel Goddard, and others, formerly owners of the ship Ariadne and her cargo; and the further consideration thereof was postponed until Monday next.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred a resolution of the 2d of last month, directing an inquiry into the expediency of making provision by law for clothing the Army of the United States in domestic manufactures, made a report, that it is inexpedient to make any provision by law on this subject; and the report was read.

The bill, entitled "An act authorizing the Corporation of the City of Washington, to open and extend certain streets in said city, through a public reservation," was read the second time, and referred to the Committee on the District of Columbia.

The bill, entitled "An act to authorize the President and managers of the Rockville and Washington Turnpike Road Company, of the State of Maryland, to extend, and make their turnpike road to, or from the boundary of the City of Washington in the District of Columbia, through the said District to the line thereof," was read the second time, and referred to the same committee, to consider and report thereon.

The bill, entitled "An act to incorporate the Medical Society of the District of Columbia," was read the second time, and referred to the same committee, to consider and report thereon.

The bill to extend the jurisdiction of the circuit courts of the United States, to cases arising under the law relating to patents, was read the second time.

The resolution for the distribution of Seybert's Statistical Annals, and directing Pitkin's Commercial Statistics to be deposited in the library, was read the second time.

Mr. GOLDSBOROUGH gave notice that to-morrow he should ask leave to bring in a bill, supplemental to an act, entitled "An act further to amend the charter of the City of Washington."

The bill, entitled "An act to incorporate the

Provident Association of Clerks in the civil Department of the Government of the United States, in the District of Columbia," was read the second time, and referred to the same committee, to consider and report thereon.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act authorizing the election of a delegate from the Michigan Territory, to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory," reported the same with an amendment, which was read.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill prescribing the mode of commencing, prosecuting, and deciding controversies between two or more States; and on motion, by Mr. BARBOUR, the further consideration thereof was postponed until Monday next.

ORGANIZATION OF THE COURTS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges; and,

On the question to agree to the following motion submitted yesterday, by Mr. ROBERTS:

"That the bill be recommitted to the committee who reported it, with instructions to provide, in lieu of the provisions of the bill, for the appointment of two additional district judges in the States of Kentucky and Tennessee, who with the district judges, now in commission, shall hold the circuit court in those States, with the jurisdiction those courts now exercise."

Mr. ROBERTS said, that, in the good temper (which it was not his intention to disturb) that had for some time happily prevailed, he was at first undecided as to whether he should eventually vote for the bill or not. Seeing around him so many learned and experienced jurists, he had waited to be enlightened by them. He found they held different opinions, and that it became his duty to decide on the best view of the case he could obtain. The proposition and argument of his friend from Virginia (Mr. BARBOUR) had opened in his mind interesting views; and his call for the necessity of the proposed extension of the judiciary establishment had not been responded to satisfactorily by the supporters of the bill. The proposition of the committee having been matured to their satisfaction, his best reflection had resulted in a settled conviction that it ought not to pass. Willing, however, to extend to others the indulgence the Congress had lately extended to his own State, he had felt it not enough to object to the bill; he had also offered a substitute. On a former day, the gentleman from Massachusetts (Mr. OTIS) had intimated, pretty distinctly, that he understood the Republican party to have resorted to all the measures they had condemned in their predecessors, save only that they had not passed a sedition law. He was glad the gentleman had not adjudged them to have violated the Constitution. He hoped also the gentleman would hold them acquitted of having as yet sanctioned a law creating a host of useless judges. That had been one of the things which the gentleman's party stood charged with, and one that had received as strong a stamp of reprobation as the sedition law; with this difference, that while the latter had been modified, in its enactment, to disappear with the party whose measure it was, the former had been repealed after perhaps one of the most copious and elaborate discussions any question ever had in Congress. Mr. R. remarked, he was one of those who had always believed there was an essential difference in the principles of the two parties, that have long divided political opinion in our country. What was wrong formerly, circumstances not changed, must be wrong still.

He was not ready to admit that the course of the two parties, while in authority, had been identified in everything but a sedition law. It was not necessary to show, though he believed it might be successfully shown, that there were few acts of the Republican party which were not entirely consistent with the tenets they held. At no time has a Republican Legislature, or a Republican Executive, shown any willingness to create or retain useless officers. It was, he said, by recurring to this principle, that he felt so strong a repugnance to this bill, inasmuch as it not only extended, unnecessarily, offices, but of such kind as were more permanent than any others. When gentlemen have been desired to show the necessity for this, and why the district judges may not hold the circuit courts, the reply has been a sort of admission that they are not competent, being chosen for different purposes. Yet these very judges are to form an equal part of the new benches. There was, he knew, an impression around him that he was not penetrated with due respect for the judicial character. As for the existing judges, he thought them, collectively, as able and virtuous men as we can reasonably hope to get. He could not, however, hold them in such respect as to sanction the principle on which they hold their offices. The truth is, the Constitution is, in this regard, essentially vicious. It is a principle falsified by the nature of man. A tenure in office of good behaviour must be held in derogation of the fact, that man is liable to frailty and decay. This will attend the judge as well as the representative; and that Constitution is anomalous and defective which does not provide a remedy for the evil in both cases.

The gentlemen favorable to the bill admit the district judges are not competent to hold the circuit courts, not so much from their want of numbers as from their not having been selected with a view to perform those duties. It will be obvious, said Mr. R., that the duties of the district judges, as established by law, are of quite as important a character as those that would devolve on them as circuit judges. It will, he said, be found to be a fact, that we are only beginning to experience the evils of the ten-

ure of good behaviour. Our Government has existed about thirty years, and many of the district judges which have been appointed were in the vigor of life, and are only now advancing far into the shades of the evening; the inefficiency of age, it seems, is overtaking them; their courts have fallen into disesteem, and we are called upon to prop them up by corps of new creation. Gentlemen have not attempted to show there is any exigency in our jurisprudence, except in a single section of the Union. There it must obviously be temporary. The conflicting grants of land in Kentucky and Tennessee must terminate, even by course of time alone, though it is admitted this remedy would be entirely intolerable. Mr. R. said he was willing to provide efficient tribunals for their adjustment: the motion submitted would reach that object. He was not willing, however, in doing so much, to create judges throughout the Union because one or two were wanted in one section. It would seem to be aggravating the evil we now feel, instead of curing it, the tenure of office being as it is. We have no security we shall get better men than those who hold the district courts; and they must decay, like those who have gone before them. The Constitution is defective, and requires amendment; and it must eventually obtain.—While, however, it remains as it is, it would seem wisdom not to multiply judges unnecessarily. Experience has proved we have no remedy against frailty in a judge, short of misdemeanor, but by impeachment. Trial has proved this almost worse than none. What we have seen in this way was not very strong proof that the tenure of the judge's office was founded in wisdom and truth. An instance had occurred where the judge had become so odious that difficulty occurred in finding him a location for the exercise of his office. There is certainly difficulty, and it is almost insuperable, in getting rid of a bad judge. Let us take care how we make them without necessity. "A breath can make them!" but it cannot unmake them; such a task will require the utmost effort of our Government.

It had been urged strongly, on a former day, that, to refund a fine inflicted by a decision of a court, would attach reproach to the sanctity of such a decision. Having on many occasions since he had a seat in the Senate, Mr. R. said, discovered an overweening disposition in some gentlemen to sanctify the Judicial branch of the Government—a spirit from whence he deemed arose the erroneous principle of a tenure in office of good behaviour—he was led to advert to the nature of the judge's office. It is a common phrase to call the Judiciary a co-ordinate branch of the Government: the metaphor is too strong. Surely, gentlemen will not soberly contend it is of equal authority with the Legislative or Executive branches, by whom it is quickened into life, governed, supported, and preserved. The notion of equality will not bear the touch of inquiry. It was, he granted, an important and independent branch of the Government, constitutionally, and made so wisely. But the bench of judges are not the Judiciary. The judicial power is to be vested in a Supreme Court and other courts; not in the judges only, but in the judges, jury, and other officers. The judges are the only officers who have a tenure of office of good behaviour; and in this they were, he admitted, especially distinguished, for it forms them into a species of privileged order. Notwithstanding this, however, all the sanctity that art could raise around them could never swell them into a comparison, as to authority, with the other branches of the Government. The nature of their functions determines their importance. It is impossible for so few men, however learned, virtuous, and capable, who are doomed to sit in obscurity, to distribute justice and administer law, who are seen by few, and whose affected importance is felt by still fewer, to hold rank with the Congress and with the President. Mr. R. inferred the feature of the Constitution he was objecting to had been derived from that country whence we had sprang; which country, by a measurable application of the rules of common sense, had realized many truths in the judicial science. They had however been extorted from the abominable heresy that the King is the fountain of honor, justice, and power. At first the written laws were obtained from him by supplication and prayer. He was held to be the sole dispenser of justice, but, as he had not the attribute of ubiquity, it became necessary to adjudicate by deputy. These deputies or judges, being emanations of royal authority, shared its sanctity and partook of its inviolability. It was certainly a great point to dissolve the dependence of the judge on the King; and hence the value of the judge's independence, as it is understood in England. Setting out from a wrong point, it is not easy to arrive at a right one. The English tenure of judicial office becomes a horrible deformity in a free constitution, like ours. Those who preside over the administration of distributive justice ought everywhere to be independent of every sort of influence from the other branches of the Government, except the fear of punishment for wrong doing. Misconduct in a judge ought to be punished as certainly as in any other person. The only cure for evils incident to such a state of things is to apply to it the corrective principles applied to the other branches of Government—a periodical limitation of office. In these free strictures, he wished to be understood as neither wanting veneration for the Constitution nor respect for the Judiciary. The Constitution had been amended in the articles touching the administration of justice already. These amendments were of vital importance. While it proves that originally it was imperfect, it justifies the conclusion that its imperfections are not all cured. Every day adds new proofs that the judge's tenure of office is most egregiously erroneous. The Constitution of the United States was only designed to make them a community for specific general purposes, leaving to the States every attribute of local sovereignty not expressly delegated to the General Govern-

ment. Such a scheme must necessarily comprehend a Judiciary branch. The laws must be enforced, and rights arising out of the general concerns require adjudication. The jurisdiction of the United States courts was at first narrow, in regard to the principle of distributive justice. Amendments have made it narrower. It was once a favorite idea with some to make States a party in these courts at the suits of individuals. On the first trial it was abandoned, and the functions of the court suspended while the suit was yet pending. This fact, taken in connexion with the repeal of the law of 1800, proves pretty strongly there has been no undue partiality for the Federal courts heretofore. It is not shown, after the strongest calls on gentlemen, that the bill is necessary from any existing business. It is within the knowledge of all, that there are much fewer actions in the courts of the maritime States than during the times of the restrictive system. That business is principally disposed of, and the only difficulty alleged is the land controversies in Kentucky and Tennessee. For this, said Mr. R., the resolution makes ample provision. Gentlemen have declined attempting to show their measure is founded upon any business the courts now have before them. What were the facts in the State he in part represented? Business like that existing in Kentucky and Tennessee, also existed in the western section of Pennsylvania. An additional district court—the judge having circuit court powers—was asked for, and the Congress were so liberal as to grant the request, for which she is grateful. The calls of justice, we may hope, will be met by this provision, as far as they were designed to be. Mr. R. said he felt a perfect willingness to extend the same benefits to other States, where they were needed. A bill is now on our files providing salaries for the clerk and marshal of the western and the clerk of the eastern district. The fees in these offices are those of the highest State courts, and they have, beside, the fees for recording copy rights. There can be no question that the business has lessened. It has a strange appearance to be providing salaries for marshals and clerks at the same time you are multiplying your judges. Evil may be apprehended from a too great facility in the Federal courts for business. Every man who may be made a judge may not be willing to exercise the authority of opening and adjourning the courts, without any other display of power. The history of courts, said Mr. R., will show they have an appetite, like others in authority, to extend their jurisdiction. We see in the country whence we derive much of our forms of jurisprudence courts, established for entirely different objects, have found means to get cognizance of all kinds of actions, by the resort to the most absurd and monstrous fictions. We have felt something like this in Pennsylvania; in which case the United States courts seemed to get round the Constitution, which denies to them the power of making a State a party at the suit of an individual, by no very conclusive train of reasoning. By their decree, money was in effect extorted from the State treasury, contrary to the Federal and State Constitutions. The resistance made by the State to this strange decree was artfully coupled and classed, for party purposes, with the resistance to the acts of Congress in another quarter. This two-fold injury was suffered to pass off here without explanation; but it sunk deep into the feelings of the State, who knows her duties, and who will not easily forget her wrongs.

Now, let us compare this bill with that of 1801, a law stamped with indelible features of public disapprobation. If there was any difference, it was in favor of that project. There was then six, there is now to be nine circuits. There was then sixteen, there is now to be nine judges. The expense was then thirty-two thousand dollars, now it is to be twenty-three thousand dollars per year. Then you had a bench of those judges, placed on a rational equality; now there is to be two numerically, but one is to give judgment, disregarding the other if he differs in opinion, though he may be the abler and the better man. The repeal of the former judiciary law, and the abolishment of the judge's office, was one of the strongest acts of legislation which has appeared in our history. It was solidly based on the public voice. It was then held to be unnecessary and mischievous. It was viewed as the last act of a system of measures to give an efficiency to the Government, that was deemed to derogate from and endanger the rights of the citizen. When the sentence of condemnation was about to pass, the sanctity and inviolability of the judge, and his tenure of office, was rung through all the changes to no purpose. What was taken then as so wrong, cannot now be right, circumstances not changed; and he was bold to say, there was no new necessity for the measure.

The bill is recommended as introducing symmetry and consistency into our judicial system; and yet, on the very front of it, two judges of the Supreme Court are hung up as useless sinecures. It confesses they will be useless and unnecessary. It is invidious as to the judges themselves, though the reproach may rest among the whole, rather than on any two of them. On the superior bench there must be useless judges; on that of the circuit court there is no equality of character, nor respectability. There is much less irregularity in the present system, and even that of 1801 was less objectionable. The circuit court is only intended to sit twice in a year in the plan before us; if there was really an accumulation of business, they ought to be required to sit until they had really disposed of it. I need not advert to the manner the docket will be settled in such a system. One court must follow the other in so quick a succession, that, in sitting twice a year only, justice must be unavoidably delayed.

On the other hand, the proposition submitted as a substitute offers an efficient court in the only places where it is pretended there is any call for a more adequate administration of justice. Two judges only are required instead of nine, at an annual expense of five, instead of more than

twenty-two thousand dollars per annum. It contains no new or doubtful principle; it is in exact conformity with those with which we are familiarized. It may be enlarged as the calls of justice shall require. It does really seem to be all that is incumbent on the Congress to provide, and we may hope the gentlemen from Kentucky and Tennessee will meet it in the spirit it has been proposed, to obtain for their country an administration of justice, without sale, denial, delay. Mr. R. said he was led the more to hope for a favorable reception of his motion, as it admitted of prompt application. He would ask gentlemen, was it reasonable to expect this bill to pass in time to give the President an opportunity of a judicious selection of the judges? Under any circumstances it would impose on him a most arduous duty, and his embarrassment must be increased from the rival pretensions of the States to have the judges. Judge, said he, by the course of the observations I am offering, how much time must pass away, before it could obtain the sanction of both Houses. If it pass at all, it would seem to me indispensable to postpone its operation until beyond the meeting of the Senate, at the future session. By a modification of the bill, its passage would be facilitated and insured. The most prompt operation of it can be had—selections of the most efficient men can be made without difficulty. If, however, the wisdom of the Senate should decide in favor of the bill, and he had no reason to feel surprise if they should, after the failure of the motion of the gentleman from Virginia, (Mr. BARBOUR,) and it should become a law, he should yield to the decision, as it was his duty to do. But in such an event, he should feel called upon to exert his feeble efforts to have the Constitution so amended as to obtain some remedy against the burden of a host of superannuated judges.

He would greatly prefer, however, to forbear to change that instrument while its defects were tolerable. He would rather see it as it was, obtain the sanction of time, and he was not even disposed to perfect its more dubious features hastily. If the unnecessary increase of a description of officers, whom we must take for better or worse, in sickness and in health, can be avoided, and who, when made, must be incumbent on the public Treasury, in endless succession, the deformity of a tenure of office during good behaviour, not being so palpably felt, may not so soon be considered insupportable. But, if a system of judicial benefices is to increase without necessity, the time will have arrived when the office ought to be held by a less secure and more useful tenure; it will devolve a duty on us to attempt a remedy by an amendment of the Constitution.

The question was taken and determined in the negative, yeas 9, nays 29, as follows:

YEAS—Messrs. Barbour, Dickerson, Lacock, Macon, Noble, Roberts, Sanford, Smith, and Taylor.

NAYS—Messrs. Burrill, Crittenden, Daggett, Eaton, Edwards, Forsyth, Fromentin, Gaillard, Goldsborough, Hanson, Horsey, Hunter, Johnson, King, Leake, Mellen, Morril, Morrow, Otis, Palmer, Storer, Tait, Talbot, Thomas, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

Mr. ROBERTS having submitted another motion to recommit the bill to the committee who reported it, with instructions; the further consideration thereof was postponed until to-morrow.

FRIDAY, January 8.

Mr. SANFORD presented the petition of Eli Hart, praying compensation for property destroyed by the enemy during the late war with Great Britain; and the petition was read, and referred to the Committee of Claims.

Mr. SANFORD presented the memorial of Joseph Landon, praying compensation for property destroyed by the enemy during the late war with Great Britain; and the memorial was read, and referred to the Committee of Claims.

Mr. SANFORD also presented the petition of Vincent Grant, praying compensation for property destroyed by the enemy during the late war with Great Britain; and the petition was read, and referred to the same committee, to consider and report thereon.

Mr. SMITH presented the memorial of Elihu Hall Bay, of South Carolina, praying to be confirmed in his title to certain tracts of land in the Alabama Territory; and the memorial was read.

Mr. GOLDSBOROUGH presented the memorial of John Mason, and others, praying the repeal of an act of Congress, exempting the City of Washington from taxation for county purposes; and the memorial was read, and referred to the Committee on the District of Columbia.

Mr. JOHNSON presented the petition of the heirs and executors of John O'Conner, praying to be confirmed in their claim to a certain tract of land on Buffalo Creek in the State of Mississippi; and the petition was read, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the motion of the 9th of last month, "That the President of the United States be requested to lay before the Senate, copies of the correspondence between the Government of the United States and the Government of Spain, relative to the cession of the Floridas to the United States, which has not already been communicated, and which, in his opinion, may be communicated with safety to the public interest;" and, on request, Mr. JOHNSON had leave to withdraw the same, the object having been attained, by a transmission of said correspondence on the 28th of last month.

The Senate resumed the consideration of the report of the Committee on Military Affairs, on the subject of clothing the Army of the United States in domestic manufactures; and the further consideration thereof was postponed until Monday next.

Mr. JOHNSON, from the Committee on Public Lands, to whom the subject was referred, reported a bill for adjusting the claims to land, and establishing land offices in the districts east of the Island of New Orleans; and the bill was read, and passed to the second reading.

The bill to provide for sick and disabled seamen was read the second time.

Agreeably to notice given, Mr. GOLDSBOROUGH asked and obtained leave to bring in a bill supplemental to the act, entitled "An act further to amend the charter of the City of Washington;" and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges, together with the motion to recommit the bill with instructions; and, on motion by Mr. SMITH, the further consideration thereof was postponed until Monday next.

The bill for the relief of James H. Clarke was read the second time.

Mr. TALBOT, from the Committee on Finance, to whom the subject was referred, reported a bill supplementary to the acts concerning the coasting trade; and the bill was read, and passed to the second reading.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Sampson S. King," reported the same with an amendment; which was read.

The PRESIDENT communicated three several annual reports from the Secretary of the Navy, to wit: comprehending contracts made by the Navy Commissioners, showing the names and salaries of clerks employed in that office, and on the expenditure and application of moneys; and the reports were respectively read.

On motion by Mr. TAIT, they were severally referred to the Committee on Naval Affairs, to consider and report thereon.

The PRESIDENT communicated a letter from William Lambert, transmitting fifty copies of a work, entitled Abstracts of Calculations to ascertain the Longitude of the Capital, in the City of Washington, from the Greenwich Observatory in England, for the disposition of the Senate; and the letter was read.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the petition of John Buchanan and Hugh Milling, made a report, accompanied by a resolution, that the petitioners have leave to withdraw their petition. The report and resolution were read.

Mr. MORROW presented the memorial of the Legislature of the Missouri Territory, in relation to pre-emption claims, and the extension of the same; and also the memorial of George Gill, and others, praying the right of pre-emption to certain lands; and the memorials were respectively read, and referred to the Committee on Public Lands.

MONUMENT TO WASHINGTON.

The Senate then resumed the consideration of the bill providing for the erection of a monument over the remains of General GEORGE WASHINGTON, where they now lie.

Mr. BARBOUR moved that the bill be recommitted, with instructions to report a bill appropriating money for the erection of an equestrian statue of General WASHINGTON, in conformity with the resolution of Congress of 1783.

[This resolution was passed on the 7th of August, 1783, and directs substantially that an equestrian statue of bronze be erected at the Seat of Government; that the General be represented in a Roman dress, holding a truncheon in his right hand, his head encircled by a laurel wreath; that the pedestal be of marble, on which to be represented in relief the following principal events of the war in which General W. commanded in person, viz: the evacuation of Boston; the capture of the Hessians at Trenton; the battle of Princeton; the battle of Monmouth, and the surrender of York. The resolution directed also the inscriptions; that it shall be executed by the best artists, &c.]

The motion produced a short debate, and was finally decided in the affirmative, as follows:

YEAS—Messrs. Barbour, Burrill, Crittenden, Daggett, Eaton, Edwards, Forsyth, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Macon, Mellen, Morril, Otis, Palmer, Sanford, Stokes, Storer, Tait, Talbot, Taylor, Thomas, Tichenor, Van Dyke, and Williams of Tennessee—30.

NAYS—Messrs. Lacock, Morrow, Noble, Roberts, Ruggles, and Smith—6.

MONDAY, January 11.

Mr. GOLDSBOROUGH, from the Committee for the District of Columbia, to whom was referred the bill, entitled "An act to authorize the President and Managers of the Rockville and Washington Turnpike Road Company, of the State of Maryland, to extend and make their turnpike road to, or from the boundary of the City of Washington, in the District of Columbia, through the said District to the line thereof," reported the same without amendment.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the bill, entitled "An act to incorporate the Medical Society of the District of Columbia," reported the same with amendments, which were read.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the bill, entitled "An act to incorporate the Provident Association of Clerks in the civil Department of the Government of the United States, in the District of Columbia," reported the same with an amendment; which was read.

Mr. BARBOUR called up the memorial of Richard Bland Lee, Commissioner under the claims' law, presented at the last session, praying additional compensation for his services; and, on his motion, it was referred to the Committee of Claims.

Mr. TAYLOR presented the petition of William N. Perry and Mark Burnett, praying to be confirmed in their title to a certain tract of land; and the petition was read, and referred to the Committee on Public Lands.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom was referred the bill, entitled "An act regulating passenger

ships and vessels," reported the same with amendments; which were read.

Mr. SANFORD submitted the following motion for consideration:

Resolved, That the Attorney General procure and lay before the Senate, at the commencement of their next session, accurate lists of all causes, which may be depending on the —— day of —— in the several district and circuit courts, and in the Supreme Court of the United States; distinguishing therein, civil and criminal cases; suits between citizens of different States; suits to which the United States are parties, stating separately suits for duties; original causes, and causes removed by appeal or writ of error; with the times of the commencement of the suits, in the several courts; and such other statements or explanations, as may appear to him proper, to exhibit the actual state and amount of the business depending in the several courts.

The Senate resumed the consideration of the report of the Committee on Pensions, on the petition of Lucy Cottineau; and, in concurrence therewith, she had leave to withdraw her petition.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the petition of Nathaniel Goddard, and others; and the further consideration thereof was postponed until Monday next.

Mr. OTIS submitted the following motion for consideration:

Resolved, That the President of the United States be requested to communicate to the Senate any information in his possession, and which, in his opinion, the public interest may permit to disclose, relating to the seizure and detention of the property of American citizens, by the Government of the island of Hayti, and the state of any negotiation or attempts at negotiation to procure restitution.

The Senate resumed the consideration of the report of the Committee on Public Lands, to whom was referred the petition of John Buchanan and Hugh Milling; and, in concurrence therewith, the petitioners had leave to withdraw their petition.

Mr. DAGGETT presented the memorial of a number of citizens of the United States, residing at Hartford, Connecticut, praying amendments to the acts prohibiting the importation of slaves into the United States; and the memorial was read, and referred to the committee appointed on the 15th of last month, on the subject, to consider and report thereon.

On motion by Mr. CRITTENDEN, the bill prescribing the mode of commencing, prosecuting, and deciding controversies between two or more States, was recommitted to the Committee on the Judiciary, further to consider and report thereon.

TERRITORY OF ALABAMA.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to enable the people of the Alabama Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States; and, on the question to agree to the following amendment, proposed by Mr. LEAKE:

After the word "the" in the ninth line of the second section, strike out the remaining part of the ninth line, and the first part of the tenth line, to the word "to," in the said tenth line, and insert: "Cotton Gin Port, on Tombigbee river; thence down the same to the Mobile bay; thence, through the same, between Mobile Point and Dauphine island:"

It was determined in the negative—yeas 3, nays 32, as follows:

YEAS—Messrs. Johnson, Leake, and Williams of Mississippi.

NAYS—Messrs. Barbour, Burrill, Crittenden, Daggett, Dickerson, Eaton, Eppes, Forsyth, Fromentin, Gaillard, Horsey, Hunter, King, Lacock, Macon, Mellen, Morril, Morrow, Otis, Palmer, Roberts, Ruggles, Sanford, Smith, Stokes, Tait, Talbot, Taylor, Thomas, Tichenor, Van Dyke, and Williams of Tennessee.

Whereupon, Mr. LEAKE moved to strike out of the tenth line of the second section, the words "due south," and insert, "along the line established by an act of the Assembly of the Mississippi Territory, between the counties of Wayne, Green, and Jackson, on the one side, and the counties of Washington, Baldwin, and Mobile, on the other side;" and, on the question to agree thereto, it was determined in the negative—yeas 3, nays 32, as follows:

YEAS—Messrs. Leake, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Barbour, Burrill, Crittenden, Daggett, Dickerson, Eaton, Eppes, Forsyth, Fromentin, Gaillard, Horsey, Hunter, Johnson, King, Lacock, Macon, Mellen, Morril, Morrow, Noble, Otis, Palmer, Roberts, Ruggles, Sanford, Smith, Stokes, Tait, Talbot, Taylor, Thomas, and Van Dyke.

The bill having been amended, it was reported to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

CLOTHING THE ARMY IN DOMESTIC MANUFACTURES.

The Senate resumed the consideration of the report of the Committee on Military Affairs, on the subject of clothing the Army of the United States, in domestic manufactures.

Mr. RUGGLES, of Ohio, submitted a motion to recommit the report, with instructions "to report a bill to authorize and require the Secretary at War, to supply the Army of the United States with clothing of domestic manufacture, in all cases where the same can be procured of suitable quality, and on terms equal (exclusive of the cost of transportation) to that of foreign manufactures."

Mr. RUGGLES said he had introduced the resolution to recommit the bill, under the firmest conviction of its expediency. He believed the time had arrived when a measure of this kind ought to be adopted by the Government. It was a measure of national interest and importance, and ought not to be longer neglected. He said he had expected the report of the committee would have been of a different character, and that provision would have been made by law, at

this session, for clothing the Army of the United States in domestic manufactures. The report of the committee, he was sorry to say, had not given that full and detailed view of the subject which had been desirable—they barely report that a preference is now given to domestic manufactures, without showing the nature and extent of that preference. A definite statement, designating what quantity of clothing was of domestic, and what of foreign manufacture, with a comparative view of the quality and prices of each, would have enabled the Senate to have judged with more correctness on the expediency of the measure, than they now possibly can do. But, Mr. R. said, he was so well convinced of the capacity of the manufacturers to supply the demand, and that, too, upon favorable terms, that he had no hesitation on the subject.

The obvious policy of this nation, said Mr. R., is to rely upon its own resources, and become independent of all other nations, in fact as well as theory. All supplies for clothing the Army, and he said he would also include the Navy, ought to be the product of our own soil and industry. This constitutes one item in the system of national policy, that ought not to be overlooked. No money drawn from the Treasury should ever be permitted to pass out of the country, when it could be advantageously expended among our own citizens, for, by so doing, we strengthen others, and weaken ourselves.

Mr. R. said he had no doubt but the Secretary of War was friendly to such a measure, and was desirous of carrying it into effect as far as possible, under the law, as it now stands. But, he said, if he was correctly informed, a greater quantity of foreign cloths were now used in the Army, than domestic: if he was wrong, he hoped the Military Committee would correct him. Whatever course it might have been expedient heretofore to pursue, he believed the time had now arrived when Congress ought to take a decisive course, go the whole length, and exclude every article of foreign manufacture from the supplies of the Army. The measure is highly important, and intimately connected with the great and growing interests of this nation. That every article necessary for clothing the troops can be furnished in the United States, there remains no doubt. The raw materials of wool and cotton are produced in great abundance. By a report from the Commissary General, in 1814, it appears, that the manufacturing establishments had progressed so rapidly, as to be able, even at that time, to furnish every article of clothing necessary for the Army, blankets only excepted. Certainly, then, they are now abundantly competent to meet the demand, and it becomes the duty of the nation to turn their attention to them. Domestic cloths may possibly bear a little higher price, but when their superior quality and durability are taken into consideration, they will be found the cheapest.

This subject should be considered in a two-fold point of view, both as it regards the encouragement of domestic manufactures, and also as it relates to the policy of the nation, by providing in time of peace certain means for clothing the Army in case of future war. If in peace you look to your manufacturers for the necessary articles to clothe your Army, in war they will be ready and competent to supply you, when your supplies from other sources will be rendered precarious, or entirely cut off.

On the subject of encouragement to domestic manufactures, Mr. R. said, there ought to be but one opinion. Their success is identified with the future glory of the nation. Our commerce, navigation, and wealth, are intimately connected with their prosperity. On this subject the will of the Legislature had been twice definitely expressed, and it may now be considered as a fixed and settled rule of policy for this nation. The principle should then be followed up in all its bearings. At the first session of the fourteenth Congress a law was passed, establishing a general tariff of duties on foreign goods imported into the country, With the express view of aiding the manufacturing establishments, a duty of twenty-five per cent. was imposed on all cotton and woollen goods for the term of three years. As a further expression of the national will, the duty of twenty-five per cent. was, at the last session, made permanent for four years longer, making in the whole seven years. So far Congress has done its duty; the measure has met the wishes and expectations of the nation. But, can nothing more be done? Can no other benefits be conferred without prejudice to the public interest? The proposition embraced in the resolution submitted, contemplates other advantages, though it is admitted not of a very extensive character. It is, however, strengthening another link in the great chain of policy that is to elevate the power and wealth of this nation. It may be considered more valuable as a principle connected with our public interest, than as a source of benefit to the manufacturers. The Government makes no sacrifice in adopting it; it only becomes the customer of our own countrymen instead of foreigners, retains the public treasure in the country, encourages productive industry, increases the wealth of the community, and supports a greater proportion of inhabitants. These are objects that ought not to be passed over without notice by a wise Legislature.

Every nation, in the management of its concerns, should adopt a comprehensive system of policy, embracing in its range subjects of a smaller as well as greater interest. Every act of the Government should contribute towards its own prosperity and perpetuation. The nation, said Mr. R., might talk of its boasted independence, but when the melancholy fact is told that it relies upon the industry and skill of other countries for clothing to supply the Army, its degrading dependence is seen and felt. The fact is humiliating. The strong arm of your support and defence becomes enfeebled; protection and security are rendered precarious. The history of the last war furnishes painful evidence of these facts. At the commencement of hostilities,

the nation was unprepared, and very deficient in the various articles of clothing, in consequence of which great difficulties occurred during the whole war.

In the Spring of 1812, the present Postmaster General, then Governor of Ohio, was directed by the President of the United States to organize a small army of militia, for the protection of the northwestern frontier. No sooner were the orders issued by the Governor than a sufficient number of the citizens of that State volunteered their services, and, in obedience to orders, rendezvoused at Cincinnati. Among them were farmers, mechanics, and gentlemen of every profession. This little band, the vanguard of your armies in the late war, was composed of the best blood of the State. The zeal and promptitude with which the occasion was met, and the celerity with which they moved to the place of destination, found them, on their arrival at Cincinnati, destitute of blankets necessary for the campaign. The stores could furnish but a limited supply. One resource only was left. Governor Meigs, whose valuable services during the late war will ever be highly appreciated by his country, made an appeal to the liberality and patriotism of the ladies of the town, to supply the soldiers with blankets. The appeal was effectual. The next day several hundred blankets were furnished by them to the Governor, sufficient to supply the wants of his army. This act of female patriotism and devotion to liberty deserves immortality, and history ought to record it as an example for the benefit of posterity.

Mr. R. said, other instances of scarcity and distress might be enumerated, for the want of clothing and blankets during the late war; and the same calamity will continue in all future wars, unless timely exertions are made to obtain them from our own resources. The nation ought to benefit by experience, and profit by past misfortune. It was not until towards the close of the late war that any considerable proportion of the clothing of the Army could be produced by our own country; and this ability to supply was owing to the unparalleled success of the manufactures, which grew out of the war. The nation was then, in a great measure, at the mercy of the enemy—that very enemy with whom our gallant soldiers were contending triumphantly on the banks of the Niagara and the plains of New Orleans.

The time has now arrived when there will be no difficulty or danger in adopting the resolution under consideration. The number of manufactures in operation, and the large amount of capital invested in those establishments, will furnish a supply far beyond the present wants of the Army. There will be sufficient competition in the market to insure a sale at a low and reasonable price; there can be no possible danger from a monopoly. Gentlemen refer to the scenes of the last war—tell us of the manufacturers demanding and receiving an unreasonable price for their cloth—and say, if this measure is adopted, that this nation will again be subject to the same imposition. Mr. R. said he was not disposed to go into a justification of their conduct in this particular, but thus much might be said in their favor: they had done no more than every class of society would have done in a similar situation; it was only the ordinary operation of human nature. The manufacturers converted a capital, formerly employed in commerce, which had been cut up by embargoes, non-intercourse, and war, into those establishments. They partially succeeded during these times, unaided and unassisted by the Government. When war commenced, the pressure of circumstances compelled the Government to look to them for clothing for the Army. The demand was great, and they obtained a price in proportion to the demand. Do not the merchant and agriculturist adopt the same course, and yield to the same principles? When an article is scarce in the market, and the demand considerable, do they not raise the price in proportion to the exigency, regardless of the original cost of the article? If, then, the merchant and the agriculturist adopt precisely the same principle, with respect to the sale of their commodities, is it just to complain of the manufacturers for following the same course?

Your Army at present consists of ten thousand men, scattered over the whole extent of your frontiers. The expense of clothing this army, according to the estimate of the Secretary of the Treasury, is $400,000. This sum is not large in amount, but it is to be remembered that it relates to the present Peace Establishment. The most favorable time, then, to commence this system of policy, is the present, when the demand is small, and the ability to supply it abundant. Congress may delay this measure for one, two, or three years; but the time will soon come when they will be compelled to adopt it.

Let the Senate remember that this country is not always to remain at peace. If the clouds of misfortune should again gather round the nation; if the dreadful calamities of war should become inevitable, the nation, without a prudent forecast, without a timely preparation, would again be found unprepared for the conflict. Your Army instead of ten thousand, would be swelled to the number of fifty or sixty thousand men; your expenditure for clothing, instead of $400,000 per annum, would probably exceed $2,000,000. It is to prepare for these great events, and large expenditures, Mr. R. said, that he was desirous to commence with zeal and firmness in the proposed system.

It is but proper to inquire what has been the course of other nations on this subject. What have been the means which have led them to power, wealth, and greatness? England furnishes a prominent example. It has been the steadfast policy of that nation not only to encourage manufactures in every possible shape, but also to clothe her armies, navies, and indeed all her people, in domestic fabrics. Edward III. laid the foundation of these principles. Before his reign all the wool in England, except a small quantity

manufactured into coarse cloths, was sold to the Flemings, and manufactured by them. The Flemings returned the manufactured cloth, after having had the benefit of its increased value by the manufacture. Edward soon discovered the mistaken policy of the nation, and invited the Flemish weavers to settle in his country. The exportation of wool was prohibited; no foreign cloth could be imported, under pain of forfeiture; an ordinance was passed, that no person in the nation should wear foreign manufactures, the royal family excepted. This encouragement, so decisive and efficacious in its character, gave new life and vigor to productive industry—promoted individual as well as national wealth, and gave a total change to enterprise and commerce. Before the establishment of manufactures, the English carried on but little commerce; they owned but few ships or vessels; every article was brought to them by their more fortunate and enterprising neighbors. Foreigners gathered all the profits arising from a supply of their wants. But, when they changed their policy, what mighty effects were produced! From small beginnings they have become the most great and powerful nation on earth.

There is another consideration that ought not to be overlooked. The present object of the British Government is to render themselves altogether independent of the United States, as regards their customary supplies of cotton. This article is the staple of the South. England at present furnishes a demand for it, and that too at a very high price; but England is using her utmost exertions to obtain her supplies from other countries. She is already furnished with large quantities from her East India possessions—from South America and the West Indies. These sources of supply will be encouraged and cultivated at the expense of the United States. They are already rapidly increasing upon us, and will continue to do so until their competition will seriously affect, and finally destroy, our market in that quarter altogether. If, then, this is the object of Great Britain, and she is hunting out new sources for the raw material, with which to supply her manufactures, it becomes the imperious duty of this Government to adopt such a policy as shall countervail her regulations, and furnish a market at home for the cotton of the South.

Mr. R. said he would not longer detain the Senate on this subject. The view he had taken, he said, was a hasty one, but he believed it was correct. The operation of the principle for which he contended, would be more extensive and more useful than might at first be apprehended. Sustain your manufactures while you have them in existence, and suffer them not to fall and perish through the means of a cold and languid policy. Cherish them as the sources of your wealth, your safety, and power. The purchase of foreign cloths throws the balance of trade against the nation; it is a growing and ruinous calamity. Let the Government, then, as far as possible, break down this destructive system, which is rendering the nation bankrupt, and destroying its healthful energies. Instead of expending $400,000 for the purchase of foreign cloths for the use of the Army, retain it at home—place it in the hands of your own countrymen, and build up your own manufactures. The effects will be beneficial—the example worthy of the nation.

On motion by Mr. TALBOT, the further consideration of the subject was postponed until Friday next.

TUESDAY, January 12.

Mr. ROBERTS presented the memorial of the Religious Society of Friends, in Pennsylvania, New Jersey, Delaware, and part of Maryland, representing the condition of the Indian tribes, and praying for their improvement; and the memorial was read, and referred.

Mr. ROBERTS presented the petition of Alexander McCormick, of the City of Washington, praying indemnity for losses sustained by the destruction of his property by the invading enemy in August, 1814, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. KING presented the petition of Nathan Ford, of the State of New York, praying compensation for property lost during the late war with Great Britain, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. CRITTENDEN presented the petition of Jacob Purkhill, of Kentucky, praying compensation for the loss of a negro man, pressed into the service of the United States, during the late war with Great Britain, as stated in the petition; which was read, and referred to the same committee, to consider and report thereon.

Mr. NOBLE presented the memorial of a number of the inhabitants of the States of Ohio and Indiana, praying the extension of the time allowed for payments of public lands, for reasons stated in the memorial; which was read.

Mr. STORER presented the petition of John A. Dix, a lieutenant in the Army of the United States, praying compensation for extra services, as stated in the petition; which was read, and referred to the Committee on Military Affairs.

Mr. ROBERTS presented the petition of John Haslett, of the city of Charleston, praying the remission of penalties by him innocently incurred on the importation of thirty-six puncheons of rum in the brig Margaret, Captain Halm, from Porto Rico, in July, 1812, as stated in the petition; which was read, and referred to the Committee on Finance.

Mr. BURRILL, from the Committee on the Judiciary, to whom was recommitted the bill prescribing the mode of commencing, prosecuting, and deciding, controversies between two or more States, reported the same with amendments; which were read.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of John Clark,

made a report, accompanied by a bill for the relief of John Clark; and the report and bill were read. The bill passed to the second reading.

Mr. TICHENOR submitted the following motion for consideration:

Resolved, That the President of the United States be requested to cause to be laid before the Senate, a statement, showing the measures that have been taken to collect the balances stated to be due from the several supervisors and collectors of the old direct tax of two millions. Also, a similar statement of the balances due from the officers of the old internal revenue, and to designate in such statement the persons who have been intrusted with the collection of said debts, and the sums by them respectively collected, and the time when the same were collected.

The bill to enable the people of the Alabama Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, was read a third time, and passed.

Mr. MORROW, from the Committee on Public Lands, reported a bill providing for a grant of land for the seat of government in the State of Mississippi, and for the support of a seminary of learning within the said State; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Thomas Arnold; and the further consideration thereof was postponed until Tuesday next.

The Senate resumed the consideration of the motion of the 11th instant, for information touching our relations with the Government of the island of Hayti; and agreed thereto.

The Senate resumed the consideration of the motion of the 11th instant, for information in relation to the business depending in the courts of the United States; and the same having been modified, the further consideration thereof was postponed until Monday next.

The bill for adjusting the claims to land, and establishing land offices in the districts east of the island of New Orleans, was read the second time.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with a resolution of the Senate of the 5th instant, requesting me "to cause to be laid before it a statement of the effective force composing the Military Establishment of the United States; also, a statement of the different posts and garrisons, at and within which troops are stationed, and the actual number of officers, non-commissioned officers and privates, at each post and garrison respectively; also, to designate in such statement, the number of artillerists, and the number and calibre of ordnance, at each of the said posts and garrisons," I transmit a report from the Secretary of War, which, with the documents accompanying it, contains all the information required. JAMES MONROE.

JANUARY 11, 1819.

The Message and accompanying documents were read.

The bill supplemental to the act, entitled "An act further to amend the charter of the City of Washington," was read the second time.

The bill supplementary to the acts concerning the coasting trade was read the second time.

The Senate resumed, as in Committee of the Whole, the resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of Representatives in the Congress of the United States; and, on motion by Mr. BARBOUR, the further consideration thereof was postponed to, and made the order of the day for, tomorrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further to suspend, for a limited time, the sale or forfeiture of lands, for failure in completing the payment thereon.

On motion, by Mr. NOBLE, to amend the bill, by inserting, after the word "States" in the tenth line, the following:

"And that, on the instalments which are or may become due before the 31st day of March, 1820, interest shall not be charged, except from the time they became due until paid; but, in failure to pay the said instalments, on the said 31st of March, 1820, interest shall be charged thereon, in conformity with the provisions heretofore in force, from the date of the purchase."

It was determined in the negative—yeas 7, nays 29, as follows:

YEAS—Messrs. Edwards, Morril, Noble, Ruggles, Taylor, Thomas, and Williams of Mississippi.

NAYS—Messrs. Barbour, Burrill, Crittenden, Daggett, Dickerson, Eaton, Forsyth, Gaillard, Goldsborough, Hanson, Horsey, Hunter, Johnson, King, Lacock, Leake, Macon, Mellen, Morrow, Otis, Roberts, Sanford, Smith, Stokes, Storer, Talbot, Tichenor, Van Dyke, and Williams of Tennessee.

And no amendment having been agreed to, the bill was reported to the House; and ordered to be engrossed, and read a third time.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Thomas Hall Jervey;" a bill, entitled "An act making appropriations for the military service of the United States for the year 1819;" and also a bill, entitled "An act for the relief of Daniel Moss;" in which bills they request the concurrence of the Senate.

The said bills were read, and passed to the second reading.

The PRESIDENT communicated a report of the Commissioners of the Navy Pension Fund, containing statements in relation to that fund, made in obedience to the "Act for the better government of the Navy of the United States;" and the report was read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to extend, for a further term of five years, the pensions heretofore granted to the widows and orphans of the officers and soldiers who died, or were killed, in the late war;" and the further

consideration thereof was postponed until Tuesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning widows of the militia;" and the further consideration thereof was postponed until Thursday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Samuel H. Harper;" and the further consideration thereof was postponed until Thursday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Doctor Mattrom Ball," together with the amendment reported thereto by the Committee of Claims; and the amendment having been agreed to, the bill was reported to the House amended accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the bill be read a third time as amended.

ORGANIZATION OF THE COURTS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges.

Mr. SMITH said, the Senate had been kind enough to indulge him with a postponement of this question, when it was last before them. As he was a member of the committee who reported the bill under consideration, and had entertained a different opinion from the other gentlemen on that committee, as regards the propriety and expediency of this change in the judiciary system of the United States, he would beg leave to offer some remarks upon it.

One prominent ground upon which this change is contemplated, is the immense distance which some of the circuit judges have to travel to the City of Washington. This place is not consecrated to the courts. They can as easily be held at a central point, by which the distance the several judges will have to travel can be better equalized. And he saw no reason why they should be confined there, and compel some of your judges to travel a thousand miles, whilst others did not travel one-tenth of the distance; and this, too, whilst much of your wealth, population, genius, and learning, were going from the worn-out and sterile fields along the Atlantic, and its vicinity, in which Washington itself was included, to inhabit and cultivate the immense tracts of rich and productive lands to the West, from a source whence you may calculate on a considerable portion of your lawsuits to spring.

Sir, the bill before you provides for a supreme court of appeal, to consist of seven judges, until two of the present number shall go off, by death or resignation. It is thought the present number is too unwieldy; that five are a more appropriate number; and it is argued, if you add two more to the present number, the system will be still more unmanageable.

If two are added to take the Western States, as the amendment proposes, all the circuits can be easily attended, and probably seven out of nine, will always attend the Supreme Court. But, if the whole nine should attend, it would appear, sir, that no unfavorable apprehensions ought to be entertained. These judges, whilst they hold their seats under the present system, ought to be practical men. They will be useful in bringing together their aggregate knowledge of the various rules of practice from the different States, and will give that universality to the decisions that is essential to every rule of law. Besides, if anything can be drawn from experience in England, from whence we have derived many of our rules and maxims, we shall find that nine is a moderate number. In England there are twelve judges, all of whom are practical men, attending the circuits, and hearing causes in the first stages, and then associating together to hear them upon review. And in all important cases the twelve judges sit together. The last resort is an appeal to the House of Lords, and when that is the case, in addition to that numerous body of more than one hundred, the twelve judges are usually called in to aid in the decision. This accumulated wisdom is never thought unwieldy in that country.

Mr. S. observed, that one great objection to the amendment proposed by the gentleman from Virginia, (Mr. BARBOUR,) was the great number of district judges, and their inadequacy to try important cases. Sir, these district judges, if the diminishing system had began there, would have been much more easily reduced than your circuit judges. The former must either starve or resign, and look for some other employment, unless you make better provision for them than has been heretofore done. Some of the district judges are now doing as arduous duties as your circuit judges, and receive but a thousand or twelve hundred dollars for a salary. If these judges are unequal to the discharge of their duties, the earliest possible measures ought to be adopted to get rid of them, and the system ought to be modified so as to crumble them away, or they ought to be put on a respectable footing, and men appointed, in future, of respectable talents, to whom the public business may be with safety confided. There ought to be no secondary judges. The cause of three hundred dollars is often as important to the parties litigant, as one of a far greater amount is to a rich man. What is justice to a rich man, is justice to a poor man. But the bill now under consideration, does not propose an abolition of the district courts; they are to remain untouched, and the district judges are to sit with the circuit judges; so that the eight circuit judges, to be appointed under this bill, are to be in addition to all the judges, both district and supreme, now existing, and no provision made for lessening the number of district judges in future. The more simple a judiciary system is, the greater are the chances for justice, and the more hope of purity in the system.

Mr. S. said, we had heard that the judges of the Supreme Court were now advancing in life,

and ought to be relieved from the duties of the circuit, and left to the more important duties in the supreme court of appeals. He had himself every possible respect for the judges, and, if it appeared that higher salaries were necessary, let them have it. But, heretofore, they had no ground to complain. The salary had been considered, until very lately, an adequate compensation. It was so much so, that, whenever a vacancy happened, there were immediate applications, and a competition for it. There was a time when nature pointed to repose; and it was not to be doubted, unless in rare cases, that, when the body fails, from age and infirmity, the mind becomes enfeebled too; and you have no other mode to test this principle, but by that active course which your judges were obliged to pursue under the present system. If you sit them down at their ease, in the decline of life, they will soon forget the maxims of law, if they should not the grand principles of justice. And the maxims of law are the law, and must be retained by a judge, if you expect to keep the rules of law equal and permanent.

Suppose a judge becomes superannuated; if you take him from his labors he has nothing to admonish him to retire. He, most probably, will be the last man to feel the imbecility of his mind; and how are you to get rid of him? You have already had some experience of this sort. One of your judges became insane, and you had no alternative but to impeach him. Some of the States have had experience of this sort likewise, and have been tortured for expedients to relieve themselves from the infirmities of age and imbecility.

The Senate has heard complaints from no quarter but the Western States. The relief offered by the amendment will be fully sufficient to put them on an equal footing with the other States. This relief to the supreme judges was first brought into view by Mr. President Madison, in his Message to the last Congress during his administration. With every regard for the great political information and experience of that venerable patriot, it is to be recollected he was not a practical lawyer. Borne down, himself, by the fatigues and duties of a life devoted to the public service, and languishing for retirement, he seems to have transferred his feelings to the judges. Such a sympathy was natural, especially in the halcyon days of his Administration. But the life of a judge is a life of labor; it is the character of the station; and whenever he becomes unfit to bear the labors, he becomes unfit to discharge the high duties attached to it. The State of New York has given us a valuable lesson on this subject. It has limited the tenure of office to sixty years. At that age a judge is compelled to retire. Look at their decisions, as given to us in their books of report; they are inferior to none in this country, or perhaps any other in the world. They are the fruits of vigorous minds not yet impaired by age and infirmity.

Sir, in a country like this, it is of some importance that your judges should ride the circuits, not only to become practically acquainted with the different rules that govern the decisions in the different States of the Union, but that they may not forget the genius and temper of their government. Adopt the system now before you, and your supreme judges will be completely cloistered within the City of Washington, and their decisions, instead of emanating from enlarged and liberalized minds, will assume a severe and local character. This will not apply to the honorable gentlemen who now fill your bench with so much ability, but it will result from the system, and from human nature.

The increased duties which are intended to be imposed on the circuit judges, to be appointed under the provisions of this bill, will in nowise render the station of a circuit judge less laborious than what falls to the lot of each of the present circuits, including their travels to Washington, and duties there. Only take a view of the present circuits, and compare them with those that are to be substituted, and the thing will be manifest. So it is only enlarging the number of your judges, without diminishing the duties in the same proportion; and this is contrived by associating the district judges, who have heretofore given general satisfaction alone, with the circuit judges now to be created by this bill.

Mr. S. said, he would now examine into the present system, and see if it employed the judges as constantly as had been alleged. The judges had made no representation of overgrown dockets from any of the Atlantic States. It has been represented by the gentlemen from the Western States, that they must have another judge there, and two are offered them by the amendment. No data had been given upon which you would ground a supposition that the business had recently increased. He had hoped that the resolution offered a few days ago, by the honorable gentleman from New York, (Mr. SANFORD,) would have superseded the bill, for the present at least. The object of that resolution was to obtain, before the next session of Congress, an official return from all the circuit courts in the United States of the number and character of the causes depending in each. This would satisfactorily show the necessity or impropriety of an augmentation of your judges. If the state of the business of the courts did not require it, it would certainly be an incautious policy to make it.

There was one evidence, that there was no great pressure of business, given by the judges themselves. One of them had turned historian, and had written the history of his country in five large volumes, which would redound to his imperishable honor, and the unspeakable advantage of his countrymen. It now adorned the library of every man of science. It is said that Gibbon, the celebrated historian, was incessantly engaged for twenty years in writing the history of the decline and fall of the Roman Empire, which is but a little larger than this. Surely, then, the honorable judge could not have been oppressed by the duties of his office, or he could never have found

time to have written so elegant and voluminous a work.

But, sir, to come down to the present time, we find the same evidence existing now. It is not a secret in the literary world, that another honorable gentleman of the Supreme Court is now engaged in collecting materials for, and writing the history of, the late General Greene. This is not mentioned as anyhow objectionable on the part of these gentlemen; but, if they have time to indulge in such extensive works of genius and taste, it was an unqualified proof that they had much leisure from their professional duties.

If he could be permitted to compare the State courts to the supreme courts of the United States, he would take the liberty to mention the judiciary of New York. In that extensive State, they had about sixty circuit courts. They had but five judges to do the duties in these courts. The riding of the judges was as extensive as that of any of your supreme judges. You have one court of appeal in the year; the judges of New York hold two courts of appeals in the year. In addition to this, they formed a committee of revision, and, in that character, had to attend a long session of their Legislature every year, and inspect all their bills before they passed into laws. In short, their labors were at least four times as great as that of our supreme judges.

The honorable gentleman from Massachusetts (Mr. OTIS) was a member of that Congress which passed the act in 1801, modifying your judiciary pretty much after the manner of the one under consideration. That was a little more enlarged than this. It was then urged that there was an imperious necessity to augment your judges, which was done to the number of sixteen. This was under the Administration of Mr. President Adams. Before the next succeeding session of Congress Mr. Jefferson came into office, and he procured an official statement from all the courts in the United States, of all the causes, of every description, which had been commenced or prosecuted from the commencement of the Government up to November, 1801, including eleven years. The whole of the causes, criminal, civil, and equitable, in all that time, did not amount to nine thousand. And the number of suits commenced in the District of Maine during that eleven years was only nine, and but three of them remained undisposed of. Sixteen additional circuit judges were appointed to aid in this mighty work. More than four thousand causes have appeared on the docket, at one court, in the city of Charleston, which is half the number that were in all the courts of the United States for eleven years; and the judges of the State of South Carolina had twenty-seven circuit courts to attend besides Charleston. This is a fair comparison of labor. However, the succeeding Congress, after a protracted and warm debate, repealed the law, and the new created judges sunk with it. The same honorable gentleman (Mr. O.) has shown an equal zeal upon this occasion; and there is little question but that he is as much mistaken in his calculations now as he was then, if he had the same means to test it.

There was much party spirit displayed in the appointment of the judges, which have been so emphatically called Mr. Adams's midnight judges. He appointed them in the last hours of his Administration, and the whole sixteen of them were Federal. As this office had been created, and as no member of Congress could be appointed to office who had been a member at the time of its enaction, such gentlemen as wanted to go from Congress to a seat in the courts were nominated to be district judges, as that office had been created before, and the district judges which they were appointed to succeed were promoted to circuit judges. Some of those would not accept the promotion, and the offices to which they had been appointed became vacant, of course, and were filled by appointments made by Mr. Jefferson; among which there was not one but what was of the opposite politics. When this system was abrogated, some of the circuit judges, who lost their offices, did not hesitate to accept of the appointment of district judges, and have held the office ever since. This at least proves that all your district judges were not appointed from men of inferior legal learning.

Mr. S. said it was worth while to take a different view of this subject, and to examine if there were not very strong reasons to conclude that your United States courts, and especially those to which you were about to give such an increase of judges, could never have a great deal of business. By the Constitution, their jurisdiction is very limited, except in maritime and admiralty cases; and these were by law exclusively given to the district courts. The district courts also take cognizance of all crimes and offences, where no other punishment than whipping, not exceeding thirty lashes, is inflicted, or where the fine does not exceed one hundred dollars; or where the punishment is by imprisonment, not exceeding six months. This diminishes down the jurisdiction of the circuit courts, in criminal cases, to a mere shadow. The district courts have likewise the exclusive jurisdiction in all cases of seizures by land or on rivers. And the district courts have concurrent jurisdiction in almost every other case, under the limited jurisdiction given by the Constitution to the United States courts.

In addition to this, the Congress have condescended to give by law to the county and State courts, established by the State authorities, only a concurrent jurisdiction in all cases for taxes, for duties, for fines, for penalties, and for forfeitures; and that to any amount. This would show that in this great division and distribution of jurisdiction, there is but very little left for the circuit courts. Besides, in all cases of common law, and there are very few of any other character in the courts of the United States, the courts under State authority have jurisdiction likewise; and very many who might bring their suits in the courts of the United States, prefer the State courts. There is every reason for doing so.

There is generally an earlier decision; and, notwithstanding the distinguished talents employed in the United States courts, there is, perhaps, as much in many of the State courts. Two of the gentlemen that now fill your Supreme Court were taken from the State courts, one from South Carolina and the other from New York. There are many other instances. Judge Rutledge, who was inferior to no man in legal talents, was taken from the State courts of South Carolina by President Washington, and appointed Chief Justice of the United States. His appointment was not confirmed by the Senate, it was true, but it was said to be on account of some political feelings that sprung from his opposition to the Treaty with Great Britain. But he was, nevertheless, a great man, and equal to the discharge of the duties of that high appointment.

Mr. S. said, independent of all these incontrovertible facts, there were other strong circumstances to induce a belief that the causes for litigation were decreasing, and with them litigation itself. In all the old States almost all the titles to lands were now put beyond doubt. They have either been settled in a legal way, or the parties have become more circumspect as regards their land titles, as that property has increased in value. In the new States, and the Territories now settling, the lines were so distinctly marked that they were visible to every man who rode through the woods. And no clashing titles could occur, as they were derived by a sale immediately from the General Government, and did not depend upon the old practice, of every man going into the woods and surveying for himself; and oftentimes two or three surveying the same tract. Your laws are all repealed that imposed internal taxes and duties. No causes can arise from that source.

But, sir, there is another cause more powerful still, and which in the most of cases on contract, and especially in all the cities and towns, and many other places, has almost superseded the courts of law. It is the banks. They are sovereign. Their language is the language of energy. Although they care very little about paying their own debts, and when it becomes necessary they suspend payments in specie, and nobody to say them nay, yet, the very moment the day of grace is past, they send the paper of the best man in the community to a notary public; it is there protested in solemn form, and he is as fast bound as if he was transfixed by a spear. This is now the medium through which merchants collect their debts. They cannot wait the ordinary process of law, and submit to the doctrine of imparlance, a term derived from the Scriptures. This would produce delay. The common law course is tedious throughout. It is not so in the banks; everything must yield to them. There is no more credit given to a merchant, mechanic, or any other person who comes within their sphere, if he is behind with the bank. He is pointed out—he has failed! To avoid this dire calamity, everything must give way. The debtor sells his beds, his plate; his goods are rolled off to the vendues, "and must be sold positively." From all these considerations, he said, he should vote for the amendment, because it presented to his view the most eligible alternative.

Mr. LACOCK said, that he rose to offer his objections on the bill before the Senate under circumstances peculiarly embarrassing and discouraging. The bill had been reported by the Judiciary Committee, composed of gentlemen of the first legal talents in the Senate, perhaps in the Union. For himself he boasted of no such talents; he assumed not the character of a lawyer; he had generally acquiesced in questions of minor importance and mere judicial regulation, in the opinion of those whose pursuits in life gave them a better opportunity of judging than himself. But this was a very different question. It proposed a new organization and modification of the judicial powers of the Government, that vitally affected the interest of the nation. He therefore thought it his duty not to give a silent vote on the occasion, and begged the indulgent ear of the Senate while he attempted to point out what appeared to him radical defects in the system proposed.

Mr. L. said he objected to the bill, in the first place, because, instead of strengthening the bench of the Supreme Court of the United States it weakened it. In the second place, it subjected the judges of that court, by locating them in the City of Washington, to dangerous influences and strong temptations, that might bias their minds and pollute the streams of national justice. These positions, Mr. L. said, he should endeavor to demonstrate. It would be admitted, said Mr. L., that this court possesses powers, legitimately granted by the Constitution, of the most extensive and important character. It had been urged by the chairman of the committee, Mr. BURRILL, as a reason for the passage of the bill, that the business in the courts of the United States had vastly increased, and would continue to increase and magnify in proportion to the increased population and wealth of the nation; and yet, notwithstanding this acknowledged increase of important duties, the bill reported by the committee, that state those facts, proposed to reduce the number of judges from seven to five, thus diminishing at one blow near one third of the mental and legal strength and character of the court. Does this, said Mr. L., appear like improving your system of jurisprudence, and adapting it to the increased exigencies of the nation? But this, said Mr. L., is not the worst feature in this system—you not only propose to diminish the number of judges, but you destroy, or very much, at least, impair the efficiency and usefulness of those who remain on the bench. We are told that these judges are to be men advanced in years, that it is necessary to relieve them from the labor incident to a discharge of their circuit duties in the States, and, therefore, provision must be made for their convenience. I fear, said Mr. L., that gentlemen have consulted more the ease and convenience of the judge than the benefit of the nation, and that this bill will suit the judge bet-

ter than the people. So soon, said he, as you cut off the judge from his circuit duties you destroy half his worth—it is there his mind is enlightened and his judgment informed—it is the discussions at the bar, the collision and struggle of genius and talents, that elicits the spark that illumines the darkest subject, and discovers the road to a correct decision. Were it not for this the wisest judges would frequently grope their bewildered way in vain, and never arrive at the temple of justice! But this, said he, is not all the advantage derived by judges in the discharge of their circuit duties, particularly in the trial of titles to lands granted under State authorities. To have a knowledge of those cases involved in extreme doubt and difficulty, it is indispensable that the judge should be intimately acquainted, not only with the numerous laws under which the grants are made, but the customs and common law usages of the section of country where the land lies. All those advantages are overlooked and disregarded by the bill before you; and we are called upon to acknowledge and believe that those judges will, when appointed, be put in possession of immaculate purity, of intuitive wisdom, and supernatural intelligence. How else, said he, could you expect them to discharge the duties imposed by this measure? They are to be deprived of the means of obtaining information—every motive or inducement to application, industry, and exertion, is taken away or greatly diminished. Hard thinking was unpleasant and irksome. No man would labor without a pretty strong moral necessity for so doing. Take away that necessity, and the exertion ceases. This bill takes away, said he, the inducement, and the necessity will cease with it, and the laborer be no longer worthy of his hire. These, Mr. L. said, were not mere speculative opinions; they were deductions and results drawn from the character of the creature, man, after analyzing his nature, and discovering the secret springs by which volition and action were produced. They applied to all men in all situations, but most strongly would they be found to operate on the conduct of the judge. He held his office by an almost irresponsible tenure; he was to have an ample independent salary; he was to be located in the City of Washington. Thus, in old age, you invite him to take his ease and comfort; and, my word for it, said Mr. L., you will not be disappointed.

But, said Mr. L., by this organization of your judicial system, the Supreme Court will be the weakest part of the whole establishment. The circuit courts, respectively, and the bar generally, will possess more legal talents, and, of course, weight of character, than the Supreme Court that are to decide in the last resort. Let me not be told, said Mr. L., that every subject will receive a full and fair examination and discussion on its merits in the court. Nothing short of a miracle, said he, under this system could make it so. You will have not only your judges, but your attorneys confined to the City of Washington. The judges are to be old men when appointed, and the infirmities of old age will every day increase, and as the useful and vigorous faculties of their minds diminish, in the same proportion will their obstinacy and vanity increase. Old men are often impatient of contradiction, frequently vain and susceptible of flattery. These weaknesses incident to old age will be discovered and practised upon by the lawyer willing to make the most of his profession, and located in the same city, holding daily and familiar intercourse with the judge. And thus, said Mr. L., your court may become subservient to the Washington bar. The judges, bowed down by the weight of years, will be willing to find a staff to lean upon; and the opinion of the Washington bar is made the law of the land. A knot of attorneys at or near the Seat of Government having gained the ear, and secured the confidence of the court, will banish all competition from abroad.

For the truth of this position, Mr. L. said, he would appeal to the professional gentlemen around him, particularly to those of Kentucky, who seemed anxious to adopt the measure proposed—the adoption of which might deprive that State of the talents and usefulness of a judge on the bench of the Supreme Court, so soon as Judge Todd should leave it. And with what painful reflections and awful forebodings, said Mr. L., would a Kentucky lawyer enter this court? No man that had heard the cause argued at home—no man personally known to him, and on whom he can rely for official integrity, is seen on the bench. Like a stranger in a strange land he feels his situation comfortless and gloomy. He takes his solitary seat at the bar—he views the court as belonging to the same family, and almost identified with the great Crown lawyers that are to oppose him; and thus with fear and trembing he approaches the cause of his client, doubting and half believing that the cause has already been prejudged by the bench, or that the weight and influence of legal talents will stifle the calls of justice; and should an observation drop from the bench during the discussion to confirm his doubts, he abandons, as desperately hopeless, the cause of his client, however just. This, said Mr. L., would be a deplorable state of things. But, said he, adopt this system, (thus subject to abuse,) and the state of things takes place sooner or later. The distributive justice of the nation may be subjected to the control of a combination of Washington lawyers. The inquiry will be by the people, not the merits of the cause pending in court, but what attorneys are employed? Have Mr. Wirt and Mr. Pinkney been secured? If they have, the result cannot be doubted. Mr. L. said he mentioned those gentlemen to illustrate the subject merely, and meant no personal allusion to the gentlemen named. They were upright and honorable men, for whom he felt the highest esteem. Neither did he wish to be understood, in anything he had said or should say, as alluding to the present judges of the Supreme Court. They, too, he believed, were wise, upright, and honorable men, and he wished to keep them so;

and not by the adoption of this system to tempt and invite them to be otherwise.

It was, however, Mr. L. said, due to himself to state, that he was not one of those who subscribed to the perfection and infallibility of the judicial character; he had, by long experience, found that judges, and lawyers out of whom they were made, were very much like other folks; he did not believe the profession calculated to make them better; he would be sorry to say they were worse than other men: neither did he believe that taking a man from the usual pursuits of life, or even from the grand councils of the nation, and placing him on the bench of the Supreme Court, was likely to change his character for the better, or that wrapping his limbs in a silken mantle, to excite the gaze and admiration of the ignorant, would add any thing to his stock of legal knowledge, and improve his understanding. The truth is, he would still remain a poor, imperfect, feeble being, clothed with all the infirmities, and liable to all the frailties of human nature. It was the duty, said Mr. L., of the lawgiver to guard society against the abuses of power, wherever it might be lodged. He had endeavored to prove that judges, like other men, were liable to commit errors and crimes, and to abuse the confidence reposed in them. To prevent such abuses, it was necessary to remove the judges as far as possible from every source of political temptation. He did not wish to see the judges imbodied in the city of Washington, another appendage to the Executive authority; he wished them identified with the people of the nation, domiciliated in the different States, and called together as a court in bank as often as the nature of the case required.

It could not be denied, said Mr. L., that there had been, and he supposed always would be, two great political parties in this nation. It is true, said he, it is said this is the era of good feelings, that we now enjoy a calm; but it might be found a delusive one, and such as usually precedes a tornado in the South; at all events, we could not expect those halcyon days would forever last: he therefore took it for granted that the people would be divided into two great political parties; one he would call (for the sake of distinction, and not to revive party feelings which had so happily subsided) the aristocratic, and the other the democratic party. The struggle between these two great parties will be unceasingly and vigorously maintained, particularly in the popular branch of the legislature, and of course throughout the nation. The Executive will consequently belong to the party that may happen to prevail at the time of his election; but not so with the judges. It is not uncharitable to conclude that they, from the independent tenure of their offices, the distance you remove them from the control of the people, would naturally incline to the aristocratic party. Taking this to be the fact, Mr. L. said he would illustrate the subject by supposing, hypothetically, that the party now out of power should regain their ascendency and elect a President suitable to their wishes; that this President, with a willing or subservient Congress at his back, should determine to perpetuate his power and the duration of a system of misrule and tyranny, by the passage of another sedition law, muzzling the press and sealing the lips of inquiry by the threatening horrors of a dungeon. But, I shall be gravely told, said he, there can be no danger; that an independent judiciary would declare the law unconstitutional, and rescue the citizen from Executive oppression. And to whom do gentlemen look for this relief? What mighty arm is to interpose between the humble citizen and an enraged Executive, struggling with the convulsive grasp of death to retain abused power? Why, said Mr. L., the bill before us answers the question; it declares the Supreme Court shall consist of five judges, any three of whom shall constitute a quorum; and of course two judges, being a majority of a quorum, are made competent to decide this or any other question. And how, said Mr. L., can gentlemen flatter themselves that a decision made by two or three judges, on a question of this magnitude, would give general satisfaction? The question he had stated was one of vital interest to the nation. It would be a decision of political life or death to an ambitious President and his associates. Could it be believed that Executive influence would not be brought to bear on the subject? Would the dazzling splendors of the palace and the drawing-room have no charms for judges in the immediate neighborhood? Would the flattery and soothing attentions of a designing Executive, aided by a powerful cabinet, be lost and entirely unavailing? I fear, said Mr. L., they would not. It would be almost in vain to hope for a favorable result to the cause of justice and freedom under such adverse circumstances.

Mr. L. said, further to illustrate the subject, he would mention a recent occurrence, to show how likely it was that judicial officers would concur with our Executive in political opinions. As early as 1795 an act was passed, (agreeably to Constitutional provisions) authorizing the President to call upon the Governors, or any militia officers of the respective States, for such portions of the militia as he deemed necessary to repel even a threatened invasion of the country. Under this law, in the late war, the President of the United States called upon the Governor of Massachusetts for his quota of militia. The Governor refused to comply with the requisition, alleging that it belonged to the State authorities—that it was left to their directions to say whether the necessity existed or not, that was to justify the calling forth the militia. The Governor, however, determined to lay the subject before the judges of the Supreme Court of Massachusetts. A majority of them were convened, and they unanimously and solemnly decided that the Governor was right in disregarding the orders of the President, issued in strict conformity to the Constitution and laws of the United States. He would not charge, Mr. L. said, the Governor nor the judges, in this case, with wilful corruption. Motives so base ought not to be imputed

to the officers of a sister State; but, he must believe they acted under the influence of the strongest political delusion. With their motives, however, he had nothing to do. It was sufficient for him to state the fact, for the purpose of showing with what facility the judges may be brought to act in accordance with the political views of the Executive.

Mr. L. said he felt a strong repugnance to that part of the bill that invited the judges to make Washington the seat of their settled residence. This Government was emphatically called that of the people. Its existence depended on the all-powerful influence of public opinion. The affection of the people for the Government and its functionaries, is the cement, the adhesive quality that binds the nation together. Dissolve this, and all is lost. How necessary then, said Mr. L., is it that you should secure that affection. To do this, as relates to the judicial branch, it is necessary that they should be domiciliated in the different sections of our country; that they should perform circuit duties; that, as citizens of the State in which they live, they should feel a sacred regard for State rights, and that, as men, they should mingle with the great family of the American people, securing their esteem by social and friendly intercourse. By this means, said he, your judges, when they come together, would not only be better qualified to discharge their important functions, but would bring with them the confidence and esteem of the nation.

Mr. L. said that, it appeared to him, the committee who reported the bill had not considered, with their usual sagacity, its provisions, nor the vast and almost unlimited province of the court to be established. They had wrought on a small scale, as if providing for the administration of justice in a town corporate, or a single county. They surely had not considered that this court of two, three, or, at most, five judges, held in their hands the political destinies of this mighty nation; and yet, said Mr. L. a single decision, if acquiesced in, and such a decision as was made by the Massachusetts court, would unhinge the whole system, and its demolition would follow, as if by the magic wand of enchantment. This court, said Mr. L., beside the powers specifically granted by the Constitution, is said to possess the power to declare such laws void as they may consider unconstitutional. This extends as well to the State laws coming within their cognizance, as to the acts of Congress. Against the right to exercise this tremendous power, I have, said he, feebly protested, when it has been asserted on this floor; but the right has been exercised by the court, silently acquiesced in by the nation, and often conceded in this Senate. This goes far, said Mr. L., to establish its legitimacy, and he would, for the sake of argument, so consider it. In this point of view, then, said he, the subject becomes still more imposing. This is not a court clothed with ordinary powers for the purpose of distributing justice between man and man, and the punishment of offenders against the laws, nor is its jurisdiction confined to controversies between the individual State sovereignties; but this august tribunal is the grand revising council of the nation, with the power of an absolute veto on the laws passed by Congress. In short, said he, this court is to decide the extent of legislative authority under the Constitution. And did gentlemen wish the judges to be on the spot, that they might be conveniently consulted as to what bills should be passed and what rejected? If so, he confessed the bill on the table would answer their purpose. But for his part, Mr. L. said, considering the extensive and important powers lodged in this court, he could wish to see the number of judges increased instead of diminished. He never would consent that the right of Congress to call forth the militia for national defence, the liberty of speech and of the press, with other questions of vital interest to the nation, should be submitted to the judgment of any two men, and they, perhaps, rendered imbecile, impotent, and almost torpid with age and infirmity.

Mr. L. said, as there were many gentlemen in the Senate much further advanced in life than himself, he would not undertake to advise or admonish them; but his duty compelled him to beseech and conjure them to reflect, and pause before they passed the Rubicon of error. If, he said, this measure, be adopted, he should be almost willing to agree with the gentleman from Massachusetts, (Mr. OTIS,) that we were treading in the footsteps of a former Administration, that had been put down by an offended nation, and, like them, said he, we should deserve and receive the same reward.

When Mr. L. had concluded, the further consideration of the bill was postponed until to-morrow.

WEDNESDAY, January 13.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, to whom was referred the bill, entitled "An act authorizing the Corporation of the City of Washington to open and extend certain streets," reported the same without amendment.

Mr. RUGGLES presented the petition of Absolom Litt, praying the passage of an act to enable him to enter a section of land, in lieu of one erroneously made, as stated in the petition; which was read, and referred to the Committee on Public Lands.

Mr. EATON presented the petition of William Langston, praying a pension, for reasons stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Richard Bland Lee, made a report, accompanied by a resolution that the prayer of the petitioner cannot be granted. The report and resolution were read.

The Senate resumed the consideration of the motion of the 12th instant, for information in relation to the measures that have been taken to collect the balances stated to be due from the

several supervisors and collectors of the old direct tax of two millions, and of the balances due from the officers of the old internal revenue; and agreed thereto.

The bill for the relief of John Clark was read the second time.

The bill entitled "An act for the relief of Thomas Hall Jervey," was read the second time, and referred to the Committee of Claims.

The bill entitled "An act for the relief of Daniel Moss," was read the second time, and referred to the same committee, to consider and report thereon.

The bill entitled "An act making appropriations for the military service of the United States for the year 1819," was read the second time, and referred to the Committee on Finance.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution for the distribution of Seybert's Statistical Annals; and directing Pitkin's Commercial Statistics to be deposited in the Library; and the same having been amended, it was reported to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the resolution be read a third time as amended.

The bill further to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payment thereon, was read a third time, and passed.

The amendment to the bill entitled "An act for the relief of Doctor Mattrom Ball," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

AMENDMENT TO THE CONSTITUTION.

The Senate took up for consideration, as in Committee of the Whole, the amendment to the Constitution, which provides for a uniform mode of choosing (by districts) Electors of President and Vice President, and of Representatives in Congress.

Mr. DICKERSON, of New Jersey, spoke nearly as follows:

Mr. President, at the last session of Congress I had the honor to introduce a resolution similar to the one under consideration. This I did, in obedience to instructions received from the Legislature of the State of New Jersey, which State I have the honor, in part, to represent. After a discussion of the merits of the resolution, a large majority of the Senate were found to be in favor of it, but not a majority of two thirds, and of course it was lost.

For several years past, the principle of this resolution (first adopted, I believe, in the Legislature of North Carolina) has been gaining ground, and particularly within the last year, as we may fairly conclude, from the instructions which have been recently laid upon our table, from the States of New Hampshire, Connecticut, and New York.

If there were no reasonable hopes of bringing this measure to a favorable issue, I might be fairly considered as rendering myself unnecessarily troublesome, by agitating it at this time; but while there is a hope of success, and I think present circumstances warrant such a hope, I cannot consider myself absolved from the obligations imposed upon me by my instructions. Under this impression, and acting as well from a sense of the great importance of the subject as a sense of the duty which I owe to my constituents, I again earnestly, but respectfully, solicit the attention of the Senate to this resolution; which I should have introduced in the first week of the present session, but from a hope that some other member of this honorable body would have taken upon himself that task. As no one seemed so disposed, it appeared to me improper longer to procrastinate a measure which ought to receive a discussion before our attention is engrossed by the usual objects of legislation.

As the Senate have once indulged me with a hearing upon this resolution, it is my intention to be as brief in the observations which I am now about to make, as the nature and importance of the subject will permit, more especially on those points of argument which I had the honor to submit; for, as the subject is old and hacknied, I am sensible, and I feel oppressed by the reflection, that any observations I can now make will be considered as tedious and irksome by most of those who hear me.

The Constitution of the United States wisely provides for its own amendment, but, in doing this, it interposes such obstacles to the spirit of innovation, as not only effectually to prevent all unnecessary alteration, but, as I fear, to prevent the most salutary reform.

An amendment cannot be proposed to the States, unless two-thirds of each branch of the National Legislature concur in the measure; and when proposed, three-fourths of the States must concur before it can become a part of the Constitution; great, therefore, are the difficulties, arduous the task, and doubtful the issue, of any attempt to alter the Constitution. There is, besides, a sort of sanctity attached to this instrument, that leads many to consider it as something superhuman, something partaking of divine origin—such consider any attempt to alter it as a sort of political profanation; a sacrilege against the palladium of our liberties. In addition to this, there is a general disinclination to disturb old established regulations, a species of *vis inertiæ*, which can only be overcome by the most pressing urgency. These are difficulties attending all attempts to alter the Constitution.

The amendment under consideration is attended with difficulties peculiar to itself. It proposes to the dominant parties in the respective States, without whose aid it cannot succeed, to give up a portion of their power. Such applications are always unwelcome, and but rarely attended with success, whether made to individuals, to States, or to political parties.

The dominant party in New York, for instance, by no means an overwhelming majority, can, under the present system, give twenty-nine votes, that is, the whole vote of the State, on a Presi-

dential election; under the proposed system of choosing Electors, their vote would be proportioned to their numbers. The same observation will apply, in a greater or less degree to the dominant parties in all the States of the Union.

It requires no small degree of patriotism, on the part of majorities, to divest themselves of the power of restraining the minorities, whom they always consider as their political adversaries. I trust, however, that notwithstanding these multiplied difficulties, the paramount consideration of the general good will prevail, and that this measure will be attended with ultimate success. Such a result, however, would be utterly hopeless in times of political rancor and party violence, when majorities always think that the public good is most effectually promoted by restraining, as far as possible, the power of the minorities, who, in such unhappy times, are always considered, and always stigmatized, as the enemies of their country.

Happily for us, the present moment is peculiarly auspicious for undertaking the proposed amendment, as there is less of party animosity now than there has been at any period since the establishment of our Government. If the present opportunity be suffered to pass by unimproved, it may never again occur; for we discover very little sagacity, if we presume that the present political calm is to be permanent, or even of any considerable duration.

This plan, of dividing the States into districts, is no new experiment; it is no innovation, whatever, upon the Constitution; it is only calculated to render permanent and uniform a regulation which has prevailed in nearly all the States, and which ought to have prevailed in all, and would have prevailed in all, by common consent, but for the disorganizing spirit of party. Whatever mode may be adopted for choosing Electors and Representatives, it is universally allowed that it ought to be uniform throughout the United States.

Under the old Confederation the Congress was considered as a representation of the States, and they voted by States. The House of Representatives is now, or ought to be, a representation of the people, and they are emphatically called the popular branch, to distinguish them from the Senate, which may still be considered as a representation of the States; and the popular branch is considered as the main stay and strong hold of the republican principles of our Government.

If the Legislature of a State should appoint their Representatives to Congress, as they do their Senators, (even if the Constitution were as vague and uncertain, in this particular, as it is with respect to the appointment of Electors,) we should consider the proceeding in the highest degree preposterous, inasmuch as it would leave to such Representatives no character of a popular branch. Yet the choosing the Representatives of a State by what is called a general ticket, in which the voice of the minority is completely merged, is equally preposterous, and generally much more so, as the people vote for candidates of whose qualifications and characters they are ignorant, upon the recommendation of individuals, of whom, frequently, they know nothing, who assemble in convention or caucus, settle the fate of the election before the people are called upon for their votes, and thus pervert every principle of what we are pleased to call the universal right of suffrage.

The resolution proposes that each State shall be divided into as many districts as it has Representatives; the districts to consist of contiguous territory, and to contain, as nearly as may be, an equal number of persons entitled to be represented. It would be impossible to go further in this particular, without introducing too much regulation, without rendering the system unnecessarily complicated. The rule is perfectly fair, perfectly republican, attended with no difficulties, and, if adopted, will secure to all parties that degree of influence and power, proportioned to their numbers, which, in a Republic, they may fairly claim by every principle of honor and justice.

As these districts are to be altered but once in ten years, the tendency to fluctuation and change will be sufficiently counteracted. It may be thought that, as the new States are rapidly increasing, the districts should be altered more frequently, to correspond with the rapid increase of population. We must recollect, however, that altering the districts could not increase the number of Representatives or Electors to which a State might be entitled; and in any other point of view, it can be of but little importance.

Under the present system of choosing Representatives, it is the practice, as much as possible, to suppress the voice of the minorities, and this provoking tyranny is practised under the specious garb of Republicanism. In the small States, the elections take place most commonly, by what is called a general ticket. This completely suppresses the voice of the minority, and may be a representation of the dominant party, but not of the people of a State.

In the large States, the difficulties of voting by general ticket are so great, that they are induced, from necessity, to adopt some system of forming districts; but the dominant parties, unwilling to give to the minorities the weight to which they are entitled by their numbers, or anything like it, have adopted an irregular mode of districting, known by the opprobrious term of gerrymandering; by which they cut up and parcel out a State into unequal and inconvenient districts, formed, too frequently, with a total disregard of the principles of justice, the rights of the citizen, or the appearance of decency.

In what estimation can we hold the majority of a Legislature, coolly and deliberately, dividing and carving up a State into irregular districts, some large, and some small—some to choose one Representative, some two, some three, and some four, in such a manner as to suppress, as far as possible, the influence of their political opponents, taking care to have in each district, a sufficient majority of their own party to make all safe, but no more. In forming such districts, the utmost

skill and address have been observed, creditable indeed to the ingenuity, but disgraceful to the motives and the principles of the actors. I could relate many instances of outrage and abuse under this head, as I did on a former occasion; but I am unwilling to exhibit the disgusting picture. Such gross perversion of the principles of our Government, has a direct tendency to destroy all respect for our political institutions, to bring our Constitution into contempt, and to introduce into our legislative bodies no small degree of moral, as well as political, turpitude.

It may, and probably will, be said, that it is not necessary to amend the Constitution on this point, as Congress have the power to regulate the election of Representatives. There is no probability that Congress will ever exercise this power, except in cases where States wholly refuse or neglect to provide for the election of its Representatives. It is by no means clear that Congress have the power to pass a law, making it obligatory on the Legislature of a State, to divide that State into districts: and if Congress should undertake to divide the States into districts, they would find themselves involved in infinite difficulties—besides, should a State be divided without the consent of its Legislature, in a manner unaccountable to a majority of the people, it would create the greatest discontent, and be considered as a sort of State degradation.

The Convention thought proper to give this power to Congress, under an apprehension that a combination of States might embarrass the measures of Government by refusing to send Representatives to Congress. In this point of view, the provision was a wise one; but the danger against which it was meant to provide, has long since passed by, and the new States which we have added to the Union have a tendency to prevent such combinations.

Important as the proposed amendment is, as it respects the choice of Representatives in Congress, it is vastly more important as it respects the choice of Electors. In the first case, the just rights of a large portion of our citizens are constantly infringed; in the latter, those rights are not only equally infringed, but the permanency and existence of our Government is put to hazard.

To choose a chief magistrate for ten millions of people, jealous of their rights, and impatient of control, even in the best regulated system, must be attended with no small degree of danger: this danger increases with the increasing extent of our territory, and the increase of our population. What have we not to apprehend when our population shall amount to fifty millions, as it will do in a period less than that which has elapsed since the Declaration of Independence!

We are in the habit of looking with great composure upon the return of our Presidential elections; but, little as we apprehend from this subject, it is probably the rock upon which our liberties are to be wrecked. We all remember when the power of our country, perhaps the existence of our Government, hung in doubtful suspense upon the frail breath of two or three individuals, and that from a fault in that part of the Constitution which the framers of it thought the most perfect—pleasing indeed in theory, but utterly fallacious in practice.

This amendment proposes, that each district shall choose one Elector; the two additional Electors, to which a State may be entitled, to be appointed as the Legislature thereof shall direct. This avoids the inconvenience of double districts, which would be complicated and troublesome, and it adopts the spirit of that part of our Constitution which apportions the Electors of a State, not in a ratio of its Representatives or its Senators, but in a compound ratio of both. The two additional Electors may be considered as analogous to the Senators, and the others as analogous to the Represenatives. This is not a consideration of great importance, but it is a recommendation of the measure, inasmuch as it more distinctly marks this peculiar feature of our Constitution.

This will give as fair an impression of the public will as can possibly be obtained, unless, indeed, we resort to a general vote of the people at large, without regard to the limits of States or Districts. And it appoints to us a point of immense magnitude; one upon which depends the vital principle of our Constitution, and even the existence of our Government. It secures to us, that the President of the United States shall be elected by a majority, and never by a minority of the people.

Upon a calculation of chances, the probabilities of a fair expression of the public will are increased by dividing the States into districts, and in the ratio of the number of districts to the number of States. It is is true, the minority in the respective districts would be suppressed; but as the minority of one which might be suppressed in one district, would probably be balanced by the suppression of the minority of the other party in another district, the general result would be a fair expression of the public will. If, in the State of Massachusetts, we suppose the political parties which now exist, or hereafter may exist, to be about equally divided, an election by a general ticket would, of necessity, entirely suppress the voice of the minority—but if the State were divided into twenty districts, as it would be by the proposed amendment, such a result would not happen once in a thousand elections. It would be an equal chance that the Representatives so chosen would be as their constituents, about equally divided. If the parties were as one to two, it would be an equal chance that the representation would be in the same ratio; but these points are too clear to need elucidation.

Besides, the distinct system will place insuperable barriers to the intrigues of ambitious individuals, who will hereafter agitate the Union at the approach of every Presidential election.

In the process of electing a President there ought to be more uniformity, more precision, and more certainty, than in the election of any other officer whatever; and yet, strange as it may ap-

pear, there is less. It is a a reproach to us, that there is scarcely the shadow of uniformity, precision, or certainty, in any of the rules by which we elect, beyond comparison, the most important officer in our Government.

By the Constitution each State shall appoint, as the Legislature thereof shall direct, its number of Electors. By the letter of this provision, the Legislature of a State may direct that the Electors shall be chosen by the people, in a general ticket; or they may direct that they shall be chosen in equal districts, or they may resort to the iniquitous system of irregular districts; but, I cannot admit, that, by a strict construction of the Constitution, the Legislature shall direct how they themselves shall appoint the Electors. Yet, this power has been assumed by the Legislatures of most of the States. If this be an infringement of the Constitution, the procedure ought to be corrected. If there be a doubt upon the subject, which I think will not be denied, a remedy should be supplied; for, in this vital part of our Constitution, there should be no doubtful points.

When the Legislatures have taken this power into their own hands, they have made the appointments sometimes by a joint vote of the two Houses, sometimes by concurrent vote, sometimes by compromise; sometimes the resolutions, under which the appointments have been made, have received the approbation of the Executive, when such approbation was necessary, and sometimes not. The Executives have sometimes been authorized to fill up the vacancies in the list of Electors; sometimes the Electors themselves to fill the vacancies, and sometimes the case has been unprovided for; when the people have exercised this power, it has sometimes been by general ticket, sometimes by equal districts, and sometimes by a detestable system of gerrymandering. This great variety of modes, has put into operation the most extensive intrigues, which have disgraced our Constitution, and on one occasion, that of 1801, put to hazard the peace of our country.

Many of the States have adopted the worst possible system of choosing Electors; that is, by their Legislatures. Other States, although they condemn this mode, will be induced to adopt it as a measure of self-defence, and will be justified in doing so—and it will soon be adopted in all, or nearly all the States. And, when so generally adopted, will afford to some aspiring individual the means of arriving at the Presidential chair, against the will of a large majority of the people, and of perpetuating his power by destroying the liberties of his country.

It is evident that if the Legislatures of the States appoint the Electors, the voice of the minorities in the respective States must be entirely suppressed—than which nothing can be more unjust, or more dangerous; as it would, independently of other circumstances which I have mentioned, increase the rancor and bitterness of party in the States, and exhibit the States in a sort of hostile array against each other.

When this subject was under discussion, last session, I had the honor of submitting a calculation, showing the manner in which a President might be elected against the will of a large majority of the people, and a large majority of States, which I will beg leave to repeat. The whole number of Electors for the nineteen States composing the Union at the last Presidential election is 221, of which 111 make a majority, and can choose a President. The States of New York, New Jersey, Pennsylvania, Maryland, Virginia, and North Carolina, which are composed of contiguous territory, and may have strong political reasons for combination, have 113 Electors,—two more than are necessary for choosing President. A bare majority in the Legislatures of these six States—one of them a small State, and one of middle size—could, by possibility, counteract the will of six or seven millions of people, and elect a President in defiance of the residue of the Union. The Legislatures of five States—Massachusetts, New York, Pennsylvania, Maryland, and Virginia—which have 112 Electors, could produce the same effect. But, if we take into calculation the twenty-one States now forming the Union, they have 227 Electors; add Alabama, which is soon to be a State, the number would be 220—a majority of 116. The six first-mentioned States, with the State of Delaware, have 117 Electors, and can choose a President.

The cases I have stated are extreme cases. It is said extreme cases prove nothing. So it would be with these, if the evil to be apprehended must happen in the extreme degree stated, or not happen at all. But it is very obvious that there are many intermediate degrees of mischief, which may and will happen at every contested Presidential election, if we adhere to our present system.

How easily will it be to procure combinations among State Legislatures, and how admirably calculated to promote the schemes of ambition! The small band of intriguers necessary for such operations would have the strongest possible inducements for perseverance, as they would divide or calculate to divide among themselves the whole patronage of the President, and all the places and emoluments within his gift. In this, however, they would sometimes find themselves disappointed, when the individual they had elevated should find himself in a situation to kick from under him the ladder by which he had ascended.

In proportion as we diminish the circle upon which intrigue is to act, in the same proportion do we add to the force and energy of that intrigue. Suppose it to be ascertained that the majority in five of the six States first mentioned are in favor of a particular candidate as President, and that the point is doubtful as respects the sixth, and that the gaining an influential individual would turn the balance: the force of intrigue, which would produce no sensible effect upon two hundred and twenty-one districts, would be irresistible when applied to a single point.

And here let me observe, that our present system holds out the most inviting theatre for the

exercise of foreign intrigue and foreign influence, against which we are warned to guard and protect ourselves by the histories of all nations who have lost their liberties. We must all have observed, that the greatest struggles for power between the political parties have immediately preceded the Presidential elections. These struggles in the States nearly equally divided—especially in the large States—will continue to be pursued to desperation under the present system; for the object, vastly greater than it should be, is calculated to call forth every possible exertion. Everything is put to hazard. A party must gain or lose all: there is no intermediate point on which to rest. In the State of New York, for instance, if the Federal party should gain such an accession of strength as to give them a bare majority in the Legislature, they would, instead of having no vote whatever in the election of a President, be enabled to give their candidate twenty-nine votes; and this number, taken from the opposing candidate, would in fact make a difference of fifty-eight votes in the election. The object therefore being so very great, no bound, would be set to the parties in their struggle for power; and in the furious contest, honor, justices conscience, all, would go to wreck.

Whenever the majority in a great State changes from the one side to the other, it produces such a concussion as not only to shake the State to the centre, but to produce an agitation in the Union, destructive of the harmony that ought to prevail in our system.

This very circumstance, in no small degree, tends to create and keep alive that party animosity, that political warfare, which almost constantly agitates and distracts the larger States. How different would the case be under the proposed amendment! Suppose the Federalists in New York to be nearly equal to their opponents, and to have majorities in thirteen of the twenty-seven districts into which that State would be divided, a struggle, which under the present system would give them a bare majority in the Legislature, and make a difference of fifty-eight votes in the Presidential election, would be in fact but gaining one district and the power of appointing the two additional Electors—being a gain of three Electors, and making a difference of six in the election. The object, therefore, not being comparatively of great importance, would produce no desperate struggle—no dangerous agitation. There would still, however, be enough left to call forth all the party feeling that ought ever to be excited.

Under the present system, it is greatly to be apprehended that some aspiring individual may gain the supreme power, against the will of a great majority of the people. To submit to such a President would be deemed an intolerable oppression, and would probably end in the loss of our liberties. To resist the most probable alternative would bring on a civil war, which would terminate in a military despotism; and the danger of this result is evidently increased by increasing the number of States.

It is not probable that the Constitution when submitted to the States for ratification was such as exactly pleased any one of the Convention who formed it, or those who concurred in its ratification. It was perhaps the best that could have been agreed upon, amidst the conflicting interests and contrariety of sentiments, that prevailed among the members of the Convention. The wonder is, not that it has faults, but that it has so few faults, considering the circumstances under which it was formed. The instrument carries on its face an admission, that it is imperfect, by providing the means of its amendment, without which provision it would never have been ratified by the required number of States. Indeed many who concurred in the ratification, did it under express declarations, that important amendments were necessary, some of which were stated at the time, and have since become a part of the Constitution. But human wisdom could not foresee all the amendments, that experience might prove to be necessary. And in the second contested Presidential election, that of 1801, our Government was upon the point of dissolution, in consequence of the provision requiring the Electors to vote for two persons as President, against which no voice has been raised.

The most difficult task that devolved upon the Convention who formed our Constitution, was to establish the principles which should regulate the election and control the power of the Chief Executive. This subject no doubt received their most diligent attention, their most laborious investigation. And yet I hope I shall not be accused of any want of respect for the statesmen and patriots who formed that Constitution, if I express an opinion, that the provisions on this subject do not exhibit that degree of wisdom, which, judging from other parts of the same instrument, we had a right to expect from them.

The regulations for choosing the Executive of the United States are more vague, more uncertain, more undefined, more variable, more subject to abuse, than are the regulations for choosing the meanest officer in the community. And as to any effectual control upon the power of the Executive, that must depend, as it heretofore has done, rather upon the virtues of the individual exercising the office, than upon any positive regulations contained in the Constitution. The broad road to monarchy is left open—encumbered indeed with obstructions, but such as will easily yield to the pressure of ambition.

The most obvious barrier to the career of ambition on the part of a President, would have been a reasonable limit to the time in which any one could exercise this important office. This, however, was omitted, no doubt after a full discussion of the subject, and for reasons which I cannot divine. As yet, it is true, experience has not exhibited any necessity for such a barrier, for the ambition of our Presidents, thus far, has been, not to extend or perpetuate their power, but to increase the happiness and prosperity of the country over which they have presided. This, however, let us remember, is not the usual current of ambition.

We have constantly the most deplorable evidence of the total inadequacy of our system to regulate, with any degree of safety, the election of a President. In the year 1801, it was in the power of a single individual, in the Senate of Pennsylvania, to give to that State fifteen Electors or to deprive her entirely of a vote, at his pleasure. In the election of a President that year, all the Electors of South Carolina were in favor of the candidate who ultimately succeeded, but the State, in the House of Representatives, voted against him; at the same time all the Electors of New Jersey voted against that candidate, and the State in the House of Representatives voted in his favor, in six and thirty ballots. In 1812, a very large majority of the State of New Jersey and all their Representatives in Congress were in favor of the candidate then elected, but the votes of all her Electors were against him; and this by an abuse of power, that may probably be practised again, in that as well as other States.

We cannot look into the history of our Presidential elections, without meeting at every step, the most deplorable proofs of the imbecility of our system.

Warned by the dangers we escaped in 1801, we have so far altered the Constitution that we shall not again be exposed in precisely the same manner, and by precisely the same cause we were before. But there are other dangers much more apparent than that was, before actual experiment had presented it to our view;—dangers which can never be obviated while the minority have the power of choosing a President.

Great as the danger is, that some ambitious individual may gain the Presidential Chair against the will of a large majority of the people, the subject presents itself in another point of view, not less interesting. I mean the operation of our system, to enable an ambitious President to perpetuate his power and to transmit it to his posterity. It is true, the illustrious patriots who have filled that exalted station have none of them discovered a wish to continue in office, for a longer period than eight years;—but such instances of voluntary retirement from power are rare occurrences in the annals of the world, and will some ages hence be cited as almost incredible instances of the virtue of the ancient Republic. Such examples, however, will in future times be rather the object of praise than of imitation.

Let us suppose, that at some future period, we shall have a President of forty years of age, of great talents, unbounded ambition, and an insatiable thirst for power; the period of eight years would elapse at about that period of life when ambition takes the firmest hold of the human mind. He would easily persuade himself that the public interests would suffer by his retiring from office. The great facility of securing a re-election under our present system, would be a temptation not to be resisted. And the host of choice spirits, by whom he would be surrounded, would certainly succeed in persuading him to bear the weight of Government, for another period, and another, and another, to the end of his life.

Suppose this President to have a son of talents and ambition like his own, and of a suitable age to become his successor. The transmission of the power from the father to the son would excite no unusual apprehension. His election would be a mere matter of form, and our Government would quietly sink into an hereditary monarchy; after which a Tiberius, Caligula, or a Claudius, might reign uncontrolled in America. These are not mere illusions—mere phantoms of the brain. Had the candidate in 1801, for whom such desperate but unsuccessful efforts were made, succeeded in obtaining, in the House of Representatives, a place for which he was not intended by a single Elector who voted, he would eagerly have seized upon the reins of Government. And what would have been the consequence? We have reason to believe he would have been hurled from his chair, by an insulted and an indignant people. Terrible indeed would have been this resort, which would have produced the utmost anarchy and confusion and all the horrors of a civil war.

But suppose he had possessed those great military talents which his friends have gratuitously ascribed to him, and had been enabled, with the Treasury and the small military force that would have been at his disposal, to crush all opposition to his power, would he not under our present system, with his talents for intrigue, which have never been overrated, by his friends or his enemies, and which have been rarely equalled in any country?—would he not have been able to secure a re-election, and another, and another, to the end of his life?

But suppose an incredible case, that, at the expiration of eight years, his ambition had ceased to operate, and that he no longer wished to continue in power: Would he have dared to retire to private life? Would he have dared to relinquish a power which for eight years he had held by force and fraud, in despite of the will of a great majority of the people? If he had despised danger as it respected himself, would he have abandoned his friends who had faithfully adhered to his fortunes, and supported his authority at all hazards? Sir, the moment he should have retired from power, a reaction would have taken place which would have overwhelmed him and his friends in ruin. Unfortunate indeed would be the situation of such a President; not so the situation of one elected by a majority of the people. He would rest securely upon the strong arm which had placed him in power, and which could protect him there. He would fear no popular commotions, no insurrections against the exercise of his lawful authority; and when he should have performed his official functions for a reasonable period, he might relieve himself from the weight and the cares of Government, and retire to private life, amidst the blessings of his fellow-citizens, where, exercising the virtues which have adorned the illustrious characters who have presided over the United States, he would find in his declining years that literary, philosophic, and sweet repose, so ardently desired by the great and the good in all ages of the world.

Let us not, while contemplating such examples of exalted virtue, which are the pride and the boast of our nation, be lulled into fatal security. Let us not forget that the constant tendency of our Government is towards despotism. Let us not forget that ambition is the strongest passion of the soul: "By that sin fell the angels." Let us not forget that it is a duty we owe to ourselves and to posterity to adopt every measure which may have a tendency to preserve the republican principles of our Government.

Have I overrated the dangers to be apprehended from ambition? I believe not. Those dangers are not immediately at our doors, but their existence is not the less certain on that account.

Sir, the time will come, I fear, when our country will be filled with an army of pensioners, always the friends of arbitrary power. The time will come when we shall have a numerous host of officers, civil and military, in every department of the Government, spread over our immense territory, looking up to the President as the source of their power and emoluments. The time will come when luxury and extravagance will banish from our country every species of republican virtue; and the time will come, I fear, when this Senate shall be no more than the shadow of what it was intended to be by those who formed our Constitution; when it shall be no check whatever upon the Executive; when it shall be as insignificant as was the boasted Senate of Rome, in the time of Tiberius. The whole patronage of Government will centre in the President, and that patronage, under our present system of choosing Electors, will become a machine of irresistible power. The management of this power will become a matter of science. He will be deemed the greatest politician and the most able minister, who can, with a given portion of patronage, produce the greatest effect. The force of this power will be applied to effect the purposes of ambition, with as much economy and skill as the force of water is applied to the wheel, or that of steam to the engine. It would be difficult to devise a plan better calculated to accelerate the approach of those deplorable events, or to promote the views of an ambitious President, than the present system of choosing Electors.

When, by a combination of a few States, by the obvious means which I have suggested, an ambitious President could control a majority of the people, he might throw off every show of ambition; might exercise from period to period the supreme power, with seeming reluctance, yielding to what would be called the voice of the country, and paving the way to monarchy, while the world would be amused with his hypocritical pretensions of a desire to retire from the weight of public affairs.

When Augustus Cæsar had secured to himself the support of the Senate and the army of Rome, he played the hypocritical farce of attempting to abdicate his usurped power; but was persuaded by those, who he knew would persuade him, to be considered as the head or Prince of the Senate, and, in conjunction with them, to administer the affairs of the Government for ten years, by which time peace and prosperity might be restored to the Commonwealth. At the expiration of that period the same ridiculous farce was repeated, and again and again, during his long life; and after he was as firmly seated on the imperial throne of Rome, as Alexander is upon that of all the Russias.

When Augustus seized upon the liberties of Rome, Brutus was dead; but his spirit was not extinct. Augustus found the Roman people, though greatly corrupted by the civil wars of his time, and those which immediately preceded it, still possessed of some spirit of independence, some love of liberty, but he left them all slaves.

The history of this extraordinary man affords the most impressive, the most admonitory lessons to the citizens of the United States. While his insidious march to empire will afford a model for the imitation of some future President, it should warn every citizen, who has the least love for his country, to watch with the utmost vigilance, and to provide every possible check against the ambition of such Presidents as may attempt to establish their power by the subversion of our liberties.

Some gentlemen may think that I have overrated the dangers to be apprehended from our present mode of choosing Electors; it may be so; I may have given more importance to the circumstances connected with this subject than they merit; but, if gentlemen, thinking so, deem my observations worthy of an answer, let them not satisfy themselves by showing that I have thus overrated those dangers; let them show that no such dangers exist; let them show that the Constitution already provides sufficient checks against the career of ambition, and I will vote with them.

The friends of this measure do not flatter themselves that the proposed amendment will afford a remedy for all the evils complained of; but it will afford a remedy for part of them. It will not eradicate the principles of ambition, but it will retard their progress. It will not render perpetual our republican form of Government, but it will probably add ages to its duration, and this is gaining an object of immense magnitude. It is gaining all that we are permitted to hope for.

The seeds of death are interwoven in our Constitution. Its fate is inevitable. No human wisdom can save it from dissolution; but by wise measures its existence may be continued for many ages. Ardent must be the wish of every patriot to put off the moment of its dissolution, and to the latest possible period.

We all know that the term of our life is limited; that death awaits us. None but madmen seek to evade this law of our nature; yet it is the dictate of wisdom to devise the means of prolonging life, and for putting off the moment of dissolution, to the latest period which the laws of our nature will permit.

It is my fervent prayer that the proposed amendment may be adopted, not with the vain hope of rendering our Government immortal, but for the purpose of securing the prosperity and

integrity of the Union for many ages yet to come, and for the purpose of extending the blessings which we enjoy, to millions and millions of human beings who may inhabit our immense territories in a long succession of ages.

Mr. BARBOUR, of Virginia, said: If the honorable gentleman from New Jersey rises with reluctance to address the Senate on the proposition under consideration, how much more should I, who, in addition to the reason assigned by the gentleman, labor under the consciousness of having to address an unwilling audience; who, instead of instructions in my pocket, justifying me in the course I should pursue, have no guide but a very fallible judgment; and who, instead of coming into the debate with my arguments and facts, digested with the aid of the most mature reflection, have to encounter those of my adversary in a desultory manner, with only a moment's warning. No ray of consolation meets my eye in this cloud of difficulties with which I am surrounded, but the conviction that I have a just cause, and the consolation that if I must fall I will not have done it without a struggle. The course I propose to pursue, is to submit a proposition for an indefinite postponement of the question, because I am indisposed to tampering with the Constitution; but if in this I should fail, I shall then propose an amendment which, as the one proposed by the gentleman from New Jersey, will break down the distinction between the States, and make the election national in its manner; it shall become essentially national in all its parts. I have a repugnance almost invincible to tampering with the Constitution—not from an idolatrous reverence, not from a belief that the instrument is perfect, as is intimated. Alas! I know too well that it is the work of finite, imperfect beings, and bears upon its face the impress of its authors; but because, under it, the people of the United States enjoy the greatest share of happiness which has been dispensed to human kind through countless ages. Nor are we alone interested in its blessings. What nation or what people, between the poles, where one ray of science has ever penetrated, who does not look to us as the last and best hope of suffering humanity? What suffering victim of lawless sway that does not cast his eye to this land of promise, looking to us across the waste of waters, with scarcely less hope than do we to that distant bourne where the wicked cease from troubling and the weary are at rest? To maintain this instrument, thus charged with the future destinies of the world, in its present form, till an evil of magnitude is disclosed, and till the remedy is presented, a remedy whose consequences are sure, is a species of loyalty and attachment which reason ratifies, and which every feeling of my heart cherishes. Yes, sir, the defect must be most apparent, and the remedy as palpable. The only disease is frequently rather in the doctor than the patient. This prodigious effort of political wisdom should always be contemplated as a whole. A part may strike the eye as defective, but, in connexion with the rest, may be indispensable as well to its harmony as its strength. I protest against adventures after theoretic perfection. In attempting this, you may involve us in disastrous consequences; and, however perfect a proposed remedy may appear in the abstract, yet, when it comes to be acted upon by the tempestuous and irregular passions of man, its results may be most pernicious.

If these be my sentiments upon alterations in the Constitution, which do not involve the fundamental articles of that instrument—articles the result of compromise between the States—they acquire additional strength when an amendment is proposed, which affects such parts of the Constitution as palpably resulted from such compromise, and upon which its validity mainly depends. To illustrate my views, permit me to state, were a doubt to arise as to the power granted, a particular branch of the Government, or, if you will, Congress—take for example the right of connecting the States by inland navigation, by which their commerce, whose regulation is confided to Congress—would be greatly benefited; if a doubt should exist as to the right of Congress to exercise such a power, and the nation were divided on this question, I should feel no difficulty in appealing to the people, the original source of our authority, for their interpretation of the extent of their own grant, and to abide by an expression of their will. On the contrary, were some Utopian to suggest that the representation of the small States in this body, when compared to the large, was too unequal to be endured, and propose as a remedy a recurrence to the basis of our institutions, the will of the majority, I should consider the proposition as involving an entire departure from the compact, and as essentially involving the most sacred engagement, one which had for its guarantee the plighted faith of the contracting parties. Considering, therefore, that one branch of the amendment proposed does seriously affect an article of the Constitution, thus secured, I am anxious to defeat it.

The resolution under consideration proposes two amendments:—The one to regulate the manner of choosing Representavies; the other of choosing Electors for President and Vice President. As to the first, it is unnecessary, because, by the 4th section of the Constitution, Congress have the power already to direct the time, place, and manner, of choosing Representatives. Why ask for an amendment of the Constitution; why not bring in a bill? Because, says the gentleman, he cannot indulge a hope of its success. A suggestion the more remarkable, as the gentleman had already expressed his fears of failure in his efforts to obtain an amendment to the Constitution, from the obstacles presented in the instrument itself, two-thirds of Congress and three-fourths of the States being requisite to give validity to the amendment. If he cannot procure a majority of Congress to a bill which should take the principle of his amendment as its basis, he has, indeed, good cause to apprehend that he will be unable to procure the Constitutional majorities here and in the State Legislatures. For my part, I am

far from mingling my regrets with those of the honorable gentleman, in regard to the difficulty of obtaining amendments. On the contrary, I hail it as a new evidence of the wisdom of the authors of the Constitution—a majority of whom had arrived at that period of life from which they might look upon the past and read the lesson of experience. They must have seen that restlessness of spirit in man which was even fatigued with doing well, and which continually prompts us to pursue an imaginary good, to grasp at a shadow and lose the substance; an attribute implanted in our nature by Providence for some wise purpose, but which, unless regulated by wholesome checks, not unfrequently involves individuals and nations in remediless ruin.

But, sir, it is to me no small matter of surprise, that such a proposition as this should be submitted to this body; a body to whom, at the last session, an amendment of the Constitution was submitted, to explain a doubt as to the extent of our power; a question which had equally divided the nation, taking the sentiments of the Representatives as a just criterion. I mean, of course, the power of the National Government as to internal improvements; a question which, above all others, called for an amendment, and nine voices only, I believe, were in its favor. How then can the Senate, composed of the same members, give their assent to the present, when it is not pretended that our power is not full and explicit. The people will reply, as they ought. Why mock us in this way? You ask for power which you unequivocally have; and refuse to consult us upon that which is doubtful. It is no part of my duty to attempt to reconcile this palpable inconsistency. One word further. I will promise the gentleman, if he will bring in a bill in conformity to the 4th section, my cordial support, for I entirely approve the principle, that the Representatives should be elected by districts, as thereby a result will be produced most essential to the full effect of the true principles of our Government, that the Representative should be fully known to his constituents; and, by residing among them, should know their wants, and participate their feelings and interests; presenting in this a strong contrast to that of the Elector, who has but one insulated duty to perform, that of voting for the character his constituents prefer, as President, and of whom a pledge is always required, and indeed given, before he is supported by the people. So that, in effect, it is of little consequence who is selected, as he serves only as an organ, to convey the wishes of his constituents to the Electoral college. He furnishes the only requisite, by the pledge he previously gives of supporting the man of their choice.

But to proceed to the second amendment, which proposes to change the mode of electing Electors. It must be perceived that the first effect will be to deprive the States of the power, given them by the Constitution, of directing the mode of their election.

It is worthy of remark, that while the Constitution has given to Congress the power of regulating the time, place, and manner of choosing Representatives, and also of regulating the time and manner of choosing the Senators; yet Congress had no power to touch this subject save only that of directing the time of choosing the Electors, and that power retained only from necessity, for the purpose of producing a uniformity as to the time, to guard against corruption throughout the United States. If it were esteemed proper to give this right to the States, and to withhold it from Congress, upon the adoption of the Constitution, what delinquency have the States committed to produce a forfeiture of their rights? What reason presents itself to justify this curtailment of their privileges? It is urged, because in New Jersey and Pennsylvania they abused the power; and because two States of the Union, in times of great party heat, conducted themselves irregularly, disgracefully if you will, the sin is to be imputed to every State in the Union so as to result in their disfranchisement. Upon the same principle, if one or two of the districts were to conduct themselves in the same way, and complaint was lodged against them, the whole also should forfeit their rights, and some new mode must be substituted. It is vain to argue against a system because bad men, when in power, occasionally abuse it. It is sufficient, for human purposes, if it has been exposed to the most violent shocks, and, upon the whole, has survived unhurt, and produced all the good consequences anticipated. Such, I contend, is the mode as at present established by the Constitution. In no instance has one been elected to the high station of Chief Magistrate of the nation who had not, at the time, a majority of the people; and, without indulging vain hopes, we may confidently expect we shall never have to encounter a severer trial than that through which we have passed.

But my principal objection to the proposed amendment arises from the gross inequality of its effects against the large, and in favor of the small States. If, therefore, the Senate should resolve to cancel the compromise out of which, unquestionably, grew the arrangement of the Constitution in regard to the Presidential election, and gentlemen are sincere in their professions that they wish the election of the President to depend on the unbiassed and uncontrolled will of the majority, and to effect this they are prepared to strip the States of a portion of the power given them by the Constitution, then let them unite with me in an amendment which shall place the election upon their choice, without regard to the division of territory into States. That is, if the election must be national in its manner, let it also be in principle; to that end let the number of Electors be in proportion to the Representatives of each State, to the exclusion of Senators, and in the event of no election by a majority of the people, and the consequent devolution of the election on the House of Representatives, let the election there be decided by plurality of voices, and not by States. This mode presents a national election, not merely in form, but in sub-

stance. I wish it to be distinctly understood that I do not wish to disturb the present arrangement, and nothing would induce me to submit a proposition of the kind but as a defensive measure.

By the Constitution, as at present, the election is of a compound character. Partly national, in so far as the number of Electors shall be equal to the number of Representatives, and Federal in so far as the Electors shall, from each State, great or small, be equal to their representation in this body; and exclusively Federal, or by the States in the event of devolution of the election on the House of Representatives where they vote, not numerically, but by States. Leaving the right of regulating the election to the States, the large States do not so sensibly feel these advantages, already enjoyed by the small States. Voting, as they do, unanimously, they have something like their due weight in the election; but cut up into districts, it may happen that Rhode Island may have four votes, and New York, in effect only one, by a division of votes. If regard were had only to numbers, the weight of Rhode Island to New York would be as thirteen and a half to one; but, in consequence of the two votes given to Rhode Island as an independent State, she is entitled to four votes, and New York, to twenty-nine, and consequently reducing the influence of New York, when compared to Rhode Island, to seven and a half instead of thirteen and a half, and thereby depriving her of nearly half her influence. Nor is this all, for, in the event of no election by the people, New York and Rhode Island have precisely an equal influence in the election of President. With all these advantages under the existing regulations, the small States are not yet satisfied, but propose an amendment by which this important advantage may be frequently brought into active operation—by the division of the vote for President. I am justifiable in saying that the election will more frequently devolve upon the House of Representatives by the adoption of the amendment, as there is a much greater probability of a division in an assembly of three hundred than of twenty-one. The former shortly will be the number of Electors; the latter is the number of States at present. The mode of election, if left to the States, permits only twenty-one bodies of Electors, and therefore, as far as the question of division is concerned, furnishing only twenty-one Electors; for, by the general ticket, there can be no division in the State vote, whereas there will be shortly three hundred Electors, who, in addition to sectional considerations, common to both, have all the seeds of division which such an unconnected mass always carries within its bosom.

So much of the amendment as still retains to the States the right of electing two Electors, independent of its incongruity, I would say, but for personal respect to the mover of the proposition, was an insult to the States. What does it avail New York, when, by districting her, you have shorn her of her real strength; when you have spoiled her of the substance, to leave this effigy of her former power? Nay, sir, by this very arrangement, the weight of the small States is increased. Delaware sends two by districts and elects two by her Legislature. Her vote must always be three to one; generally, an undivided vote. New York—and so with the large States generally—if divided into districts, and Electors of different parties, or candidates, should be elected, will not be able to weigh as much in the scale.

But why this incongruity? Either divide the State into districts equal to her Electors, or leave it as it is, and pretend not to compensate for the rights which you take by so insignificant a boon as the one held out.

The honorable gentleman has entered into a long and intricate calculation to show that a minority may elect the President under the present arrangement. If the fact be admitted, what is the advantage gained by his argument? When the States are districted, may not the same result happen? And if the election is in the House of Representatives, to be decided by States, will not an insignificant portion of the people of the United States have the election in their hands? In illustration of the first suggestion, take the State of New York, divide it into south and north; the former shall be unanimous in favor of A, and shall have thirteen districts; the latter shall in each district be equally divided, save one casting vote, in favor of B: hence it will result that although nearly three-fourths of New York are in favor of A, yet B will have a majority. In proof of the latter suggestion, we need only refer to the representation of eleven of the small States in the House of Representatives, equal to thirty-six members, yet eleven being the majority of twenty-one, the whole number of the States, would have power to decide the election against the express will of four-fifths of the United States. The fact is, that a consequence of this kind, if extreme cases be admitted, is inseparably incident to every election made by Electors taken from the different divisions of the territory. In one section they may be unanimous, in another a majority of one may weigh through the Electors, whose election his vote has decided equally with thousands in another territory. This position is too plain to require further elucidation, and the amendment proposed by the gentleman will be as subject to its influence as the present arrangement.

But the principal ground upon which the gentleman rests his argument is, that it will avoid intrigue and foreign influence. If this were true of intrigue, then, indeed would the gentleman have a right to challenge a unanimous vote, not only here but through the nation. As to foreign influence, I have no apprehension. I have no belief that all the money in the bowels of the earth would be able to corrupt the Legislatures, or a majority of them, of the twenty-one States. If ever that time should arrive, it will be of but little avail what we shall this day do. The people will no longer be fit for a free government, and whatever may be written in the Constitution will not weigh against the dust of the balance.

That ambitious men will always exist, and who will seek to gratify their views by the most irregular efforts, is readily admitted. That the Presidential chair should be guarded against their approach, by every precaution which human wisdom can devise, is equally true. With these admissions, which I most freely make, permit me to inquire where these efforts are likely to have the greatest effect? Upon the Legislatures of the States, composed of thousands, or on the House of Representatives, when voting by States, where one man, by being the only Representative of a State, has a vote which, in effect, will weigh against a million of inhabitants whose delegation is limited also to one vote? The alarms of the honorable gentleman are alive only to the danger of the corruption of the many of the State Legislature, but are perfectly quieted as to the possibility of the corruption of one, if he be a member of the House of Representatives. He takes, therefore, all power from the former, lest they should be the instruments of intrigue or foreign influence, while he rejects, with a species of horror, any curtailments of the power of the latter, as violating the sacred principles of the compact between the States, and rejects all apprehension of the attempts of intrigue and foreign influence in that quarter as chimerical; and yet the honorable gentleman has resorted to the only occasion which has ever occurred of a devolution of the election on the House of Representatives furnishing much aid in support of his proposed amendment. Had I resorted to it in support of my amendment to cause the election to be decided by plurality of votes, I should have thought it conclusive; but that the gentleman should attempt to enlist it in support of his, is truly astonishing. What, sir, when on that occasion an attempt was made disgraceful, wicked, and alarming, to place a President in office who had not received one vote for that office, and thirty odd ballots were taken before the question was decided, a question which depended upon the fidelity of one or two individuals representing States which gave them one vote, what can create more surprise than that an incident of this kind should be brought into view, in support of an amendment the inevitable consequences of which will be, as I have already attempted to show, frequently to produce the possibility, at least, of a similar scene? I would to God that over this melancholy part of our annals the mantle of forgetfulness could forever rest; but as that is a desperate hope, let us, if possible, draw good out of evil, by profiting by the lesson it inculcates. Let us, instead of multiplying the chances of its recurrence apply a direct remedy, and cut up the evil by the roots.

As the honorable gentleman has justly and, I may add, without flattery, eloquently, depicted the consequences which were hanging on that event, it behooves him to unite with me in interposing barriers against its repetition. Here it is that intrigue will address itself. One man may be corrupted—millions cannot. That corruption did not take place, and, as a consequence, that Burr was not elected as President, was not because the tempter did not present himself, but because there were, at that time, no Judases to accept the bribe. For we have been told by a then member, in a public memorial at this session, that the chief priests offered him not thirty but some hundred pieces of silver, not indeed to betray the Saviour of mankind, but, what was only second in importance, the political salvation of this country, and, with it, that of the world. If the prophecy of the gentleman should be fulfilled, that, as we advance in age, we shall advance in corruption, under similar circumstances some Iscariot may be found who will sell his soul to perdition and his country to ruin. I will submit therefore to the decision of the Senate, without further comment, whether the amendment I propose, or that of the gentleman's, is most likely to protect us from a repetition of this disgraceful scene. The honorable gentleman has endeavored to excite our alarms by representing that, with the expansion of the Republic, intrigue will increase, and its effects be more violent and destructive. We have been presented with our future fate in the catastrophe of Rome. I abhor, as sincerely as the gentleman from New Jersey or any other, every species of intrigue; yet I will not surrender myself to any unnecessary fears from the example of ancient times; there is no point of resemblance; here, power is distributed through an almost boundless empire; there, it was confined to a single city filled with fit materials on which for the ambitious demagogue to act. To gain an ascendency in Rome was to conquer the world; here, however, though our metropolis might be agitated, if Cæsar himself were to be the master spirit by which it was produced, its effect on this great Republic would be as impotent as the zephyr playing on the bosom of that ocean which prescribes our limits to the West.

The honorable gentleman, with a prophetic spirit, though I pray God not a true one, has concluded his remarks by exhibiting a frightful picture of our ultimate destiny, in the execution of which he has dipped his pencil in colors of the darkest dye—a corrupt people, a servile Representation, a timid Senate, like that of Tiberius, recording edicts only of blood to gratify the tyrant in the person of some successful military chieftain; these, he tells us, are the dreadful consequences of a rejection of his proposition. If this is the condition which, under any circumstances, awaits us, it is but idle to deliberate upon Constitutional questions. The successful usurper will give himself but little trouble in consulting its provisions—his sword, like that of Alexander's, will cut the gordian knot. It is to this instrument he will appeal for the extent of his powers. To these unhallowed auguries, I make this reply: That, if it be the will of Providence to give up this happy land, this last abode of freedom, to become a den of despots, and to surrender to their ruthless hands that liberty, without which life ceases to be a blessing, then, I pray, most fervently pray, the great disposer of

events, that the day which witnesses their realization, may be that which shall produce the long foretold and awful curse denounced against all terrestrial things—"Time is no more."

When Mr. B. had concluded, Mr. FORSYTH rose and opposed the resolution at considerable length. The resolution having been amended, the question was taken on ordering it to be engrossed, and read a third time, and decided in the affirmative—yeas 28, nays 11, as follows:

YEAS—Messrs. Burrill, Crittenden, Dickerson, Eaton, Edwards, Fromentin, Goldsborough, Hunter, Johnson, King, Lacock, Macon, Mellen, Morril, Morrow, Noble, Otis, Palmer, Sanford, Smith, Stokes, Storer, Talbot, Thomas, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Barbour, Daggett, Eppes, Forsyth, Gaillard, Horsey, Leake, Roberts, Ruggles, Tait, and Taylor.

THURSDAY, January 14.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs to whom the subject was referred, reported a bill for the relief of John A. Dix; and the bill was read, and passed to the second reading.

Mr. FORSYTH submitted the following motion for consideration:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of prescribing by law the mode of quartering soldiers, during war, in the houses of citizens, when the public exigencies may make it necessary, and the mode by which private property may be taken for public use; designating, particularly, by whose orders property may be taken, the manner of ascertaining its value, and the mode by which the owner shall receive, with the least possible delay, the just compensation for the same, to which he is entitled by the Constitution of the United States.

Mr. SANFORD submitted the following motion for consideration:

Resolved, That, in lieu of the nineteenth of the standing rules of the Senate, the following shall henceforth be one of the standing rules of the Senate.

"All bills, on a second reading, shall first be considered by the Senate in the same manner as if the Senate were in Committee of the Whole, before they shall be taken up and proceeded on by the Senate, agreeably to the standing rules, unless otherwise ordered.

"And when the Senate shall consider a treaty, bill, or resolution, as in Committee of the Whole, the Vice President, or President *pro tempore,* may call a member to fill the Chair during the time the Senate shall remain in Committee of the Whole; and the chairman, so called, shall, during such time, have all the powers of Vice President or President *pro tempore.*"

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Richard Bland Lee, and, in concurrence therewith, resolved that the prayer of the petitioner cannot be granted.

Mr. JOHNSON presented the memorial of a number of the inhabitants of Louisiana, praying the confirmation of certain titles to lands therein, as stated in the memorial; which was read, and referred to the Committee on Public Lands.

Mr. TAIT, from the Committee on Naval Affairs, to whom the subject was referred, reported a bill for the relief of John B. Timberlake; and the bill was read, and passed to the second reading.

ORGANIZATION OF THE COURTS.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges; and, on the question to agree to the following motion submitted by Mr. ROBERTS:

"That the bill be recommitted to the committee who reported it, with instructions to provide in the bill for the appointment of one or more additional justices of the Supreme Court; and so to alter the present divisions of the United States into circuits, as to provide for the more speedy administration of justice in the States of Tennessee, Kentucky, Louisiana, Indiana, Mississippi, and Illinois."

It was determined in the negative—yeas 11, nays 28, as follows:

YEAS—Messrs. Dickerson, Eppes, Forsyth, Lacock, Macon, Noble, Roberts, Sanford, Smith, Stokes, and Taylor.

NAYS—Messrs. Barbour, Burrill, Crittenden, Daggett, Eaton, Edwards, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Mellen, Morril, Morrow, Otis, Palmer, Ruggles, Storer, Tait, Talbot, Thomas, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

The bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, on the question, "Shall this bill be engrossed and read a third time?" it was determined in the affirmative—yeas 25, nays 14, as follows:

YEAS—Messrs. Burrill, Crittenden, Daggett, Eaton, Edwards, Forsyth, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Mellen, Morrow, Otis, Ruggles, Storer, Tait, Talbot, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Barbour, Dickerson, Eppes, Lacock, Macon, Morril, Noble, Palmer, Roberts, Sanford, Smith, Stokes, Taylor, and Thomas.

FRIDAY, January 15.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the bill for the relief of Samuel Ward, and also the bill entitled "An act for the relief of Samuel F. Hooker," reported the same respectively without amendment.

Mr. JOHNSON, from the Committee on Public Lands, to whom the subject was referred, reported a bill confirming Anthony Cavalier and Peter Petit, in their claims to a tract of land; and the bill was read, and passed to the second reading.

Mr. ROBERTS presented the petition of David Henly, late of Knoxville, Tennessee, praying compensation for a number of arms impressed

into the service of the United States, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. NOBLE presented the memorial of the Columbian United Abolition Society, praying the passage of an act more effectually to protect persons of color entitled to freedom; and the memorial was read, and referred to the committee appointed on the 15th of last month, on the resolution of the Senate respecting the slave trade, to consider and report thereon.

Mr. DAGGETT presented the petition of James Simpson, American Consul at Morocco, praying that he may be allowed for his services at the rate of four thousand dollars per annum, with house-rent in addition; and the petition was read, and referred to the Committee on Foreign Relations.

Mr. LACOCK, from the Committee on Pensions, to whom was referred the resolution of the Senate, directing an inquiry as to the propriety of extending the act of the last session relative to Revolutionary officers and soldiers, so as to provide for placing the warrant officers in the naval service on the same footing, as to the amount of pension, as other officers in that service; made a report, accompanied by the following resolution:

Resolved, That the committee be discharged from the further consideration of the subject.

The report and resolution were read.

Mr. LACOCK, from the same committee, who were directed to inquire into the expediency of increasing the pension of Caleb Austin, made a report, accompanied by a resolution, that the committee be discharged from the further consideration of the subject. The report and resolution were read.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the petition of Alexander Macomb, made a report, accompanied by the following resolution:

Resolved, That the prayer of the petitioner, so far as it relates to Stoney Island, ought to be granted.

The report and resolution were read.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Benjamin Pool;" a bill, entitled "An act for the relief of Henry Davis;" a bill, entitled "An act for the relief of Adam Kinsley, Thomas French, and Charles S. Leonard;" a bill, entitled "An act authorizing the payment of a sum of money to the officers and crews of gunboats number one hundred and forty-nine, and one hundred and fifty-four;" a bill, entitled "An act concerning the heirs and legatees of Thomas Turner, deceased;" and also a bill, entitled "An act for the relief of Kenzie and Forsyth," in which bills they request the concurrence of the Senate.

The six bills last mentioned were read, and severally passed to the second reading.

On motion by Mr. LACOCK, it was agreed to reconsider the vote of the Senate, on engrossing and passing to a third reading, the resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of Representatives in the Congress of the United States; and the consideration of the same having been resumed, as in Committee of the Whole:

On motion by Mr. BARBOUR,

"That the resolution be referred to a select committee, with instructions so to modify it, that, in the event of the happening of any of the contingencies in the Constitution, by which the election devolves on the House of Representatives, the choice of President shall be made by plurality of votes and not by States;"

It was determined in the negative—yeas 6, nays 32, as follows:

YEAS—Messrs. Barbour, Eppes, Roberts, Ruggles, Sanford, and Taylor.

NAYS—Messrs. Burrill, Crittenden, Daggett, Dickerson, Eaton, Edwards, Forsyth, Fromentin, Gaillard, Goldsborough, Hunter, Johnson, King, Lacock, Leake, Macon, Mellen, Morril, Morrow, Noble, Otis, Palmer, Smith, Stokes, Storer, Tait, Talbot, Thomas, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

The resolution having been amended—

On motion, by Mr. OTIS, it was recommitted to a select committee, to consist of five members, further to consider and report thereon; and Messrs. DICKERSON, KING, MACON, EDWARDS, and BARBOUR, were appointed the committee.

The amendment to the resolution for the distribution of Seybert's Statistical Annals, and directing Pitkin's Commercial Statistics to be deposited in the library, having been reported by the committee correctly engrossed, the resolution was read a third time as amended, and passed.

Mr. GOLDSBOROUGH, from the committee to whom was recommitted the resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where they now lie, with instructions, and in conformity therewith, reported a bill to erect an Equestrian Statue of General WASHINGTON, in the Capitol Square; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the motion of the 14th instant, for altering and amending the nineteenth of the standing rules of the Senate; and agreed thereto.

The Senate adjourned to Monday.

MONDAY, January 18.

Mr. GAILLARD presented the memorial of Archibald B. Lord, and others, in behalf of the officers and crew of the United States cutter Boxer, praying that one-fourth of the proceeds of the brig Diana, and her cargo, libelled and condemned for a violation of the non-intercourse law, may be distributed among them, for reasons stated at large in the memorial; and the memorial was read, and referred to the Committee on Naval Affairs, to consider and report thereon.

Mr. BURRILL presented the memorial of a number of the inhabitants of New Bedford, in the State of Massachusetts, praying amendments to the acts prohibiting the importation of slaves.—Referred to the committee appointed to consider the subject on the 15th December last.

Mr. TAYLOR presented the petition of Edward Pyle, of Crawford county, State of Indiana, praying permission to withdraw his entry of a section of land, and that the sum paid therefor may be placed to his credit, on account of a section subsequently entered; and the petition was read, and referred to the Committee on Public Lands.

Mr. LACOCK, from the Committee on Pensions, to whom was referred the bill, entitled "An act respecting invalids," reported the same without amendment.

Mr. EPPES, from the Committee on Finance, to whom was referred the bill, entitled "An act to authorize the payment, in certain cases, on account of Treasury notes, which have been lost or destroyed," reported the same with an amendment; which was read.

Mr. EPPES, from the same committee, to whom the subject was referred, reported a bill for the relief of Joseph Thorne; and the bill was read, and passed to the second reading.

Mr. MACON communicated attested copies of two acts of the Legislature of the State of North Carolina, entitled "An act for removing logs, shoals, and other impediments in the Tar river, below the town of Washington, in the county of Beaufort, and for other purposes;" and "An act to amend an act, passed in the year 1816, entitled 'An act for removing logs, shoals, and other impediments in the Tar river, below the town of Washington, in the county of Beaufort, and for other purposes," requesting the consent of the Congress thereto; and also the report of the select joint committee of the Legislature of that State, to whom was referred so much of the Governor's Message as relates to the decision of the Supreme Court of the United States on the claim of that State, to perfect titles to certain lands within the State of Tennessee; and the acts and report were read.

Mr. EPPES, from the Committee on Finance, to whom was referred the petition of John Haslett, reported a resolution, that the prayer of the petitioner ought not to be granted. The resolution was read.

Mr. EPPES, from the same committee, to whom was referred the memorial of the St. Andrew's Society of Charleston, reported a resolution, that the prayer of the petition ought not to be granted. The resolution was read.

Mr. TICHENOR, from the committee, to whom the subject was referred, reported a bill for the relief of Daniel Pettibone; and the bill was read, and passed to the second reading.

The PRESIDENT communicated a report of the Secretary of the Treasury, made in obedience to the "Act of March 3d, 1809, further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," containing the several statements thereby required; and the report was read.

He also communicated a statement exhibiting the amount received by each clerk in the several offices of the Treasury Department, for services rendered during the year 1819; which was read.

The bill providing for a grant of land for the seat of government in the State of Mississippi, and for the support of a seminary of learning within the said State, was read the second time.

The bill for the relief of John A. Dix was read the second time.

The bill for the relief of John B. Timberlake was read the second time.

The bill to erect an Equestrian Statue of General WASHINGTON, in the Capitol Square, was read the second time.

The bill confirming Anthony Cavalier and Peter Petit in their claim to a tract of land, was read the second time.

The bill, entitled "An act for the relief of Henry Davis," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act for the relief of Benjamin Pool," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act for the relief of Adam Kinsley, Thomas French, and Charles S. Leonard," was read the second time, and referred to the same committee.

The bill, entitled "An act concerning the heirs and legatees of Thomas Turner, deceased," was read the second time, and referred to the same committee.

The bill, entitled "An act for the relief of Kenzie and Forsyth," was read the second time, and referred to the same committee.

The bill, entitled "An act authorizing the payment of a sum of money to the officers and crews of gunboats No. 149 and 154," was read the second time, and referred to the Committee on Naval Affairs.

The bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges, was read a third time; and the blanks having been filled, on the question, Shall this bill pass?" it was determined in the affirmative—yeas 22, nays 14, as follows:

YEAS—Messrs. Burrill, Crittenden, Daggett, Eaton, Edwards, Fromentin, Gaillard, Goldsborough, Hunter, Johnson, Leake, Mellen, Morrow, Otis, Ruggles, Storer, Tait, Talbot, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Barbour, Dickerson, Eppes, Lacock, Macon, Noble, Palmer, Roberts, Sanford, Smith, Stokes, Taylor, Thomas, and Wilson.

The Senate resumed the consideration of the report of the Committee of Claims, on the petition of Peter Lacoste; and the further consideration thereof was postponed until Monday next.

Mr. EPPES, from the Committee on Finance, to whom was referred the bill, entitled "An act making appropriations for the military service of the United States for the year 1819," reported the same with amendments; which were read.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Daniel Merril, made a report, accompanied by a resolution that the petitioner have leave to withdraw his petition. The report and resolution were read.

The Senate resumed the consideration of the

motion of the 11th instant, for information in relation to the business depending in the courts of the United States; and the same was agreed to, modified as follows:

Resolved, That the President of the United States be requested to cause to be laid before the Senate, at the commencement of their next session, accurate lists of all causes, which may be depending on the first day of September next, in the several district and circuit courts, and in the Supreme Court of the United States; distinguishing therein, civil and criminal cases; admiralty and maritime cases; suits between citizens of different States; suits to which the United States are parties, stating separately, suits for duties; original causes, and causes removed by appeal or writ of error; with the times of the commencement of the suits, in the several courts; and such other statements or explanations, as may appear to him proper, to exhibit the actual state and amount of the business depending in those several courts; together with a statement of the fees and emoluments of the marshals, district attorneys, clerks, and other officers of the district and circuit courts for the last two years, and the tables or rules by which such fees have been taxed.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Charles Higgins; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

TUESDAY, January 19.

Mr. SANFORD presented the memorial of the members of the various Religious Societies in New York, praying the adoption of such measures as may best promote the security, preservation, and improvement of the Indians; and the memorial was read, and referred to the Committee on Indian Affairs.

The bill for the relief of Joseph Thorne was read the second time.

The bill for the relief of Daniel Pettibone was read the second time.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Thomas Arnold; and the further consideration thereof was postponed until Tuesday next.

The Senate resumed the consideration of the report of the Committee on Pensions, relative to the extension of the provisions of the act of last session, providing for Revolutionary officers and soldiers; and in concurrence therewith, the committee were discharged from the further consideration of the subject.

The Senate resumed the consideration of the report of the Committee on Public Lands, to whom was referred the petition of Alexander Macomb; and, in concurrence therewith,

Resolved, That the prayer of the petitioner, so far as it relates to Stoney Island, ought to be granted.

Ordered, That the Committee on Public Lands be instructed to report a bill accordingly.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Daniel Merril; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the memorial of the St. Andrew's Society at Charleston; and the further consideration thereof was postponed until Friday next.

The Senate resumed the consideration of the motion of the 14th instant, for instructing the Committee on the Judiciary to inquire into the expediency of prescribing by law the mode of quartering soldiers during war, &c.; and it was ordered that the further consideration thereof be postponed until Friday next, and that it be printed for the use of the Senate.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to extend for a further term of five years, the pensions heretofore granted to the widows and orphans of the officers and soldiers, who died, or were killed in the late war;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning widows of the militia;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Samuel H. Harper;" and no amendment having been made, it was reported to the House, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning invalid pensions," together with the amendments reported thereto, by the Committee on Pensions; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making appropriations for the military service of the United States, for the year 1819," together with the amendment reported thereto by the Committee on Finance; and the further consideration thereof was postponed until to-morrow.

Mr. FROMENTIN submitted the following motion for consideration:

Resolved, That the rule adopted by the Senate, during the present session, the purport of which is to prevent the printing of any motion or resolution offered to the Senate, except on special order, be rescinded.

The PRESIDENT communicated a report from the Secretary of War, made in pursuance of the 5th section of the act of the 3d of March, 1809, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," showing the expenditure of money appropriated for the contingent expenses of the Military Establishment for the year 1818; and the report was read.

WEDNESDAY, January 20.

Mr. GOLDSBOROUGH presented the petition of Francis Le Baron, of New York, praying permission for himself and his associates to lease, for a term of years, from the Chippewa nation of Indians, residing on the south side of Lake Superior, a certain tract of country for the sole purpose of working any copper mines, which he has or may discover thereon, for reasons stated in the petition; which was read, and referred to the Committee on Commerce and Manufactures, to consider and report thereon.

Mr. NOBLE presented the memorial of the General Assembly of the State of Indiana, praying the appointment of an additional surveyor general, whose duties shall be confined to the superintendence of the public surveying in that State alone, for reasons set forth in the memorial; which was read, and referred to the Committee on the Public Lands.

Mr. DICKERSON presented the memorial and remonstrance of sundry citizens of the United States, residing in the State of New Jersey, praying amendments to the act prohibiting the importation of slaves, so as more effectually to prevent their introduction into the United States; and the memorial was read, and referred to the committee on the subject of the slave trade.

Mr. DICKERSON also presented the petition of William McFarland, late a corporal in the ninth regiment of infantry, praying an increase of pension, for reasons stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. DICKERSON also presented the petition of Rachael Sturgis, praying that provision may be made for the maintenance and education of the three orphan children of John T. Bentley, formerly a captain in the sixth regiment of infantry, who died in service in the year 1808, whilst under the command of General Wilkinson, in the vicinity of New Orleans, for reasons stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. DICKERSON also presented the petition of Ann Vreeland, and others, surviving executors of Nicholas Vreeland, deceased, praying payment for a certificate issued in 1778, to the deceased, by Benjamin Thompson, commissioner for the State of New Jersey, for two hundred and forty-five dollars and sixty-six cents, bearing interest from 1st of January of that year, which was accidentally destroyed; and the petition was read, and referred to the Committee of Claims.

On motion of Mr. RUGGLES, the Committee on the Public Lands were instructed to inquire into the expediency of making provision, by law, for the division of the territories recently ceded by the Indians, in the States of Ohio, and Indiana, into suitable districts, and for the establishment of land offices for the sale thereof.

Mr. EPPES, from the Committee of Finance, to whom was referred the bill, from the House of Representatives, entitled "An act directing the payment of certain bills drawn by General Armstrong, in favor of William Morgan," reported the same without amendment.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the bill, from the House of Representatives, entitled "An act authorizing the payment of a sum of money to the officers and crews of gunboats No. 149 and 154," reported the same without amendment.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of B. and P. Jourdan, made a report, accompanied by a bill for the relief of B. and P. Jourdan, brothers; and the report and bill were read, and the bill passed to the second reading.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the petition of Alexander McCormick, made a report, accompanied by a resolution that the prayer of the petitioner ought not to be granted; and the report and resolution were read.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the petition of Jacob Purkhill, made a report, accompanied by a resolution that the petitioner have leave to withdraw his petition; and the report and resolution were read.

Mr. STORER submitted the following motion for consideration:

Resolved, That the Committee on Finance be, and hereby are, instructed to inquire into the expediency of so altering the amount of compensation to certain collectors of the customs, as shall make the same more commensurate with the duties required of them.

The Senate resumed the consideration of the report of the Committee on Pensions, on the propriety of placing Caleb Austin on the pension list; and the consideration thereof was further postponed to Monday next.

The Senate resumed the consideration of the report of the Committee of Finance, on the petition of Nathaniel Goddard, and others; and the consideration thereof was further postponed until to-morrow.

The Senate proceeded to consider the motion submitted yesterday by Mr. FROMENTIN, to rescind a late rule of the Senate respecting the printing; and it was postponed until to-morrow.

The bill from the House of Representatives, entitled "An act for the relief of Samuel H. Harper," was read the third time, and passed.

The Senate resumed the consideration of the report of the Committee on Military Affairs, on the expediency of providing, by law, for clothing the Army of the United States in domestic manufactures, together with the motion to recommit the same, submitted by Mr. RUGGLES; and, on request, Mr. R. obtained leave to withdraw said motion.

On motion, by Mr. LACOCK, the further consideration of the report was postponed to the 4th day of March next.

On motion, by Mr. RUGGLES,

Resolved, That the President of the United States be requested to cause a report to be laid before the Senate, at their next session, of such facts as it may be within the means of the Government to obtain, showing how far it may be expedient or not, to pro-

vide, by law, for the clothing of the Army with articles manufactured in the United States.

THURSDAY, January 21.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act explanatory of the act, entitled 'An act for the final adjustment of land titles in the State of Louisiana and Territory of Missouri;" a bill, entitled "An act making provision for the claim of M. Poirey;" a bill, entitled "An act making provision for the claim of M. de Vienne;" a bill, entitled "An act supplementary to the act, entitled 'An act to authorize and empower the President and Managers of the Washington Turnpike Company of the State of Maryland, when organized, to extend and make their turnpike road to or from Georgetown, in the District of Columbia, through the said District, to the line thereof;" and also a bill, entitled "An act allowing further time to complete the issuing and locating of land warrants;" in which bills they request the concurrence of the Senate.

The five bills last mentioned were read, and severally passed to the second reading.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, reported a bill for the better organization of the Military Academy; and the bill was read, and passed to the second reading.

Mr. WILLIAMS also communicated an estimate of the increased expense of the Military Academy, proposed by said bill; which was read.

Mr. WILSON presented the petition of James Greene and Company, manufacturers of copperas, in New Jersey, praying an increase of duty on the importation of copperas; and the petition was read, and referred to the Committee on Commerce and Manufactures, to consider and report thereon.

Mr. RUGGLES presented the petition of John Anderson, of the Territory of Michigan, praying compensation for property destroyed during the late war, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. TAYLOR presented the memorial of the trustees of the Vincennes University, praying for the sale of the remainder of the seminary lands in Gibson county, as stated in the memorial; which was read, and referred to the Committee on Public Lands.

The PRESIDENT also communicated the petition of Cornelia Schoonmaker, administratrix, and Peter Marius Greene, administrator of the estate of Zachariah Schoonmaker, praying relief in the settlement of the deceased's accounts, as paymaster of the second regiment of the United States volunteer artillery; and the petition was read, and referred to the Committee of Claims.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Kenzie and Forsyth," reported the same with an amendment; which was read.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the bill, entitled "An act for the relief of Adam Kingsley and Thomas French," reported the same without amendment.

The Senate resumed the consideration of the motion of the 19th instant, "That the rule adopted by the Senate during the present session, the purport of which is to prevent the printing of any motion or resolution offered to the Senate, except on special order, be rescinded;" and, on the question to agree thereto, it was determined in the negative.

On motion, by Mr. EPPES, the Committee on Pensions were instructed to inquire into the expediency of placing Peter Francisco on the list of United States pensioners.

Mr. MORROW, from the Committee on Public Lands, pursuant to instructions, reported a bill confirming the claim of Alexander Macomb, to a tract of land in the Territory of Michigan; and the bill was read, and passed to the second reading.

Mr. MACON presented the petition of Benjamin Putney, praying relief on account of his services in the Revolutionary war; and the petition was read, and referred to the Committee of Claims.

Mr. MORROW presented three memorials of a number of the inhabitants of Ohio, praying the adoption of measures for the improvement of the Indians; and the memorials were read, and referred to the Committee on Indian Affairs.

The Senate resumed the consideration of the motion of the 20th instant, for instructing the Committee on Finance to inquire into the expediency of altering the amount of compensation to certain collectors of the customs; and agreed thereto.

The Senate resumed the consideration of the report of the Committee on Finance, on the petition of Nathaniel Goddard, and others; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Thomas B. Farish," together with the amendment reported thereto by the Committee of Claims; and the amendment having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the bill read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes; and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further to extend the judicial system of the United States; and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

MILITARY ROADS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making appropriations for the military service of the United States for the year 1819," together with the amendments reported thereto by the Committee on Finance; the second amendment having been agreed to; and,

On the question to agree to the first amendment reported as follows: "Strike out the 19th, 20th, and 21st lines to wit: For extra pay to non-commissioned officers and soldiers, employed in the construction and repairs of military roads, ten thousand dollars;" it was determined in the negative—yeas 18, nay 18, as follows:

NAYS—Messrs. Barbour, Daggett, Eaton, Eppes, Gaillard, Goldsborough, Leake, Macon, Mellen, Morril, Palmer, Roberts, Smith, Stokes, Talbot, Tichenor, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Crittenden, Dickerson, Forsyth, Fromentin, Hunter, Johnson, Lacock, Morrow, Noble, Otis, Ruggles, Sanford, Storer, Tait, Taylor, Thomas, Van Dyke, and Wilson.

The VICE PRESIDENT gave the casting vote. The following is a sketch of the remarks with which he prefaced his vote on this occasion:

If the clause proposed to be expunged embraced the Constitutional question which has been made the subject of discussion in the Committee, I should deem this decision of great responsibility and importance. But I do not perceive that this, or any other Constitutional principle, is involved in the clause under consideration. It imparts no new powers, nor gives any definite directions to the Executive Department of the Government, with regard to fatigue duty of the army or military roads; but merely appropriates ten thousand dollars to pay the non-commissioned officers and privates of the army for that portion of their labor which may be performed on military roads in 1819. The proper department will, of course, be governed in the expenditure of that sum by a just construction of the clause with reference to the objects of the bill to the Constitution of the United States, and to the provisions of previously existing laws.

Even if the opinion were tenable, that no antecedent laws have vested the President of the United States with a discretion of devoting a part of the fatigue duty of the army, or of appropriations for the Quartermaster's department, to the formation or repair of military roads, this clause would be unobjectionable and harmless; because no lawful application of the money granted by it could take place until further legislative provision should be made on the subject.

Without insisting on the Constitutional prerogatives of the President of the United States, as Commander-in-Chief of the Army and Navy, or upon the express powers to make public roads through Indian territory and elsewhere, frequently granted by Congress, the Legislature of the nation has repeatedly conferred the authority of applying the labor of the Army and general appropriations to the objects contemplated in this section; for, when they give to the Executive plenary powers to effect any certain and legal public object, the right to employ all lawful means to accomplish that object is necessarily implied and conferred. Thus the law which enjoins on the President the erection of fortifications, implies and comprehends the right to procure the title and jurisdiction of eligible sites; to build wharves, bridges, and edifices; to improve the navigation of waters, and to open or repair the roads, indispensable to the occupation of those sites, for the accommodation of the persons employed in the works, and for the conveyance and landing of materials to construct, munitions to equip, of troops to garrison, and of provisions to supply those fortifications. Roads of this description are military roads, within the purview of the bill before the committee. In like manner, under the laws which impose on the Executive the duty of guarding and securing our remote frontier, when it becomes indispensable to that end to occupy posts on Indian tracts, or beyond inhabited territory, the right to open and make roads of access to such posts is clearly implied and granted. These, also, may be denominated military roads, on which this appropriation may, with propriety, be expended. In various other instances similar powers are incidental to, and comprehended in, general provisions. In this community none other can be tolerated, at the present time, as military roads, than such as may be made by the Army, and are indispensable to the accomplishment of some present military object, sanctioned by the Constitution and the laws already enacted. In pursuance of this exposition, without any express provision for the purpose, a part of the labor of the Army, and of the general appropriation for the Quartermaster's department, have been judiciously, and, in my opinion, legally, devoted, for a number of years past, to the construction and repair of roads of this description. To such roads, and to such only, the Executive, on a sound and legal construction of the section, notwithstanding its departure, in phraseology, from the grants of money heretofore made for, and applied to, the same purposes, will be restricted in the application of this appropriation. If that be conceded to be the extent of the import of the clause before us, there can be no solid objection to its retention in the bill; and I therefore request the Secretary to take my decision, of the motion to strike out, in the negative.

FRIDAY, January 22.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the bill, entitled "An act making appropriations for the support of the Navy of the United States for the year 1819," reported the same with amendments; which were read.

Mr. STOKES, from the Committee on the Post Office and Post Roads, to whom the subject was referred, reported a bill to repeal part of an act passed on the 27th day of February, 1813, entitled "An act in addition to an act regulating the

Post Office Establishment;" and the bill was read, and passed to the second reading.

The bill entitled "An act making provision for the claim of M. Poirey," was read the second time, and referred to the Committee of Claims.

The bill entitled "An act supplementary to the act entitled 'An act to authorize and empower the President and Managers of the Washington Turnpike Company, of the State of Maryland, when organized, to extend and make their turnpike road to or from Georgetown, in the District of Columbia, through the said District, to the line thereof,'" was read the second time, and referred to the Committee for the District of Columbia.

The bill entitled "An act allowing further time to complete the issuing and locating of military land warrants," was read the second time, and referred to the Committee on Public Lands.

The bill entitled "An act making provision for the claim of M. de Vienne," was read the second time, and referred to the Committee of Claims.

The bill entitled "An act explanatory of the act entitled 'An act for the final adjustment of land titles in the State of Louisiana and Territory of Missouri,'" was read the second time, and referred to the Committee on Public Lands.

The bill for the relief of B. and P. Jourdan, brothers, was read the second time.

The bill confirming the claim of Alexander Macomb to a tract of land in the Territory of Michigan, was read the second time.

Mr. ROBERTS presented the memorial of a number of the inhabitants of Philadelphia, praying amendments to the act prohibiting the importation of slaves into the United States; and the memorial was read, and referred to the committee appointed on the 15th of last month, on that subject, to consider and report thereon.

Mr. ROBERTS, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of Michael Hogan; and the bill was read, and passed to the second reading.

Mr. ROBERTS, from the same committee, to whom was referred the petition of Thomas L. Ogden, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. PALMER presented the petition of Otho Stephens, of Vermont, praying a pension; and also the petition of Experians Fisk, of Vermont, praying for a pension; and the petitions were severally read, and referred to the Committee on Pensions.

Mr. MORRIL, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Benjamin Pool," reported the same without amendment.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the memorial of the St. Andrew's Society of Charleston; and the further consideration thereof was postponed until Monday next.

Mr. GOLDSBOROUGH, from the Committee for the District of Columbia, to whom was referred the bill, entitled "An act to incorporate a company to build a bridge over the Eastern Branch of the Potomac, from the southern termination of Eleventh street east, in the city of Washington," reported the same without amendment.

Mr. MORROW presented the petition of Jacob Cooper, praying relief in consideration of an erroneous entry of a certain quarter section of land, as stated in the petition; which was read.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Alexander McCormick; and, in concurrence therewith, resolved that the prayer of the petitioner ought not to be granted.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act supplementary to the act, entitled 'An act to provide for the prompt settlement of public accounts;" and also a bill, entitled "An act authorizing the Postmaster General to contract, as in other cases, for carrying the mail in steamboats between New Orleans, in the State of Louisiana and Louisville, in the State of Kentucky;" in which bills they request the concurrence of the Senate.

The said bills were read, and passed to the second reading.

Mr. MACON submitted the following motion for consideration:

Resolved, That the Committee of Claims be instructed to inquire into the expediency of reporting a bill to provide for the payment of slaves impressed into the public service, and lost in the said service.

Mr. DICKERSON, from the committee to whom was referred the resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, reported the same with amendments; which were read.

Mr. LACOCK submitted the following motion for consideration:

Resolved, That the Secretary of the Senate be directed to procure and cause to be printed —— copies of the documents accompanying the report of the committee of the House of Representatives on the subject of the National Bank; provided the same can be procured at the usual rate of allowance for printing similar documents.

Mr. EDWARDS presented the petition of John Hay and others, citizens of the village of Cahokia, praying the confirmation of the title in fee simple estate of certain land laid off as a common of said village, whereon a town has been laid off, named "Illinois City;" and the petition was read, and referred to the Committee on Public Lands.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Henry Davis," reported the same without amendment.

The amendment to the bill, entitled "An act for the relief of Thomas B. Farish," having been reported by the Committee correctly engrossed, the bill was read a third time as amended, and passed.

The Senate resumed, as in Committee of the

Whole, the consideration of the bill, entitled "An act making appropriations for the military service of the United States for the year 1819;" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, they were ordered to be engrossed and the bill be read a third time as amended.

Mr. EPPES, from the Committee on Finance, communicated sundry estimates of moneys required for the expenses of the War Department and military service of the United States for the year 1819; which were read.

PETITION OF JACOB PURKHILL.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Jacob Purkhill.

Mr. CRITTENDEN proposed the following as an amendment:

Resolved, That the prayer of the petitioner ought to be granted, and that the Committee of Claims be instructed to bring in a bill for his relief.

On motion by Mr. MACON, to substitute the following for the latter clause thereof, "that the Committee of Claims be, and they are hereby, instructed to bring in a bill providing for the payment of slaves lost to their owners, by being impressed into the military service of the United States," it was determined in the negative—yeas 12, nays 22, as follows:

YEAS—Messrs. Eppes, Forsyth, Fromentin, Johnson, Lacock, Macon, Roberts, Ruggles, Smith, Stokes, Tait, and Williams of Mississippi.

NAYS—Messrs. Burrill, Crittenden, Daggett, Dickerson, Eaton, Edwards, Goldsborough, Hunter, Leake, Mellen, Morril, Otis, Palmer, Sanford, Storer, Talbot, Taylor, Thomas, Tichenor, Van Dyke, Williams of Tennessee, and Wilson.

The question recurring on Mr. CRITTENDEN'S proposition, it was determined in the affirmative—yeas 24, nays 11, as follows:

YEAS—Messrs. Crittenden, Daggett, Eaton, Edwards, Eppes, Forsyth, Fromentin, Gaillard, Goldsborough, Johnson, Leake, Macon, Mellen, Otis, Palmer, Sanford, Stokes, Tait, Talbot, Taylor, Thomas, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Burrill, Dickerson, Hunter, Lacock, Morril, Roberts, Ruggles, Smith, Storer, Tichenor, and Wilson.

So it was resolved, that the prayer of the petitioner ought to be granted, and that the Committee of Claims be instructed to bring in a bill for his relief.

The Senate adjourned to Monday.

MONDAY, January 25.

On motion of Mr. WILLIAMS, of Tennessee, the President of the United States was requested to cause to be laid before the Senate a copy of the rules and regulations adopted for the government of the Military Academy at West Point. Also, how many cadets have been admitted into the Academy; the term of the residence of each cadet at that institution; and how many of them have been appointed officers in the Army and Navy of the United States.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the bill, entitled "An act concerning the heirs and legatees of Thomas Turner, deceased," reported the same without amendment.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the petition of Robert Sewall, made a report, accompanied by a resolution that the prayer of the petitioner ought not to be granted. The report and resolution were read.

Mr. WILSON presented the memorial of a number of citizens of the United States, residing in the city of Trenton, and State of New Jersey, praying amendments to the acts prohibiting the importation of slaves into the United States; and the memorial was read, and referred to the committee appointed on the 15th of last month, on the subject of the slave trade.

Mr. RUGGLES submitted the following motion for consideration:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law for the establishment of a district court within the Territory of Michigan.

Mr. ROBERTS submitted the following motion for consideration:

Resolved, That the Committee on the Judiciary be, and they are hereby, instructed to inquire into the expediency of placing all criminal prosecutions and suits in which the United States shall be a party, and the officers of the United States who commence such suits and prosecutions, under the supervision and direction of the Attorney General; and whether it be expedient to provide for the appointment of an Assistant Attorney General, who shall perform the duties of District Attorney, and such other duties as may be assigned him by law.

Mr. GAILLARD presented the petition of Henry Ingraham, and others, praying to be exonerated from the payment of interest on a balance due the Government, for reasons stated in the petition; which was read, and referred to the Committee of Claims.

The bill entitled "An act supplementary to the act, entitled 'An act to provide for the prompt settlement of public accounts,'" was read the second time, and referred to the Committee on Finance.

The bill entitled "An act authorizing the Postmaster General to contract, as in other cases, for carrying the mail in steamboats, between New Orleans, in the State of Louisiana, and Louisville, in the State of Kentucky," was read the second time, and referred to the Committee on the Post Office and Post Roads.

The bill for the better organization of the Military Academy was read the second time.

The bill for the relief of Michael Hogan was read the second time.

The bill to repeal part of an act passed on the twenty-seventh day of February, 1813, entitled "An act in addition to 'An act regulating the

Post Office Establishment," was read the second time.

Mr. EPPES, from the Committee on Finance, to whom the subject was referred, reported a bill to continue in force an act regulating the currency within the United States of the gold coins of Great Britain, France, Portugal, and Spain, and the crowns of France and five franc pieces; and the bill was read, and passed to the second reading.

Mr. EPPES, from the same committee, communicated sundry documents in relation to the same subject, which were read.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of the heirs of Edward McCarty; and the bill was read, and passed to the second reading.

Mr. GOLDSBOROUGH, from the same committee, pursuant to instructions, reported a bill for the benefit of Jacob Purkhill; and the bill was read, and passed to the second reading.

The amendments to the bill, entitled "An act making appropriations for the military service of the United States for the year 1819," having been reported by the committee correctly engrossed, the bill was read a third time, as amended, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making appropriations for the support of the Navy of the United States for the year 1819," together with the amendments reported thereto by the Committee on Naval Affairs; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time, as amended.

The Senate resumed the consideration of the report of the Committee of Commerce and Manufactures, to whom was referred the memorial of Nicholas Brown and Thomas P. Ives, and concurred therein.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Peter Lacoste; and in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Thomas I. Ogden; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the memorial of the St. Andrew's Society of Charleston; and, in concurrence therewith, resolved that the prayer of the petition ought not to be granted.

The Senate resumed the consideration of the motion of the 22d instant, for instructing the Committee of Claims to inquire into the expediency of reporting a bill to provide for the payment of slaves impressed into the public service, and lost in the said service; and agreed thereto.

The Senate resumed the consideration of the motion of the 22d instant, for printing certain documents; and the same having been amended, was agreed to as follows:

Resolved, That the Secretary of the Senate be directed to procure and cause to be printed five hundred copies of the report and of the documents accompanying the report of a committee of the House of Representatives on the subject of the National Bank: *Provided*, The same can be procured at the usual rate of allowance for printing similar documents.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig Syren;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further to extend the judicial system of the United States; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Daniel Renner and Nathaniel H. Heath," together with the amendment reported thereto by the Committee of Claims; and the amendment having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the bill be read a third time, as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes; and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to extend the jurisdiction of the circuit courts of the United States, to cases arising under the law relating to patents; and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Sampson S. King," together with an amendment reported thereto by the Committee of Claims; and the amendment having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the bill be read a third time, as amended.

Mr. MELLEN submitted the following motion for consideration:

Resolved, That the Committee on Finance be instructed to inquire whether it is expedient to make

any alteration of, or addition to, the act passed on the 18th of January, 1815, entitled "An act to provide additional revenues for defraying expenses of Government, and maintaining the public credit, by laying a direct tax upon the United States, and to provide for assessing and collecting the same.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill respecting the location of certain sections of land to be granted for the Seat of Government, in the State of Indiana; and the bill was read, and it passed to the second reading.

Mr. MORROW, from the same committee, to whom was referred the petition of William Bell, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. MORROW, from the same committee, to whom was referred the petition of William N. Perry and Mark Barnett, made a report, accompanied by a resolution, that the petitioners have leave to withdraw their petition. The report and resolution were read.

Mr. LACOCK presented the petition of James Brady, of Pennsylvania, praying the renewal of two warrants for Revolutionary bounty lands, stated to have been deposited by his order, in the Land Office, and which cannot now be found; and the petition was read, and referred to the Committee on Public Lands.

On motion by Mr. EPPES, the Committee on Military Affairs were instructed to prepare and report a bill to regulate the compensation and other allowances made to officers and soldiers employed on fatigue duty.

EXPORTATION OF DOMESTIC COINS.

Mr. TALBOT, from the Committee on Finance, to whom was referred a resolution of the Senate to inquire into the expediency of prohibiting by law the exportation of the gold, silver, and copper coins of the United States, made the following report, which was read:

The Committee on Finance, to whom was referred a resolution to inquire into the expediency of prohibiting by law the exportation of the gold, silver, and copper coins of the United States, report:

That, the measure contemplated in the resolution intimately connecting itself with the fiscal concerns of the nation, the committee, through their chairman, addressed a note to the Secretary of the Treasury, requesting his opinion of the propriety of adopting measures for the attainment of the object in contemplation, from whom they received in reply a communication, which accompanies this report, with the arguments and opinions expressed in which, those of your committee substantially correspond.

Of the inefficiency, if not entire impotence of legislative provisions to prevent the escape of the precious metals beyond the territorial limits of the Government, the history of all countries in which the power of legislation has been thus exercised, bears testimony. And, if all the efforts of arbitrary power in despotic Governments, if regulations dictated by the most cautious and jealous policy, guarded by penalties and punishments the most cruel and sanguinary, and enforced with a rigor which knows no mitigation, have been in vain, what hope can be indulged that a Government like ours—the genius and spirit of which breathes mildness and moderation—a country in which cruel and unusual punishments are unknown—could find the means of obtaining, by this mild spirit of legislation, this desirable end? Indeed, no error seems more entirely renounced and exploded, if not by the practice of all nations, at least in the disquisitions of political economists, than that which supposed that an accumulation of the precious metals could be produced in the dominions of one sovereign by regulations prohibiting their exportation to those of any other. The evils resulting to the community from a scarcity, or too small a portion of the precious metals, seem to your committee to be too deeply seated to yield to any remedies within the competency of legislation to afford. It is a malady which admits of no cure but that of time, patient industry, and persevering economy. As long as the balance of trade is against us, so long will a constant efflux of the precious metals be required for the discharge of such balance.

From this axiom in commerce, the correctness of which, it is believed, never was questioned, it follows that it remains with the people themselves to adjust this balance, and to produce a preponderance in favor of our own country. Highly favored as they are by the bounty of Providence; blessed with a country of unparalleled fertility; with soil, climate, and situation almost infinitely diversified; with capacities of rivalling every quarter of the globe in the agricultural productions, as well as in the perfection of their manufactures, raw materials for which are so abundantly furnished them within the bosom of their own country; aided by a moderate and wise economy in a limited enjoyment of foreign luxuries—with these advantages, duly appreciated and fully improved, to what elevated condition in their intercourse with foreign nations may they not aspire? To the protection of our domestic manufactures by the imposition of duties on foreign importations, the National Government seemed to have gone as far as sound policy would warrant or permit; the present tariff having been framed with a view as well of raising the requisite supply of revenue for the support of Government, as, by the amount of the duties imposed on foreign articles of manufacture, to enable our own manufacturer of similar articles to meet the importer of such foreign manufactures, in our own market, on terms of fair and equal competition.

Further than this, it would seem to your committee, the Congress of the United States ought not to go. To commercial enterprise, to the sagacity of this class of the community, sharpened by the keen sense of interest, and enlightened by long experience, it should be left to explore the old, or, seeking new channels of commerce, find out the most profitable markets for the productions of our native and domestic industry, and to bring us in exchange such of the productions of foreign climates, and of foreign labor, as our citizens are willing to purchase. In short, it is the opinion of your committee that commerce is always destined to flourish most where it is permitted to pursue its own paths, marked out by itself, embarrassed as little as possible by legislative regulations or restrictions.

From these considerations your committee are induced to recommend the adoption of the following resolution:

Resolved, That it is not expedient for Congress to adopt any regulations for preventing the exportation of the gold, silver, or copper coins of the United States.

TREASURY DEPARTMENT, *Dec.* 29, 1818.

SIR: In reply to your letter, enclosing the resolution of the Senate, of the 2d instant, instructing the Committee of Finance "to inquire into the expediency of prohibiting the exportation of the gold, silver, and copper coins of the United States," I have the honor to state that, from the best consideration which I have been able to bestow upon the subject, it would be inexpedient to adopt the measure at this time: 1st, because it cannot be rendered effectual; and 2d, that, so far as it may be rendered effectual, it will operate in favor of the corrupt part of the community, and injuriously to the fair and conscientious merchant. The latter position is so manifestly true, that no argument will be offered in its favor.

In support of the first position, the experience of other States furnishes the most irrefutable evidence. During the dark ages, and those which immediately followed the revival of letters, arts, and commerce, in Europe, the exportation not only of the current coin of the respective States, but of the precious metals generally, was prohibited, under the most sanguinary penalties. This general prohibition, yielding to the progress of reason, and to the advancement made in the science of political economy during the seventeenth and eighteenth centuries, has been gradually reduced in most of the States of modern Europe, to the gold and silver coins of the respective States. According to the testimony of the most enlightened men of every State, for the last century, the absolute inefficacy of this modified prohibition, as a permanent measure, has been satisfactorily established.

By the immutable laws of commerce, the exportation of the precious metals must necessarily depend upon the general balance of trade, in despite of any municipal regulation which human ingenuity can devise, or human power execute, short of wresting from individuals the possession of it. As a general principle, it may be safely asserted, that the State which imports merchandise to a greater amount than it exports, must pay the balance in the precious metals. In free States, where public credit is firmly established, and moneyed institutions founded upon just principles, and wisely administered, it is admitted that balances may be for some time adjusted without the aid of specie, by transferring to the creditor interest-bearing securities, such as funded debt and bank stock. It needs, however, no effort of reason to determine that this means of adjusting balances must not only be limited in its extent, but injurious to the party which resorts to it, as it uniformly tends to increase and perpetuate the balance to the extent of the interest which is annually payable to the creditor.

But it may possibly be contended, that however inefficient the measure may be, as a permanent regulation, yet there are conjunctures in the affairs of every State which not only justify, but imperiously require its temporary adoption.

It cannot be denied that the history of our own Government strongly countenances this distinction. During the embargo of 1807–'8, and that of 1812, the exportation of specie of every description was rigidly prohibited by law. Admitting, for the purpose of this inquiry, the correctness of this decision, it may be proper to determine whether our political or commercial relations with foreign States, or our internal affairs, presents a case which calls for the temporary adoption of the measure. According to general appearances, it is believed that our relations with foreign States have at no period of our national existence furnished less cause of inquietude.

The vexations to which our commerce was subjected by the principal belligerent nations, prior to the commencement of the late war; its almost total suspension during the war, and the irregularities and vicissitudes incident to its resumption on the return of peace, have doubtless produced the most serious embarrassments and losses. At this time, however, there is just reason to believe that these irregularities have ceased; that commerce has resumed its customary channels; and that the enterprising and prudent merchant will hereafter enjoy fair and reasonable profits. The rate of exchange between this country and the commercial States of Europe, is a sufficient security against the exportation of the gold and silver coins of the United States to those States. The exportation of specie to the East Indies is the only circumstance connected with our commercial intercourse with other States, which can be supposed to require the temporary prohibition of the exportation of the current coin of the United States. It is believed that this trade has been prosecuted more extensively by the merchants of the United States, since the late war, than anterior to that period. The extent to which it will be prosecuted in succeeding years, will depend upon the extent to which sales can be profitably made of the articles imported, and the practicability of obtaining the necessary amount of specie for its prosecution. Should the civil war which has for some time existed between Spain and the independent Governments in the Spanish American provinces be prosecuted for any considerable time longer, it is probable that there will be a general appreciation of the precious metals in the civilized world, and that the drain of the East Indies may not only be greatly diminished, but that they may be imported from thence into Europe and the United States. But there is no rational probability that in either event the pressure upon the community, which has produced this inquiry, will be temporary in its nature, or that it will yield to any temporary legislative expedient. It will be removed only when our importations shall be reduced below our exportations of merchandise to a greater extent than the amount of specie exported to the East Indies. Until this should be the case the pressure will continue, even should the quantity of the precious metals in general circulation be greatly increased. Whether the quantity be great or small, no part of it will permanently remain in a State against which there is an annual balance of trade, unless the coin of such State should be so adulterated as to destroy its currency. If these views be correct, we must look to the state of our internal affairs for circumstances which may justify a temporary prohibition of the exportation of the gold and silver coin of the United States. That the currency is disordered, and that much embarrassment is felt in the fiscal transactions of the Government, has been stated in the annual report of the Treasury. In the Spring of 1817 the principal banks in the commercial cities, in conjunction with the Bank of the United States, resumed specie payment. The example was ostensibly followed by the immense number of local banks established in the interior of the Atlantic States. In the Western States, specie payments were also resumed by the banks established before the refusal to pay specie, in 1814.

In making the effort to restore the currency to an equality with gold and silver, the banks were seconded by the community, which manifested a laudable for-

bearance to demand specie for the bank notes which formed the general circulation. This forbearance, however, could not be expected to continue after the banks had had time to regulate their paper circulation, according to the quantity of specie in their vaults. In the meantime the Bank of the United States, and some of the State banks, made considerable efforts to import specie. The exportation of it, during the same period, has, it is believed, been equal, if not greater than the importation by the banks and by individuals. It is presumed that the banks will not continue their exertions to import specie, but leave that to be effected by the commercial interest, which alone can bear the expense; but which will certainly not do it, so long as it shall be done by the banks. When the banks cease to import, they must withdraw their paper from circulation to a very great extent, or stop payment. The demand for a circulating currency must be made imperious before it will be imported to any considerable extent by the commercial interest. It is only when gold and silver shall form a large proportion of the circulating medium of the nation that the currency can be said to be sound. Since the resumption of specie payments, in the Spring of 1817, this has not been the case. What specie there was in the country has remained in the vaults of the banks until it has been drawn by the brokers, to be sold to the exporting merchant. It has not entered into the general circulation; and there is just reason to fear that much time will elapse before it does. What was the result of forbearance in the first instance, has been effected since by the operations of interest or of fear. If specie could be freely drawn by the exporting merchant from the vaults of the banks, at par, he would not pay the brokers eight or ten per cent. premium.

Bank stock, especially in the Eastern, Middle, and some of the Western States, forms so great a portion of the property of the wealthy and influential classes of society, that the interest of the banks is that of the whole community. The exporter of specie has, therefore, to choose between the hostility of the community and the payment of a premium upon the specie which he exports. There is even just reason to apprehend, that where banks shall stop payment, they may be permitted, by public opinion, in some parts of the Union, to continue to circulate their notes. Should this apprehension be realized, and the evil should be extended to different sections of the country, the currency could not fail to be vitiated in an extreme degree, unless the National or State Governments should adopt measures necessary to repress it. Against evils of this nature, the prohibition of the exportation of the gold and silver coins of the United States would furnish no relief. Nor is it conceived that this measure can, in any degree, repress or alleviate the sufferings of the comunity, resulting from the excessive multiplicatioh of banks, and consequent inundation of bank paper which it was manifest could not be converted into specie at the will of the holder. If the banks shall be constrained by law, by public opinion, or by a correct knowledge of their interest, to stop their discounts when they cease to discharge their notes in specie when demanded, and confine their exertions exclusively to the collection and payment of their debts, the evils which now oppress society will be gradually diminished, and the currency everywhere will become equal to gold and silver. But, during this process, and after it shall be terminated, property of every description will be greatly diminished in value; and especially that which is fixed and permanent in its nature. In the liquidation of the existing debts, the relation of debtor and creditor will be sensibly changed in favor of the latter, who will be paid in money of greater intrinsic value than was received by the former. But this is an evil which necessarily results from fluctuations in the currency of every State, and cannot be charged upon the Government, which in the present case will be most seriously affected.

It is, however, conceived that a paper currency, founded upon a metallic basis, is more liable to sudden and violent fluctuations than one which is purely metallic. In the present state of the precious metals in general circulation, a metallic currency, it is confidently believed, could not be simultaneously resumed by the different States of the civilized world. We are then compelled, under existing circumstances, to continue a paper currency, founded upon a metallic basis, with all its liability to sudden and violent fluctuations, aggravated by the circumstance that more than twenty different sovereignties claim and exercise the right of increasing, *ad libitum*, that currency, through the instrumentality of banking institutions. These circumstances, together with the drain of specie produced by the East India trade, present the most serious obstacles to the preservation of the currency at an equal value to gold and silver. These obstacles now exist in, perhaps, their greatest force. The practicability of preserving the convertibility of bank notes into current specie, under circumstances so extremely adverse, is in a fair course of experiment. Whatever may be the result of this experiment, until it is obtained, no legislative interference is conceived to be necessary, except for the enforcement of the obligation on the part of the banks to discharge their notes in specie, when demanded. This can be most certainly effected by considering and punishing, as an act of bankruptcy, any attempt on the part of a bank to circulate its notes whilst it refuses to discharge them in specie, or the notes of other banks in the same situation.

I have the honor to be sir, very respectfully, your most obedient servant,

WM. H. CRAWFORD.

HON. J. W. EPPES,
Chairman Committee of Finance.

TUESDAY, January 26.

Mr. SANFORD presented the petition of William Edgar and Alexander Macomb, of the city and State of New York, stating that they had in the year 1787, purchased lands belonging to the United States, to a large amount, for which they paid into the Treasury thereof thirty thousand dollars; that being unable to complete their payment on account of said purchase, the said lands reverted to the United States, and the sum thus paid was declared forfeited, praying that this sum may be refunded, for reasons stated in the petition; which was read, and referred to the Committee on Public Lands.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Rees Hill, made a report, accompanied by a bill for the relief of Rees Hill; and the report and bill were read, and the bill passed to the second reading.

Mr. WILSON, from the Committee of Claims, to whom the subject was referred, reported a bill

for the relief of the heirs and legal representatives of Nicholas Vreeland, deceased; and the bill was read, and passed to the second reading.

Mr. LACOCK, from the Committee on Pensions, to whom was referred the petition of Rachael Sturges, made a report, accompanied by a resolution that the petitioner have leave to withdraw her petition. The report and resolution were read.

Mr. LACOCK, from the same committee, to whom was referred the petition of Otho Stephens, made a report, accompanied by a resolution that it would be inexpedient to grant the prayer of the petitioner, and that he have leave to withdraw his petition. The report and resolution were read.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act allowing further time to complete the issuing and locating of military land warrants," reported the same without amendment.

The bill to continue in force an act regulating the currency within the United States of the gold coins of Great Britain, France, Portugal, and Spain, and the crowns of France and five franc pieces, was read the second time.

The bill for the benefit of Jacob Purkhill was read the second time.

The bill respecting the location of certain sections of lands to be granted for the seat of government in the State of Indiana, was read the second time.

The bill for the relief of the heirs of Edward McCarty was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to authorize the payment, in certain cases, on account of the Treasury notes which have been lost or destroyed," together with the amendment reported thereto by the Committee on Finance; and the amendment having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the bill be read a third time as amended.

Mr. STOKES, from the Committee on the Post Office and Post Roads, to whom was referred the bill, entitled "An act authorizing the Postmaster General to contract, as in other cases, for carrying the mail in steamboats between New Orleans, in the State of Louisiana, and Louisville, in the State of Kentucky," reported the same with an amendment; which was read.

The amendments to the bill, entitled "An act making appropriations for the support of the Navy of the United States for the year 1819," having been reported by the committee correctly engrossed, the bill was read the third time as amended, and passed.

The amendment to the bill, entitled "An act for the relief of Daniel Renner and Nathaniel H. Heath," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The amendment to the bill, entitled "An act for the relief of Sampson S. King," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The bill, entitled "An act authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig Syren," was read a third time, and passed.

The bill further to extend the judicial system of the United States was read a third time, and passed.

The bill to extend the jurisdiction of the circuit courts of the United States, to cases arising under the law relating to patents, was read a third time, and passed.

On motion by Mr. MORROW, the Committee on Public Lands were instructed to inquire whether any, and, if any, what amendments are necessary to be made to the act, entitled "An act for changing the compensation of receivers and registers of the land offices;" and to report thereon.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of Pierre Denis de la Ronde; and the bill was read, and passed to the second reading.

Mr. JOHNSON presented the petition of Ferdinand L. Amelung, captain in the first infantry in the United States army, praying a proportion of certain prize money arising from seizures for violations of the revenue laws, in the western parts of the State of Louisiana, as stated in the petition; which was read, and referred to a select committee, to consider and report thereon by bill or otherwise; and Messrs. JOHNSON, ROBERTS, and BURRILL, were appointed the committee.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act regulating the payments to invalid pensioners;" a bill, entitled "An act for the relief of Phœbe Stuart;" and a bill, entitled "An act for the relief of Robert McCalla and Matthew H. Jouett;" and also a resolution respectfully requesting the Senate to permit two of its members to attend, as witnesses, a select committee of the House; in which bills and resolution they request the concurrence of the Senate.

The said three bills and resolution were read, and severally passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to establish a judicial district in Virginia, west of the Alleghany mountain;" together with the amendment reported thereto by the Committee on the Judiciary; and the amendment having been agreed to, and the bill having been further amended, the PRESIDENT reported it to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended.

On motion by Mr. DICKERSON, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of Representatives in the Congress of the

United States, together with the amendments reported thereto by the select committee, was made the order of the day for to-morrow.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, pursuant to instructions, reported a bill to regulate the pay of the Army when employed on fatigue duty; and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill prescribing the mode of commencing, prosecuting, and deciding controversies between two or more States, together with the amendments reported thereto by the Committee on the Judiciary; and the amendments having been agreed to, the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

Mr. TAIT, from the Committee on Naval Affairs, to whom the subject was referred, reported a bill authorizing the purchase of live oak timber for naval purposes; and the bill was read, and passed to the second reading.

WEDNESDAY, January 27.

On motion by Mr. TAIT, the Committee on Naval Affairs, to whom was referred the petition of Archibald B. Lord, and others, in behalf of the officers and crew of the revenue cutter Boxer, were discharged from the further consideration thereof, and the petitioners had leave to withdraw their petition.

Mr. MACON, from the Committee on Foreign Relations, communicated three acts of the Parliament of Great Britain, one entitled "An act to consolidate and extend the several laws now in force for allowing the importation of certain goods and merchandise into, and from certain ports of the West Indies," passed the 27th June, 1805; and one, entitled "An act to allow British plantation sugar and coffee, imported into Bermuda in British ships, to be exported to the territories of the United States of America, in foreign ships or vessels; and to permit articles, the production of the said United States, to be imported into the said island in foreign ships or vessels," passed the 1st July, 1812; and the other, entitled "An act to permit the importation of certain articles into His Majesty's colonies or plantations in the West Indies, or on the continent of South America, and also certain articles into certain ports in the West Indies," passed the 23d May; and the acts were read.

The bill entitled "An act regulating the pay of invalid pensioners," was read the second time, and referred to the Committee on Pensions.

The bill entitled "An act for the relief of Phœbe Stuart," was read the second time, and referred to the same committee.

The bill entitled "An act for the relief of Robert McCalla and Matthew H. Jouett," was read the second time, and referred to the Committee of Claims.

On motion by Mr. VAN DYKE, the Committee on the Post Office and Post Roads were instructed to inquire as to the expediency of making an additional allowance to the postmaster at Georgetown, in Sussex county, in the State of Delaware.

The bill for the relief of Pierre Denis de la Ronde was read the second time.

The bill to regulate the pay of the army, when employed on fatigue duty, was read the second time.

The bill for the relief of Rees Hill was read the second time.

The bill for the relief of the heirs and legal representatives of Nicholas Vreeland, was read the second time.

The bill authorizing the purchase of live oak timber for naval purposes was read the second time.

The resolution from the House of Representatives, respectfully requesting the Senate to permit two of its members to attend, as witnesses, a select committee of the House, was read the second time and considered. Whereupon,

On motion by Mr. BURRILL,

Resolved, That the honorable DAVID DAGGETT and WILLIAM HUNTER, members of the Senate, have leave to attend a committee of the House of Representatives, appointed to inquire into the official conduct of William P. Van Ness and Matthias B. Tallmadge, to be examined, touching the subject of said inquiry, agreeably to a resolution of said House, passed on the 26th instant, requesting that such leave may be granted.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the petition of Nathaniel Goddard, and others, formerly owners of the ship Ariadne, and her cargo; and, on the question to agree thereto, it was determined in the affirmative—yeas 32, nays 4, as follows:

YEAS—Messrs. Barbour, Crittenden, Dickerson, Eaton, Eppes, Forsyth, Fromentin, Gaillard, Goldsborough, Johnson, Lacock, Leake, Macon, Morril, Morrow, Noble, Palmer, Roberts, Ruggles, Sanford, Smith, Stokes, Storer, Tait, Talbot, Taylor, Thomas, Tichenor, Van Dyke, Williams of Mississippi, Williams of Tennessee, and Wilson.

NAYS—Messrs. Burrill, Daggett, King, and Otis.

So it was resolved, that the prayer of the petition ought not to be granted.

The amendment to the bill, entitled "An act to authorize the payment, in certain cases, on account of Treasury notes, which have been lost or destroyed," having been reported by the committee, correctly engrossed, the bill was read a third time as amended, and passed.

The amendments to the bill, entitled "An act to establish a judicial district in Virginia, west of the Alleghany mountain," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The Senate resumed the consideration of the report of the Committee on Pensions, on the propriety of placing Caleb Austin on the pension list; and the further consideration thereof was postponed until next Monday week.

The Senate resumed the consideration of the report of the Committee of Claims, to whom

was referred the petition of Thomas Arnold; and the further consideration thereof was postponed until Monday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Robert Sewall; and in concurrence therewith, resolved that the prayer of the petitioner ought not to be granted.

Mr. TAIT gave notice that to-morrow he should ask leave to bring in a bill authorizing the President of the United States to purchase the lands reserved by the act of the 3d of March, 1817, to certain chiefs, warriors, or other Indians of the Creek nation.

The Senate resumed the consideration of the motion of the 25th instant, for instructing the Committee on the Judiciary to inquire into the expediency of providing by law for the establishment of a district court within the Territory of Michigan; and agreed thereto.

THURSDAY, January 28.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Thomas Hall Jervey;" the bill, entitled "An act making provision for the claim of M. Poirey;" and also the bill, entitled "An act making provision for the claim of M. de Vienne," reported the same respectively without amendment.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the petition of Gabriel Godfroy, of the Michigan Territory made a report, accompanied by a bill for the relief of Gabriel Godfroy; and the report and bill were read, and the bill passed to the second reading.

Agreeably to notice given, Mr. TAIT asked and obtained leave to bring in a bill authorizing the President of the United States to purchase the lands reserved by the act of the 3d of March, 1817, to certain chiefs, warriors, or other Indians of the Creek nation; and the bill was read, and passed to the second reading.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Eli Hart, made a report, accompanied by a resolution that a bill be reported allowing to the petitioner the appraised value of his buildings. The report and resolution were read.

Mr. ROBERTS presented the petition of a number of inhabitants of the county of Lancaster, in the State of Pennsylvania, praying amendments to the acts prohibiting the importation of slaves into the United States; and the petition was read, and referred to the committee on the subject of the slave trade.

Mr. ROBERTS also presented the petition of a number of inhabitants of Chester county, in the State of Pennsylvania, praying the establishment of certain post offices and post roads; and the petition was read, and referred to the Committee on the Post Office and Post Roads.

Mr. WILSON, from the Committee of Claims, to whom was referred the petition of Cornelia Schoonmaker, widow and administratrix, and Peter Marius Green, administrator of Zachariah Schoonmaker, deceased, late paymaster of the 2d regiment of United States volunteer artillery, made a report, accompanied by a resolution that the prayer of the petitioners ought not to be granted. The report and resolution were read.

The PRESIDENT communicated the credentials of WALTER LOWRIE, appointed a Senator by the Legislature of the State of Pennsylvania, for the term of six years, commencing on the fourth day of March next; and they were read, and laid on file.

The Senate resumed the consideration of the motion of the 25th instant, for instructing the Committee on the Judiciary to inquire into the expediency of placing all criminal prosecutions, in which the United States shall be a party, under the direction of the Attorney General, and whether it be expedient to provide for the appointment of an Assistant Attorney General; and agreed thereto.

The Senate resumed the consideration of the motion of the 25th instant, for instructing the Committee on Finance to inquire whether it is expedient to make any alteration of, or addition to, the act passed on the 18th of January, 1815, entitled "An act to provide additional revenues for defraying the expenses of Government, and maintaining the public credit, by laying a direct tax upon the United States, and to provide for assessing and collecting the same;" and agreed thereto.

The Senate resumed the consideration of the motion of the 26th instant, for instructing the Committee on the Post Office and Post Roads to inquire into the expediency of establishing a certain post route; and agreed thereto.

The Senate resumed the consideration of the resolution proposing to amend the Constitution, so far as to produce an uniform mode of electing Electors of President and Vice President of the United States, and the Representatives to Congress, together with the amendments reported thereto by the select committee.

[The amendments were: first, after providing that the districts shall be formed of contiguous territory, and contain, as nearly as may be, an equal number of persons entitled by the Constitution to be represented, to insert, "or of persons qualified to vote for members of the most numerous branch of the State Legislature." Second, to add at the end of the section the following: "And if the Legislature of any State shall fail to provide for the election of Representatives, as hereby required, Congress shall have power to provide for the same in the manner prescribed by this article."]

After some discussion, the amendments were agreed to, and the resolution, as amended, ordered to be engrossed for a third reading.

Mr. DAGGETT, from the Committee on the District of Columbia, to whom was referred the petition of William Prout, reported a bill to authorize William Prout to institute a bill in equity before the circuit court for the District of Columbia, against the Superintendent of the

Public Buildings, and to direct a defence therein; and the bill was read, and passed to the second reading.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of Nathan Ford; and the bill was read, and passed to a second reading.

Mr. MORROW, from the Committee on Public Lands, reported a bill to designate the boundaries of districts, and establish land offices for the disposal of the public lands not heretofore offered for sale in the States of Ohio and Indiana; and the bill was read, and passed to a second reading.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of David Henley, made a report, accompanied by a bill for the relief of David Henley; and the report and bill were read, and passed to the second reading.

The Senate resumed the consideration of the report of the Committee on Public Lands, to whom was referred the petition of William N. Perry, and Mark Barnett; and, in concurrence therewith, the petitioners had leave to withdraw their petition.

The Senate resumed the consideration of the report of the Committee on Public Lands, to whom was referred the petition of William Bell; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed, in Committee of the Whole, Mr. GAILLARD in the chair, the consideration of the bill more effectually to provide for the punishment of certain crimes against the United States; and, after making some amendments thereto, which were concurred in by the Senate, the bill was ordered to be engrossed and read a third time.

The Senate then resumed, as in Committee of the Whole, Mr. MACON in the chair, the bill to prescribe the mode of commencing, prosecuting, and settling controversies between two or more States, and after some time spent thereon, the Committee rose, and the Senate adjourned.

FRIDAY, January 29.

Mr. LACOCK, from the Committee on Pensions, to whom was referred the case of Peter Francisco, made a report, accompanied by a resolution that the committee be discharged from the further consideration of the subject. The report and resolution were read.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the petition of Mark and Conant, of Detroit, made a report, accompanied by a resolution that the petitioners have leave to withdraw their petition. The report and resolution were read.

On motion by Mr. GOLDSBOROUGH, the Committee of Claims, to whom was referred the petition of Mary Cassin, of South Carolina, praying payment of arrearages of certain soldiers' pay, were discharged from the further consideration thereof, and it was referred to the Secretary of War, to consider and report thereon to the Senate.

Mr. EATON, from the committee appointed to consider the subject, reported a bill respecting the transportation of persons of color, for sale, or to be held to labor; and the bill was read, and passed to the second reading.

Mr. EPPES, from the Committee on Finance, to whom was referred the bill, entitled "An act supplementary to the act, entitled 'An act to provide for the prompt settlement of public accounts,'" reported the same without amendment.

On motion by Mr. EPPES, the Committee on Finance, who were instructed, by a resolution of the Senate, to inquire into the expediency of so altering the amount of compensations to certain collectors of the customs as shall make the same more commensurate with the duties required of them, were discharged from the further consideration of the subject.

The bill authorizing the President of the United States to purchase lands reserved by the act of the third of March, 1817, to certain chiefs, warriors, or other Indians of the Creek nation, was read the second time.

The bill for the relief of Gabriel Godfroy was read the second time.

The bill to authorize William Prout to institute a bill in equity before the circuit court for the District of Columbia, against the Superintendent of the Public Buildings, and to direct a defence therein, was read the second time.

The bill for the relief of Nathan Ford was read the second time.

The bill for the relief of David Henley was read the second time.

Mr. TICHENOR asked and obtained leave to bring in a bill providing for the better organization of the Treasury Department, and the bill was read twice, by unanimous consent, and referred to the Committee on the Judiciary.

CONTROVERSIES BETWEEN STATES.

The Senate resumed, as in Committee of the Whole, the consideration of the bill prescribing the mode of commencing, prosecuting, and deciding controversies between two or more States.

A motion was made to strike out the words, in the first section, "or any other matter proper to be decided in a judicial way."

Mr. TALBOT spoke in favor of the bill, generally, while he gave his assent to the amendment, to obviate the objections of some gentlemen to the bill.

Mr. CRITTENDEN gave into the amendment from the same motive as his colleague, and was willing the bill should be confined to controversies respecting territorial limits.

Mr. WILLIAMS, of Tennessee, thought the bill unnecessary, in any respect, as the dispute between the States of Tennessee and Kentucky respecting limits could be settled without it; but he should be much less opposed to the bill if this amendment took place.

Mr. FROMENTIN was opposed to the amendment. He thought the Constitutional provision on the subject was meant to embrace all controversies between States, as well as those relating to boundary. He thought it the duty of Congress

to pass the law; and he did not believe any difficulty would arise in carrying it into effect. He wished the provisions of the bill as general as possible, with a view to prevent all quarrels and applications of force to redress real or supposed injuries.

The amendment was agreed to.

Mr. EPPES declared himself hostile to the bill, and moved to postpone it indefinitely. He believed this bill could only be executed by military force. The principles he contended for were ably supported in the work entitled "The Federalist." He would rather, had a motion to strike out the first section been in order, that the question should have been taken directly on the merits of the bill, to decide whether a provision of the Constitution, which had lain inactive for thirty years, should now be called into action. Congress had shrunk from the exercise of the power to district the States; and he thought this bill much more dangerous, and likely to produce disturbance, than that. The power to suspend the *habeas corpus* act had never been exercised. This wise course ought to be adhered to in the present case. This bill was calculated to increase discontent and suspicion. Mr. E. here read an extract from the Federalist, page 93, late edition, corroborating his idea, that a decree against a sovereign State could not be enforced but by the sword. The power of the Federal Court, said Mr. E., to try suits between an individual and a State has been expunged. With a few more observations, Mr. E. submitted the motion he had made.

Mr. CRITTENDEN said, the same course had been pursued at the last session as was now proposed, and if this motion now prevailed, it must be considered as a rejection of the bill. The State of Kentucky had addressed a memorial to Congress in favor of such a measure as was proposed by the bill, and he deemed it a duty to submit the reasons which occurred to him in support of it. Under the Constitution, power was given to Congress to make the provisions contemplated by this bill. Why tremble at the exercise of this power? There must be authority somewhere to settle disputes between States; and where would it be lodged so safely as in the national Judiciary? He believed no ground of alarm or apprehension existed. The greatest and proudest States in the Union would cheerfully submit to the decision of that tribunal any litigation between them. The States would be sued by their consent, as they had given their consent to the provision of the Constitution authorizing this law; and they could not, therefore, complain of any violation of their sovereignty or independence. He said, he deemed it essential to the perpetuity of our Union, that this power should have been given, and that it should be exercised. The very author which the gentleman had quoted supported this provision in the Constitution, by example and reason. The objections came from those States likely to be made defendants under this act, and from the great and powerful State of Virginia. This provision was meant to protect the small States against the large. And have we come to this, that the large and proud States shall threaten resistance to a Constitutional law? He hoped such threats would not terrify us into an abandonment of this power. He appreciated the high and honorable motives of the gentleman from Virginia; but he thought his apprehensions unfounded and visionary. He believed the judgment of the Supreme Court, as now limited, would execute itself silently and effectually. There was no danger of the necessity of employing military force. The States could not settle their disputes amicably themselves, without the mediation of a disinterested tribunal. Virginia and Pennsylvania had all but come to open war, on a territorial difference. Was this the *suaviter in modo* which ought to be pursued in settling boundaries? And such a dispute would not now be settled so easily between those potent States. Suppose Kentucky should give up its claim rather than come to open war, would it be right for the General Government to see her stripped of her rights? She had no alternative but to do this, or appeal to the sword. Would it be just or magnanimous to refuse to exercise this power, and thus permit such wrongs to be done? Though proud of his State and of her character, he should not deem her disgraced by being made a defendant under this law, or by submitting to the decision of the Supreme Court. He wished such a high tribunal could be erected to settle all disputes between nations, and oblige proud and ambitious nations to submit to just and equitable terms of settlement. And should we, of one flesh and blood, quarrel among ourselves, when so easy a remedy is in our power? New Jersey has her disputes; Rhode Island has her disputes; and, if they are wrong, is there any honorable gentleman who would not wish to see them righted?

Mr. OTIS did not mean, he said, to attempt any reply to the honorable gentleman. In many of his opinions he concurred, and almost all his objections were obviated by the restrictions in the bill. He thought, however, some further restrictions were necessary; which he pointed out. He should not have risen, however, but for doubts whether this bill could be constitutionally passed. This bill provided for a suit being brought in the nature of a bill of equity. He asked whether it was competent for this Legislature to exclude the trial by jury, in cases alluded to in the bill? Had we a right to say that the court alone should decide, without the intervention of a jury? The provision of the Constitution was general, and applied as well to States as individuals. He thought the bill also ought not to operate on disputes which originated fifty or sixty years ago. Without a limitation in this case, he should vote against the bill. He thought the bill ought to be recommitted, if this motion should not be carried, for the purpose of making the amendments he had suggested.

Mr. EPPES admitted that the right of the Supreme Court to act as provided in this bill was sanctioned in another part of the book he had quoted; but it was there expressly laid down that a

decree could only be executed by the sword. We had found, by experience, that this authority could not be carried into effect without force; and the best and safest course was for States to settle their own disputes. Between individuals judicial decisions weuld be easily carried into effect, but between communities and independent States they could not but by force.

Mr. BURRILL made some explanations of certain provisions of the bill, and intimated some amendments which he meant to propose, to obviate objections which had been made.

Mr. MELLEN said, he had an objection to the bill, but might be mistaken in his views, and, if so, was subject to correction. The bill was to settle disputes concerning territory; this could not be by a suit in equity. These must be settled as questions of law. Does Kentucky or Tennessee own certain property? This was certainly a question of law. Further, the bill only provides for amicable suits in equity; whereas he believed the remedy ought to be by a real suit at law. Mr. M. made some further observations in illustration of his objections.

Mr. EATON thought it unnecessary to go into the details of the bill, until the question of postponement was decided. He was opposed to the bill, because, though the power was vested in Congress, it was not prudent or expedient to exercise it. Had this law existed during the dispute between Virginia and Pennsylvania, it might not have been settled as well as it was by the two States. This law was certainly intended to answer a local purpose—to decide a dispute between Tennessee and Kentucky; and, in its consequences, might lead to heart-burnings and outrages. He apprehended, from the number interested in this dispute, serious contests would arise from it. The Constitution had, he confessed, given the right; but it did not follow that it was wise or safe to exercise it. Congress had prudently declined, for nearly thirty years, to exercise this power; and he thought this was a salutary and useful lesson to us. He thought this bill was calculated to produce discord among the States; but, by closing your doors against such disputes, they will be amicably adjusted. He thought it prudent, and just, and proper, to refuse to pass this bill.

Mr. TALBOT hoped the motion to postpone would be withdrawn, that a direct vote might be had upon the bill; that Kentucky might know what to rely on, and how to act. He thought this provision of the Constitution wise, and benevolent, and parental; and that it was peremptory. He thought Congress was bound to pass this law; that no election was given to Congress; that when a dispute has arisen, and Congress have been called on by a State to exercise this power, they were under a moral obligation to pass it. For many years this controversy had existed; all efforts to settle it between themselves had failed; and he saw no hope of its being adjusted, unless this bill passed. He looked forward with fearful anticipations of evil, unless the national tribunal were authorized to decide the dispute. He saw no resort but to force—to the sword—if Congress did not interfere; and he deprecated the defeat of this bill, as leading to a serious contest. He was not afraid of any attempt to resist any decree of the Supreme Court, by any State, however powerful, however proud, however haughty. He hoped the motion would be withdrawn, and a motion made to strike out the first section.

Mr. EPPES said he would have great pleasure in complying with the wish of his friend from Kentucky, but that he thought the motion to postpone amounted to the rejection of the bill. Mr. E. replied to some of the arguments which had been advanced in favor of the bill. Let the two States alluded to settle their own disputes; and let us not, for a single case, bring every State at the footstool of the Federal Judiciary.

Mr. LACOCK thought it would be best to give the Supreme Court jurisdiction in the case immediately in question, and not make the bill general in its provisions. He was willing to provide for the dispute between Kentucky and Tennessee; but this bill was not called for from any other portion of the Union. It might revive old disputes, and create great evils. He did not want to renew the disputes between Pennsylvania and New Jersey, and between New Jersey and New York, about Staten Island, the residence of the Vice President. He thought it much better to confine the provisions of the bill to the single object.

Mr. TALBOT was opposed to any limitation of this sort. He thought the provisions of the bill ought to be general. Mr. T. again went into a discussion of the question at large, and continued speaking for nearly an hour.

Mr. WILLIAMS, of Tennessee, read an extract from a law of Tennessee, proposing to Kentucky, to apply to the President of the United States to appoint a commissioner to settle the boundary line between the two States; and a law of Kentucky, repealing all laws on the subject of said line.

Mr. CRITTENDEN gave some explanation of these two acts, but deprecated the merits of this particular case from being brought into discussion.

The question on indefinite postponement was then taken by yeas and nays—yeas 14, nays 16, as follows:

YEAS—Messrs. Barbour, Eaton, Eppes, King, Lacock, Macon, Mellen, Palmer, Roberts, Sanford, Stokes, Tait, Williams of Tennessee, and Wilson.

NAYS—Messrs. Burrill, Crittenden, Daggett, Dickerson, Goldsborough, Horsey, Johnson, Leake, Morrow, Noble, Otis, Talbot, Taylor, Thomas, Van Dyke, and Williams of Mississippi.

The Senate adjourned to Monday.

MONDAY, February 1.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Pierre Lacoste, made a report, accompanied by a resolution that the petitioner have leave to with-

draw his petition. The report and resolution were read.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the petition of Henry Ingraham, and others, made a report, accompanied by a resolution that the prayer of the petitioners ought not to be granted. The report and resolution were read.

Mr. GOLDSBOROUGH, from the same committee, to whom the several subjects were referred, reported a bill for the relief of Rosalie P. Deslande; a bill for the relief of Lewis H. Guerlain; a bill for the relief of Francis B. Languille; and also a bill for the relief of Joseph McNeil; and the bills were respectively read, and passed to the second reading.

Mr. BARBOUR submitted the following resolution:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be requested to employ a skilful artist to ascertain the latitude of 36° 30′ north, on the west bank of Tennessee river, and from that point to cause a line to be run and marked due west along and with the said parallel to the Mississippi river.

The resolution was read, and passed to the second reading.

Mr. DAGGETT presented the petition of Nathan G. Birdsye and Daniel Booth, praying the relinquishment of the title and interest of the United States, acquired by the levy of an execution on certain lands purchased by the petitioners, as stated in the petition; which was read, and referred to the Committee on the Judiciary.

Mr. DAGGETT also presented the memorial of a number of the inhabitants of Middletown, in the State of Connecticut, praying amendments to the laws prohibiting the importation of slaves into the United States; and the memorial was read, and referred to the committee on the subject of the slave trade.

On motion, by Mr. GOLDSBOROUGH, the report of the Secretary of the Treasury, of the 3d of December last, respecting the suppression of certain custom-house officers, was referred to the Committee on Finance, to consider and report thereon.

The engrossed joint resolution, proposing an amendment to the Constitution, so far as relates to the election of Electors of President and Vice President, &c., was taken up, when,

On motion of Mr. BURRILL, it was recommitted to the committee which reported it, for further consideration.

Mr. DICKERSON, subsequently, reported the resolution from the select committee, with an amendment striking out the following words, which had been heretofore added, as an amendment to the original resolution, viz: "and if the Legislature of any State shall fail to provide for the election of Representatives, as hereby required, Congress shall have power to provide for the same, in the manner prescribed by this article."

Mr. NOBLE presented the petition of a company of rangers, commanded by James Biggar, praying further compensation for services rendered by the said company, in the late war with Great Britain; and the petition was read, and referred to the Committee on Military Affairs.

The bill to designate the boundaries of districts, and establish land offices for the disposal of the public lands not heretofore offered for sale in the States of Ohio and Indiana, was read the second time.

The bill respecting the transportation of persons of color, for sale or to be held to labor, was read the second time.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Thomas Arnold; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee on Pensions, on the petition of William McFarland; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee on pensions, on the petition of Rachael Sturges; and, in concurrence therewith, the petitioner had leave to withdraw her petition.

The Senate resumed the consideration of the report of the Committee on Pensions, on the petition of Otho Stephens; and, in concurrence therewith, he had leave to withdraw his petition.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Hannah Ring and Luther Frink;" in which bill they request the concurrence of the Senate.

The last mentioned bill was twice read by unanimous consent; and referred to the Committee on Pensions, with instructions to inquire into the expediency of making a general law on the subject.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred a resolution to inquire into the expediency of prohibiting, by law, the exportation of the gold, silver, and copper coins of the United States; and, in concurrence therewith, resolved that it is not expedient for Congress to adopt any regulations for preventing the exportation of the gold, silver, and copper coins of the United States.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Eli Hart; and, in concurrence therewith, resolved, that a bill be reported allowing to the petitioner the appraised value of his buildings. The Committee of Claims were instructed to report a bill accordingly.

Mr. MELLEN gave notice, that, to-morrow, he should ask leave to bring in a bill authorizing a subscription for Wait's State Papers.

CONTROVERSIES BETWEEN STATES.

The Senate resumed the consideration of the bill providing for the commencement, prosecution, and settlement of controversies between two or

more States, (by referring them to the investigation and decision of the Supreme Court.)

Mr. WILLIAMS, of Tennessee, offered an additional section, providing that the validity of private claims shall not be affected by any decree of the Supreme Court. Mr. W. offered sundry observations in support of this amendment; and was replied to by Mr. TALBOT, who denied the right of Congress to make such a provision.

Mr. WILLIAMS answered, that this principle had been already acted on by other States, in similar controversies, viz: Pennsylvania and Virginia, and Virginia and Tennessee, and that it was consistent with justice and equity.

Mr. CRITTENDEN followed, with arguments against the power of Congress to adopt this provision; as it was a question for judicial decision, or for legislative provisions of the contending States.

Mr. WILLIAMS replied, and attempted to show that it was both competent and expedient for Congress to make the provision he had proposed.

Mr. TALBOT again spoke against the amendment, on the ground of the incompetency of Congress to adopt such a provision; and as the two States could more properly and easily adjust private claims.

Mr. EATON spoke at some length in support of the motion of his colleague; and adduced arguments to prove the constitutionality and expediency of the provision.

The question was then taken on Mr. WILLIAMS's amendment, and lost, ten only rising in the affirmative.

Mr. WILLIAMS, of Tennessee, then moved an amendment, similar to the preceding in principle, but varying as to the time it was to take effect.

This amendment, Mr. W. said, he hoped would not be objected to by the gentleman from Kentucky.

Mr. CRITTENDEN said, this amendment was of the same import as the one just negatived. He therefore hoped the Senate would reject it, as they had done the former.

Mr. WILLIAMS spoke in support of his motion; and was replied to by Mr. TALBOT.

The motion was lost, nine only voting in the affirmative.

Sundry amendments were made to the bill; when

Mr. EPPES moved so to amend the bill as to confine its operation to the controversy between the States of Kentucky and Tennessee; and offered sundry reasons in support of his motion.

Mr. BURRILL opposed the motion, on the ground that if Congress had the right to legislate in this case, they had in all other similar cases; and that it was better to legislate for all cases at this time, than to legislate in detail, as cases may arise. The latter he deemed both unconstitutional and inexpedient.

Mr. EPPES replied, that the gentleman's arguments, if they proved anything, proved too much; as he himself had consented to limit the exercise of the general power given to Congress, to the particular case of disputed boundaries.

Mr. EPPES's motion was then carried, 18 to 16.

Mr. WILLIAMS, of Tennessee, moved to postpone the bill to the 5th of March next, (reject it;) which motion was agreed to by the following vote, and the bill rejected:

YEAS—Messrs. Barbour, Eaton, Eppes, Forsyth, Goldsborough, King, Macon, Morril, Palmer, Roberts, Ruggles, Sanford, Stokes, Tait, Thomas, Tichenor, Van Dyke, Williams of Tennessee, and Wilson—20.

NAYS—Messrs. Burrill, Crittenden, Daggett, Dickerson, Edwards, Fromentin, Horsey, Hunter, Johnson, Lacock, Leake, Morrow, Noble, Otis, Talbot, Taylor, and Williams of Mississippi—17.

TUESDAY, February 2.

Mr. TALBOT presented the memorial of sundry inhabitants of the counties of Franklin and Shelby, praying the establishment of a post office at Hardinsville, Kentucky; and the memorial was read, and referred to the Committee on the Post Office and Post Roads.

Mr. ROBERTS, from the Committee of Claims, pursuant to instructions, reported a bill for the relief of Eli Hart; and the bill was read, and passed to the second reading.

Mr. MELLEN asked and obtained leave to bring in a bill authorizing a subscription for the eleventh and twelfth volumes of State Papers; and the bill was twice read by unanimous consent.

Mr. BURRILL, from the Committee on the Judiciary, to whom the subject was referred, reported a bill for the relief of Nathan G. Birding and Daniel Booth; and the bill was read, and passed to the second reading.

Mr. BURRILL, from the same committee, to whom was referred the bill providing for the better organization of the Treasury Department, reported the same without amendment.

The Senate resumed the consideration of the report of the Committee on Military Affairs, to whom was referred the petition of Mark and Conant; and in concurrence therewith, the petitioners had leave to withdraw their petition.

The bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes, was read a third time, and on motion, by Mr. DICKERSON, the further consideration thereof was postponed until to-morrow.

Mr. DICKERSON presented the memorial of Richard Smyth, late collector of the internal taxes for the Territory of Michigan, praying relief in the settlement of his accounts, in consequence of his having been robbed of a considerable sum of money, as stated in the memorial; which was read, and referred to the Committee of Claims.

Mr. GOLDSBOROUGH presented the memorial of the Columbian Institute, praying the grant of a part of the public reservation of ground in the City of Washington, for purposes connected with said institution; and the memorial was read, and referred to the Committee on the District of Columbia.

Mr. MORROW presented the memorial of a number of the inhabitants of Green Bay, within the

Territory of Michigan, praying to be confirmed in their titles to land; and the memorial was read, and referred to the Committee on Public Lands.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Benjamin Putney, made a report accompanied by a resolution, that the prayer of the petitioner ought not to be granted. The report and resolution were read.

Mr. G., from the same committee, to whom the subject was referred, reported a bill for the relief of John Rodriguez; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Cornelia Schoonmaker, widow and administratrix, and Peter Marius Green, administrator of Zachariah Schoonmaker, deceased, late paymaster of the second regiment of United States volunteer artillery; and the further consideration thereof was postponed until Monday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Pierre Lacoste; and the further consideration thereof was postponed until Thursday next.

The bill for the relief of Francis B. Languille was read the second time.

The bill for the relief of Lewis H. Guerlain was read the second time.

The bill for the relief of Rosalie P. Deslande was read the second time.

The bill for the relief of Joseph McNeil was read the second time.

The resolution to cause a certain line to be run and marked from the Tennessee river to the Mississippi river, was read the second time.

The Senate then took up, in Committee of the Whole, Mr. BARBOUR in the chair, and spent some time in the consideration of the bill for adjusting claims to land, and establishing land offices in the district east of the island of Orleans. Before getting through the bill, it was laid over until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of James H. Clark; and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Joseph Forrest; and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The bill to continue in force the act to regulate the currency of certain foreign coins, was taken up; and, Mr. EPPES having explained the motives for certain provisions of the bill which limits the currency of foreign gold coins to the first of November next, and continuing the currency of certain foreign silver coins for two years longer, it was ordered to be engrossed for a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing the election of a delegate from the Michigan Territory, to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory," together with the amendment reported thereto by the Committee on Public Lands; and the amendment having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the bill be read a third time, as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to authorize the President and Managers of the Rockville and Washington Turnpike Road Company, of the State of Maryland, to extend and make their turnpike road to or from the boundary of the City of Washington, in the District of Columbia, through the said district to the line thereof;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

SICK SEAMEN.

The Senate resumed the consideration of the bill to provide for sick and disabled seamen; constituting a general fund out of the moneys which have been, or shall be, collected under the several acts on this subject, and forming a board of commissioners of the Secretaries of the Treasury, War, and Navy Departments, for its administration.

The bill provides that, from the thirtieth of September next, there shall be required of each seamen employed in the registered vessels of the United States, the monthly contribution of —— cents per month, for the general fund.

Mr. SANFORD moved to fill this blank with forty, and supported his motion on the general ground of the inadequacy of the present contribution of twenty cents from each seaman, to provide a sufficient fund for their relief when sick or disabled on shore; and that, as the principle of creating the fund in this manner had been sanctioned by long usage, it was proper to make it adequate to its object.

Mr. BURRILL approved the object, but did not think it right that the whole fund for this purpose should be raised by a tax on the seamen themselves; that a tax of forty cents a month was a very heavy poll tax; and he thought the public Treasury ought to contribute something towards this fund.

Mr. KING did not view this contribution in the light of an absolute poll-tax; the seamen would receive a part of it in increased wages from his owner, the owner from his employer, &c.; and the payment of the tax would thus, in some measure, spread itself through the community, and not fall wholly on the seaman, although for his benefit.

Mr. TAIT referred to the letter of the Secretary of the Treasury, stating the inadequacy of the present tax on the seamen to provide for their relief, and argued that, setting aside the considera-

tion that it was for their own benefit, the increase was not unreasonable, when the depreciation of money, in twenty years, during which the contribution had remained unchanged, was taken into view; that, in all probability, the subject would not be touched again for twenty years to come.

The motion to fill the blank with forty cents was agreed to; and, the other provisions of the bill having been gone through, it was ordered to be engrossed for a third reading.

WEDNESDAY, February 3.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the petition of Joseph Dozet and Antoine Bougard, made a report, accompanied by a bill for the relief of Joseph Dozet and Antoine Bougard; and the report and bill were read, and the bill passed to the second reading.

The bill for the relief of Eli Hart was read the second time.

The bill for the relief of Nathan G. Birding and Daniel Booth was read the second time.

The bill for the relief of John Rodriguez was read the second time.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Christopher Fowler, made a report, accompanied by a resolution that the prayer of the petitioner cannot be granted. The report and resolution were read.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Henry Ingraham and others; and, in concurrence therewith, resolved, that the prayer of the petitioners ought not to be granted.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Benjam Putney; and, in concurrence therewith, resolved, that the prayer of the petitioner ought not to be granted.

The resolution proposing an amendment to the Constitution, as respects the mode of electing Electors of President, &c., was taken up; the amendment reported by the select committee agreed to, and the resolution ordered to be engrossed, and read a third time.

The bill to provide for sick and disabled seamen, was read a third time; and, on motion by Mr. DAGGETT, it was agreed to reconsider the vote on passing said bill to a third reading.

The bill to continue in force an act regulating the currency within the United States of the gold coins of Great Britain, France, Portugal, and Spain, and the crowns of France and five franc pieces, was read a third time, and passed.

The bill for the relief of James H. Clark was read a third time, and passed.

The amendment to the bill, entitled "An act authorizing the election of a Delegate from the Michigan Territory, to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The bill entitled "An act to authorize the President and Managers of the Rockville and Washington Turnpike Road Company, of the State of Maryland, to extend and make their turnpike road to or from the boundary of the City of Washington, in the District of Columbia, through the said District to the line thereof," was read a third time, and passed.

The Senate resumed the consideration of the engrossed bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes; and, on motion by Mr. DAGGETT, the further consideration thereof was postponed until Friday next.

The bill for the relief of Joseph Forrest was taken up, and, after some discussion of the merits of the claim, the question was put on ordering the bill to be engrossed for a third reading, and decided in the negative—14 to 13—so the bill was rejected.

The bill for adjusting claims to land and establishing land offices in the districts east of the Island of Orleans, was again taken up as in Committee of the Whole, and, after undergoing some discussion and amendment, it was ordered to be engrossed for a third reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with a resolution of the Senate of the 13th of last month, requesting me "to cause to be laid before it a statement, showing the measures that have been taken to collect the balances stated to be due from the several supervisors and collectors of the old direct tax of two millions; also, a similar statement of the balances due from the officers of the old internal revenue; and to designate in such statement the persons who have been interested in the collection of the said debts, and the sums by them respectively collected, and the time when the same were collected," I transmit a report of the Secretary of the Treasury, which, with the documents accompanying it, contains all the information required.

JAMES MONROE.

FEBRUARY 2, 1819.

The Message and accompanying documents were read.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill to regulate and fix the salaries and compensation of the registers and receivers of public moneys of the land offices; and the bill was twice read by unanimous consent.

Mr. KING presented the memorial of Noah Brown and others, in behalf of the owners of the private armed brig Warrior, praying that they may be indemnified from loss, in consequence of the malconduct of the clerk of the district court of New York, to whom had been paid, by the order of that court, the proceeds of the brig Dundee, which brig had been libelled and condemned as lawful prize, as stated in the memorial; which was read, and referred to the Committee of Claims.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act regulating passenger ships and vessels;" together with the amendments reported thereto by the Committee on Commerce and Manufactures; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended.

Mr. EPPES, from the Committee on Finance, reported a bill making appropriations to carry into effect treaties concluded with several Indian tribes therein mentioned, together with a letter from the Secretary of War; and the bill and letter were read, and the bill passed to the second reading.

On motion, by Mr. EPPES, the bill was read the second time, by unanimous consent.

Mr. EPPES, from the same committee, also communicated a report from the Secretary of the Treasury, showing the gross amount of duties upon merchandise and tonnage, which accrued during the two first quarters of the year 1817 and 1818; and the report was read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill authorizing a subscription for the eleventh and twelfth volumes of State Papers; and the Senate adjourned.

THURSDAY, February 4.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Augustus Sacket, made a report, accompanied by a resolution that the prayer of the petitioner ought not to be allowed. The report and resolution were read.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the petition of John Anderson, of the Michigan Territory, made a report, accompanied by a resolution that the prayer of the petitioner is reasonable, and ought to be granted. The report and resolution were read.

Mr. VAN DYKE, from the Committee on Pensions, to whom was referred the bill, entitled "An act regulating the pay of invalid pensioners," reported the same with an amendment, which was read.

The report of the Committee of Claims unfavorable to the petition of Pierre Lacoste, of Louisiana, was taken up; and, after being opposed by Mr. FROMENTIN, at some length, it was postponed for two weeks, to await further information on the subject of the claim.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I communicate to Congress copies of applications received from the Minister of Great Britain, in behalf of certain British subjects, who have suffered in their property, by proceedings to which the United States, by their military and judicial officers, have been parties. These injuries have been sustained under circumstances which appear to recommend strongly to the attention of Congress, the claim to indemnity for the losses occasioned by them, which the legislative authority is alone competent to provide.

JAMES MONROE.

WASHINGTON, *February* 3, 1819.

The Message and accompanying documents were read.

On motion, by Mr. DAGGETT, the Committee on Pensions were instructed to inquire into the expediency of placing Thomas Lucas on the pension list.

The Senate resumed the consideration of the bill to provide for sick and disabled seamen; when, on motion of Mr. SANFORD, it was amended, by making the monthly contribution levied on each seaman, for this fund, *thirty-five* instead of *forty* cents, as first agreed on; and, thus amended, the bill was ordered to a third reading.

The Senate next took up the bill authorizing a subscription for five hundred copies of the 11th and 12th volumes of Wait's edition of State Papers; and, after being amended by providing the manner of their distribution,

Mr. ROBERTS moved to postpone the bill to a day beyond the session, (to reject it;) which motion was opposed by Messrs. OTIS and MELLEN, and was finally negatived—ayes 10; and the bill was then ordered to be engrossed, and read a third time.

The bill for the relief of Joseph Dozet and Antoine Bougaud was read the second time.

The bill for adjusting the claims to land, and establishing land offices in the districts east of the Island of New Orleans, was read a third time, and passed.

The amendments to the bill, entitled "An act regulating passenger ships and vessels," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

On motion by Mr. TALBOT, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of authorizing the Postmaster General to employ an armed guard for the protection of the mails of the United States, on such mail routes as he may deem necessary.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to extend, for a further term of five years, the pensions heretofore granted to the widows and orphans of the officers and soldiers who died, or were killed in the late war;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning widows of the militia;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to incorporate the Medical Society of the City of Washington," together with the amendments reported thereto by the Committee on the District of Columbia; and the amendments hav-

ing been agreed to, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to incorporate the Provident Association of Clerks in the civil Department of the Government of the United States in the District of Columbia;" together with the amendment reported thereto by the Committee on the District of Columbia; and the amendment having been agreed to, and the bill having been further amended, the PRESIDENT reported it to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended.

AMENDMENT TO THE CONSTITUTION.

The engrossed joint resolution proposing an amendment to the Constitution, so far as to provide an uniform mode (by districts) of electing Electors of President and Vice President of the United States, and Representatives to Congress, was read the third time.

Mr. DAGGETT stated briefly the reasons which should induce him to vote, as he had always voted, against the resolution, although now differently instructed on the subject by the Legislature of Connecticut.

Mr. FORSYTH moved that the resolution be recommitted, with instructions to strike out that part which prescribed the mode of electing Representatives to Congress, considering the two subjects entirely distinct, and, opposed as he was to the whole proposition, yet, divested of this feature, it would be to him less objectionable than with it.

This motion brought on some discussion not only of the proposed amendment, but of the general merits of the resolution; in which Mr. FORSYTH opposed it at some length, and Messrs. DICKERSON, MACON, and KING, supported it.

Mr. FORSYTH'S motion was negatived without a division; and the question was then taken on the passage of the resolution, and decided in the affirmative—yeas 28, nays 10, as follows:

YEAS—Messrs. Burrill, Crittenden, Dickerson, Eaton, Edwards, Fromentin, Goldsborough, Hunter, Johnson, King, Lacock, Macon, Mellen, Morril, Morrow, Noble, Otis, Palmer, Sanford, Storer, Stokes, Talbot, Thomas, Tichenor, Van Dyke, Williams of Mississippi, Williams of Tennessee, and Wilson.

NAYS—Messrs. Barbour, Daggett, Eppes, Forsyth, Horsey, Leake, Roberts, Ruggles, Tait, and Taylor.

So it was resolved, that this resolution pass, two thirds of the Senators concurring.

FRIDAY, February 5.

The PRESIDENT communicated to the Senate the annual report of the state of the Sinking Fund; and likewise a report of the Secretary of War, embracing a statement of moneys transferred during the late recess of Congress, by authority of the President of the United States, from one specific appropriation to another; which reports were read.

Mr. WILSON, of New Jersey, rose to make a motion, and said, that, in introducing the resolution he was about to offer, he thought it proper to observe, that, by a late return to this House, from the War Department, of the militia of the United States, it appeared, that from eight States and two Territories, no returns of the militia had been received for the last year. Should a requisition be made for a detachment of militia, from the several States and Territories, Government were thus deprived of correct data for properly apportioning their respective quotas. A great difficulty, Mr. W. said, must also be experienced in the equitable distribution of arms among the several States and Territories, under the act for arming the whole body of militia. He thought these evils required a remedy, and that Congress had ample means of applying one. He therefore submitted the following resolution:

Resolved, That the Committee on the Militia be instructed to inquire into the expediency of making some further provision by law for insuring annual and accurate returns of the militia of the several States and Territories.

The resolution was agreed to.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the Message of the President of the United States, of the 20th of April, 1818, transmitting a copy of the rules, regulations, and instructions, for the Naval service of the United States, and the resolution of the Senate instructing the committee in relation thereto, reported the following resolution:

Resolved, That the Secretary of the Navy, under the direction of the President of the United States, report to the Senate, in the first week of the next session, whether the rules, regulations, and instructions, prepared by the Board of Navy Commissioners, in obedience to the act of the fifteenth of February, 1815, are conformable to existing laws, and, if there is any interference, wherein? And, if any, what further legislative provision may, in the opinion of the said Secretary, be necessary to give force and effect to the said rules, regulations, and instructions. And also, to report, as aforesaid, any other provision which the said Secretary may deem proper for the more perfect administration of any branch of the naval service.

The resolution was read.

On motion by Mr. FORSYTH, the Committee on the District of Columbia were instructed to inquire into the expediency of amending the laws existing in the county of Washington, in the District of Columbia, regulating the seizure and sale of persons of color suspected to be runaway slaves.

On motion by Mr. TICHENOR, the Committee on Pensions were instructed to inquire into the expediency of authorizing the Secretary of War to place upon the pension list Abraham Edwards, a marine in the naval service of the United States, in the Revolutionary war; who is now insane, and in such reduced circumstances as to need the assistance of his country.

The report of the Committee of Claims, unfavorable to the petition of Christopher Fowler, was taken up, and on motion it was reversed, and the Committee of Claims instructed to report a bill for his relief.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with a resolution of the Senate of the 25th of last month, requesting me to cause to be laid before it a copy of the rules and regulations adopted for the government of the Military Academy at West Point; also, how many cadets have been admitted into the Academy; the time of the residence of each cadet at that institution; and how many of them have been appointed officers in the Army and Navy of the United Statas;—I transmit a report from the Secretary of War, which, with the accompanying documents, will afford all the information required by the said resolution.

JAMES MONROE.

FEBRUARY 5, 1819.

The Message, together with the report and accompanying documents, were read.

Mr. EPPES presented the memorial of William Thornton, Superintendent of the Patent Office, praying an increase of his present compensation; and the memorial was read, and referred to the Committee on the Judiciary.

Mr. THOMAS presented the memorial of the register and receiver of the land office at Shawneetown, praying an increase of compensation; and the memorial was read, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the engrossed bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes; and, on motion by Mr. FORSYTH, it was referred to the Committee on the Judiciary, further to consider and report thereon.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of John Anderson, of the Michigan Territory; and, in concurrence therewith, resolved that the prayer of the petitioner is reasonable, and ought to be granted. The Committee of Claims were instructed to report a bill accordingly.

On motion by Mr. SANFORD, the Message of the President of the United States, of the 3d instant, recommending legislative provision for indemnity to certain British subjects, for losses sustained by them in consequence of illegal capture, was referred to the Committee of Claims, to consider and report thereon.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Augustus Sacket; and, in concurrence therewith, resolved that the prayer of the petitioner ought not to be allowed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to incorporate the Medical Society of the District of Columbia;" and the bill having been further amended, it was reported to the House; and the amendments being concurred in, they were ordered to be engrossed, and the bill to be read a third time as amended.

Mr. RUGGLES presented the petition of Elderken Potter, praying compensation for a horse lost in the service of the United States; and the petition was read, and referred to the Committee of Claims.

Mr. RUGGLES also presented the petition of William Harbaugh and E. Potter, praying further compensation for services rendered as quartermasters of Ohio militia; and the petition was read, and referred to the Committee on Military Affairs.

The bill to provide for sick and disabled seamen was read a third time, and passed.

The bill authorizing a subscription to the eleventh and twelfth volumes of State Papers was read a third time, and passed.

The amendments to the bill, entitled "An act to incorporate the Provident Association of Clerks in the civil Department of the Government of the United States, in the District of Columbia," having been reported by the Committee correctly engrossed, the bill was read a third time as amended, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill supplemental to the act, entitled "An act further to amend the charter of the City of Washington; and no amendment having been made thereto, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill supplementary to the acts concerning the coasting trade. And the bill having been amended, on motion by Mr. OTIS, the further consideration thereof was postponed until Monday next; and the letter from the Secretary of the Treasury, in reply to one from the chairman of the Committee on Finance respecting the coasting trade, ordered to be printed for the use of the Senate.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, to whom the subject was referred, reported a bill authorizing the purchase of fire engines, and for building houses for the safe-keeping of the same; and the bill was read, and passed to the second reading.

The bill to authorize the Corporation of the City of Washington to extend certain streets (across the Mall) was taken up, and, on the motion of Mr. GOLDSBOROUGH, postponed to a day beyond the session.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of John Clark. And the bill having been amended, it was reported to the House; and the amendment being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Samuel F. Hooker;" and no amendment having been made, the bill was reported to the House, and passed to a third reading.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act explanatory of the act, entitled 'An act for the final adjustment of land titles in the State of Louisiana and Territory of Missouri," reported the same with amendments; which were read.

The Senate resumed, as in Committee of the

Whole, the consideration of the bill for the relief of Samuel Ward; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act respecting invalids;" and on motion, by Mr. LACOCK, the further consideration thereof was postponed until the fifth of March next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of John A. Dix; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of John B. Timberlake; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate adjourned to Monday.

MONDAY, February 8.

Mr. GOLDSBOROUGH, from the Committee of Claims, pursuant to instructions, reported a bill for the relief of Christopher Fowler; and the bill was read, and passed to the second reading.

Mr. BURRILL, from the Committee on the Judiciary, to whom was referred the bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes, reported the same with amendments; which were read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize the President of the United States to purchase the lands reserved by the act of the third of March, 1817, to certain chiefs, warriors, or other Indians of the Creek nation; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The PRESIDENT communicated a report of the Secretary of War, to whom was referred the petition of Mary Cassin, of South Carolina; and the report was read, and referred to the Committee of Claims.

Mr. TICHENOR submitted the following motion for consideration:

Resolved, That the Committee on Commerce and Manufactures be instructed to report as to the expediency of uniting the two collection district of Alburgh and Champlain, adjoining the province of Canada, so that hereafter they shall form but one collection district.

Mr. RUGGLES, from the Committee of Claims, pursuant to instructions, reported a bill for the relief of John Anderson; and the bill was read, and passed to the second reading.

Mr. DICKERSON presented the petition of John Brewster and others, inhabitants of the city of Perth Amboy, in the State of New Jersey, praying the passage of a law, directing the terms of the district court of the United States, which are now held in New Brunswick, to be held in future at Perth Amboy, for reasons stated in the petition; which was read, and referred to the Committee on the Judiciary.

The bill authorizing the purchase of fire engines, and building houses for the safe-keeping of the same, was read the second time.

The Senate resumed the consideration of the resolution reported by Mr. TAIT, on the 5th instant, from the Committee on Naval Affairs, to whom was referred the Message of the President of the United States, of the 20th of April, 1818, transmitting a copy of the rules, regulations, and instructions, for the naval service of the United States, and the resolution of the Senate instructing the committee in relation thereto; and agreed to the same.

On motion, by Mr. DICKERSON, the Committee on Finance were instructed to inquire into the expediency of so far altering the laws for appointing collectors of the customs of the United States, district attorneys of the United States, and receivers of public moneys for lands of the United States, surveyors of the public lands, registers, and such other officers as they may think proper, as to have those officers respectively appointed for limited periods, subject to removal as heretofore.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Joseph Lefebre, made a report, accompanied by a resolution that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom the several subjects were referred, reported a bill for the relief of John Pettit; a bill for the relief of Solomon Prevost; a bill for the relief of Bartholomew Duverge; and also a bill for the relief of Alexander Milne; and the bills were respectively read, and severally passed to the second reading.

The bill supplmentary to the act, entitled "An act further to amend the charter of the City of Washington," was read a third time, and passed.

The bill for the relief of Samuel Ward was read a third time, and passed.

The bill for the relief of John Clark was read a third time, and passed.

The bill for the relief of John A. Dix was read a third time, and passed.

The bill for the relief of John B. Timberlake was read a third time, and passed.

The amendments to the bill, entitled "An act to incorporate the Medical Society of the District of Columbia," having been reported by the Committee correctly engrossed, the bill was read a third time, as amended, and passed.

The bill, entitled "An act for the relief of Samuel F. Hooker," was read a third time, and passed.

Mr. MORRIL submitted the following motion for consideration:

Resolved, That the President of the United States be requested to strike from the rolls of the Army and Navy the names of all those officers who aided or counselled, directly or indirectly, in the late duel

fought by A. T. Mason and John M. McCarty, citizens of the United States.

Mr. EATON, from the committee to whom the subject was referred, reported a bill supplementary to an act passed the 2d day of March, 1817, entitled "An act to prohibit the importation of slaves into the United States;" and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill confirming Anthony Cavalier and Peter Pettit in their claim to a tract of land; and, no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill providing for a grant of land for the seat of government in the State of Mississippi, and for the support of a seminary of learning within the said State; and, the bill having been amended, it was reported to the House, and the amendments being concurred in, it was ordered to be engrossed and read a third time.

The Senate resumed as in Committee of the Whole, the consideration of the bill for the relief of Joseph Thorne; and no amendment having been made, it was reported to the House; and, on the question, "Shall this bill be engrossed and read a third time?" it was determined in the negative. So the bill was rejected.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act providing additional penalties for false entries, for the benefit of drawback, or bounty on exportation;" and also a bill, entitled "An act to authorize the Secretary at War to appoint an additional agent for paying pensioners of the United States in the State of Tennessee;" in which bills they request the concurrence of the Senate.

The said two bills were read, and passed to a second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing the payment of a sum of money to the officers and crew of gunboats No. 149 and No. 154;" and no amendment having been made, it was reported to the House; and, on the question, "Shall this bill be read a third time?" it was determined in the negative. So the bill was rejected.

TUESDAY, February 9.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the petition of Harbaugh and Potter, made a report accompanied by a resolution that the petitioners have leave to withdraw their petition. The report and resolution were read.

On motion by Mr. EPPES, Nathaniel Goddard and others, formerly owners of the ship Ariadne and cargo, had leave to withdraw their papers.

The Senate resumed, as in Committee of the Whole, the consideration of the bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes; together with the amendments reported thereto by the Committee on the Judiciary; and the amendments having been agreed to, the bill was reported to the House as amended, and the amendments being concurred in, it was ordered to be engrossed and read a third time.

The bill, entitled "An act to authorize the Secretary at War to appoint an additional agent for paying pensions in the State of Tennessee," was read the second time, and referred to the Committee on Military Affairs.

The bill, entitled "An act providing additional penalties for false entries for the benefit of drawback, or bounty on exportation," was read the second time, and referred to the Committee on Finance.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Robert McCalla and Matthew H. Jouett," reported the same with an amendment; which was read.

The Senate resumed the consideration of the report of the Committee on Pensions, who were directed to inquire into the expediency of increasing the pension of Caleb Austin; and the further consideration thereof was postponed until the 5th day of March next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Joseph Lefebre; and the further consideration thereof was postponed until to-morrow.

The bill for the relief of Solomon Prevost; the bill for the relief of Bartholomew Duverge; the bill for the relief of John Pettit; the bill for the relief of John Anderson; the bill for the relief of Alexander Milne; and the bill for the relief of Christopher Fowler, were severally read the second time.

The Senate took up a motion made yesterday by Mr. TICHENOR, to direct the Committee on Commerce and Manufactures to inquire into the expediency of uniting the districts of Alburg and Champlain, in Vermont, into one district, and agreed thereto.

The engrossed bills to authorize the President to purchase the lands reserved by the act of 1817 to certain Creek chiefs and warriors; to provide a grant of land for the seat of government of the State of Mississippi, and for the support of a seminary of learning; and confirming Anthony Cavalier and Peter Petit in their claim to a tract of land; were severally read the third time, and passed.

The Senate resumed the consideration of the bill to extend, for a further time of five years, the pensions heretofore granted to the widows and orphans of the officers and soldiers who died or were killed in the late war with Great Britain.

Much debate took place on the merits of this bill; in the course of which Mr. LACOCK moved that it be postponed to the 5th of March next, (to reject the bill;) which motion was decided in the affirmative, as follows:

YEAS—Messrs. Burrill, Daggett, Dickerson, Eaton,

Eppes, Forsyth, Goldsborough, Horsey, Lacock, Leake, Macon, Mellen, Morril, Morrow, Otis, Roberts, Ruggles, Storer, Tichenor, Van Dyke, Williams of Miss., and Wilson—22.

NAYS—Messrs. Barbour, Crittenden, Fromentin, Noble, Palmer, Sanford, Tait, Talbot, Taylor, Thomas —10.

So the bill was rejected.

SALES OF PUBLIC LANDS.

Mr. MORROW, from the Committee on Public Lands, who were instructed "to inquire into the expediency of so altering the laws respecting the sale of the public lands, that, from and after the —— day of —— next, credit shall not be given on such sales," made a report, accompanied by a bill, making further provision for the sale of public lands; and the report and bill were read, and the bill passed to the second reading.

The report is as follows:

That a view to the extensive territory placed at the disposal of the Government, the increasing demand for new lands for cultivation, arising from the progressive augmentation of the population in the United States, and the influence which the proposed alteration in the system for the sale of public lands must produce on the interests of a large portion of the community, give, in the opinion of the committee, more than ordinary importance to the inquiry which they are instructed to make.

From the connexion that the terms of credit have with the other provisions and conditions provided for the sale of the public lands, a correspondent alteration in the price and size of the tracts offered for sale, will be necessary, when the credit is discontinued on future sales. That provision, alone, would virtually operate an enhancement of the price, and lessen the facility to men of limited capital, of acquiring new lands for settlement and cultivation.

In this view, the committee have considered the expediency of providing for the discontinuance of credit, a reduction of the price, and a subdivision of tracts in future sales. The provisions for the sale of public lands now in force, with some subsequent alterations, were adopted by the act of the 10th day of May, 1800. By its general regulations, a credit is allowed on three-fourths of the purchase-money for the lands sold. The moneys credited may be retained by incurring the charge of simple interest, for five years, from the time of purchase. It would appear that, at the first sales under this law, the long term of credit allowed had induced excessive purchases. The term of credit on those sales expired in the year 1805; and in 1806 it became necessary for Congress to interpose for relief of the purchasers, to prevent extensive forfeitures for failure in payment; and, since that period, nine several acts have been passed for the relief of the purchasers of public lands; and these acts for mitigating the operation for the general provision of the law have been in force more than one half of the whole time since the system was first organized. The inducements of a long credit, which encourage purchases beyond the means for making payment, the general disposition in men to anticipate the most favorable results from the products of their labor, and the frequent unfavorable fluctuations in commerce, which cannot be foreseen by the most discerning, are the principal causes of the failures in payment by purchasers of public lands. It must appear from the Treasury statement, at the present session, of the amount of outstanding balances, on account of the sales of public lands, with the embarrassments arising from the deranged state of the currency, that any degree of punctuality in the payment of the debts now due is highly improbable. If the laws were left to operate in the rigid exactions of the penalties and forfeitures, the most serious injuries, (in the present circumstances of the country) must follow to a large class of the community; and the effect of relief, by an extension for the time for payment, while the sales continue to progress, may produce an accumulation of the debt, and increase the difficulty in making the final payments.

The experience for several years of the effects of this system, the frequent recurrence of circumstances which render necessary the interposition of the Legislature to mitigate the general operation of law, and the extensive forfeitures which have been incurred, notwithstanding the aid of frequent remedial laws for the relief of the purchasers, seem to forbid any calculation on a successful operation of the same system in future sales. It cannot be correct policy to persist in the continuance of a system so much affected by circumstances, as that under consideration; which requires the frequent aid of mitigating expedients to preserve its existence, and to prevent its oppressive effects on a considerable portion of the community. It is not believed that any of the acts for the relief of the purchaser of public lands were unnecessary indulgences. The unfavorable state of things, during the restrictions on our commerce, and the late war, rendered such measures necessary; and the present state of the currency presents claims for indulgence still more imperative. Judging from the experience of the past, without any assurance of a more favorable state of things in future, it may be concluded that the system of credit is not well adapted to the circumstances of the country, and will be injurious so long as commerce is liable to fluctuation. The allowance of credit on the sales of the public lands, could not have been adopted for the benefit of capitalists; to them it is unnecessary, and for them it ought not to have been provided. And yet it is believed that it has operated most to the disadvantage of men destitute of capital. An individual who takes the whole term of credit allowed by law, on the three last instalments of purchase money, is charged on the moneys credited more than ten per cent. per annum above the purchaser who makes prompt payment; and, in many instances, if he possess no other resources than those arising from the land itself, he incurs a forfeiture of the money paid, and the land, with its improvements. If the allowance of credit on future sales was abolished, every subsequent purchaser would, without any liability to error, be able to calculate his means for payment; and if his purchase should not be so extensive, he would at once become an independent landholder, secure and quiet in his possession. In future, those fertile sources of discontent and disquietude, which arise from disappointment, and from the exercise of measures necessary to enforce the payments, as also the frequent distress occasioned by the forfeiture of lands on which settlements have been made, would be avoided; and (as will be proposed) were the public lands offered for sale in tracts of eighty acres, at one dollar and fifty cents per acre, then any individual, on the payment of one hundred and twenty dollars, might acquire a freehold estate, without encumbering himself with any debt whatever. It is believed that an advantage to the general interest of the districts in

which the public lands are sold, would result from discontinuing the credit on the sales. The purchaser is in possession of the lands purchased, for four or five years before the completion of his payment. The product of his labor, for that time, is applied in discharge of his debt, and passes into the Public Treasury. In as far as the instalments are collected in the district, it operates on the principle of rents collected, and withdrawn from circulation, or of a partial tax on that part of the community. The drain of money from circulation, thus occasioned, has been sensibly felt; and the balance in exchange against the Western country may, on this principle, be accounted for. In case of cash payments, the resources for payment would be drawn from other parts of the country, in as far as emigrants are the purchasers. In a more general point of view, the proposed measure appears important. The accumulation of debt, in particular districts, where the mass of citizens are the debtors, is a consequence attending the credit system. The principles of general policy require that charges on the people, for the necessary supply of revenue, should be diffused over the whole society; by adopting cash payments, this evil would be avoided; and the interest of subsequent purchasers would then be identified with that of the Government.

If credit shall not be allowed on the sale of the public lands, it is proposed that a corresponding reduction in the price shall be made. The public lands have ever been considered as a source of revenue to the Government, and the early regulations for their sale appear to have had that object principally in view. Several of the States ceded vacant territory to the United States, for the purpose of creating a fund for the discharge of the public debt. With this object in view, and to cover the considerable expenses of extinguishing the Indian title, and otherwise incidental to bringing the lands into market, the price was first fixed by general regulations at one dollar per acre, and subsequently increased to two. It would be difficult, without reference to any general principle of public policy, to fix any determined price, which, under all circumstances, would be proper for the sale of the public lands. The demand for new land to bring into cultivation will in some manner be proportioned to the increase of population in the agricultural class of the community. But the amount of sale will always depend (at any given price) on the capital destined to be so invested. The capital ordinarily employed for this object, is the surplus product of agricultural labor. If the profit in agricultural pursuits, so to be employed, will not purchase the supply of new lands necessary to the proper extension and prosecution of that important branch of national industry, it may then be fairly presumed that the price is excessive, and operates injuriously to the public interest. It is not alleged that the price at present fixed has produced that effect, but it is believed that it is much higher than has been required by any of the individual States, or in any other country, for vacant lands; and that the price required, connected with the credit allowed, has been found sufficiently high by the industrious class who are disposed to purchase, for the purpose of occupancy and improvement. Experience has exploded the opinion that injurious speculations might be discouraged, and monopolies prevented, by simply fixing a high price on the sale of the public lands; and if in any measure these salutary effects have been produced by that means, it has been at the expense of the corresponding disadvantage that, by the same means, the industrious class, with small capital, have been prevented from becoming purchasers, with a view to settlement and cultivation.

The only expedient which has been successfully resorted to, for preventing the public lands from being engrossed by capitalists, and perhaps the only one that will in any measure be effectual to that end, is the subdivision of the sections, and offering them for sale in small tracts, suited to the means of the purchaser, for actual settlement. And while ever a sufficient quantity of land is kept in market to satisfy the necessary demand arising from the increase of population in the country, and sold in small tracts to suit those who are disposed to purchase, for the purpose of occupying them, little may be apprehended from the evils of speculation and monopoly, whether the price be as now fixed, or shall be reduced.

The sales of lands are regulated by no other principle than that of any other traffic in any species of merchandise. While ever the market is fully supplied with any commodity, and a certainty that the supply can be kept up, and it is retailed in quantity and quality to suit the purchaser for use or consumption, monopolies will not be made, whether the price be high or low. A high price will discourage the consumption, and a low price promote it; but, while the price is steady, speculations will be unprofitable.

It has been alleged that discontinuing the credit and reducing the price would operate to the disadvantage of the poor; that they must be supplied on credit; and if it shall not be allowed by the Government, they must purchase at an advanced price from speculators. The idea of providing equal facility to the poor and to the rich, by any regulation, is incompatible with that of disposing of the land for a valuable consideration. While the Government requires a price, he who possesses the means of payment will have an advantage in making purchases over him who does not possess such means.

It is not apprehended that speculations will be extensive, or be long continued, where they must be carried on by purchase for cash, and sale on credit, and when the sales must be confined to those who cannot advance one hundred and twenty dollars, and become purchasers from the United States.

From the foregoing consideration it is respectfully proposed that credit on future sales shall not be allowed; that the price of the public lands be fixed at one dollar and fifty cents; and that the lands be offered for sale in tracts of eighty acres.

And for that purpose they ask leave to report a bill.

DUELLING.

The Senate resumed the consideration of the motion, submitted yesterday by Mr. MORRIL, to request the President to dismiss certain officers from service.

Mr. MORRIL addressed the Chair as follows:

Mr. President, it is with no ordinary degree of sensation that I invite the attention of the Senate to the consideration of the resolution which I had the honor to present. The nature and enormity of the transaction can require but little illustration. It is not my intention to enter into a minute detail of the horror or magnitude of the crime; but, as I had the honor to offer the resolution, it may be expected that I assign some reasons in justification of the proposition. In the

first place, sir, I consider the practice of duelling as inhuman. What can be more repulsive to the philanthropic breast than to place before a musket, charged with a ball, at the distance of twelve or fifteen feet, a fellow-citizen for a mark? Humanity shudders, every tender feeling of the heart recoils, and Pagan barbarity itself is put to the blush. But, sir, it is immoral. It tends to demoralize society and corrupt the community. It banishes accountability from the human mind. It represents life and death as of no consequence, and immaterial. It may sometimes deprive society of its useful members.

The practice is unjust and wicked. In consequence of capital offences, by a legal tribunal life may be taken. But shall one citizen, for any trivial offence, take the life of his fellow? It cannot be justified upon any correct principle whatever, either Christian, humane, or civil. Christianity breathes a better spirit; humanity retires with disgust; the civil code condemns and executes the offender. What law, human or divine, will sustain the act? The articles of war forbid it; State laws forbid it; Virginia herself has forbidden it.

But, sir, General Mason has fallen. A husband, a father, a son, thus prematurely ushered into eternity. And, unless invention and vice are more than ordinarily active, he received encouragement to the sad catastrophe in this city; and the more to be lamented, for, is this the case, his blood must, at least in part, rest upon the heads of his guilty abettors and counsellors.

Lamentable fact! that a gentleman of high standing, who had been a member of this honorable body, and probably would have been the next Governor of Virginia, should be so overcome with pride or with passion as to fall a sacrifice to sentiments so absurd. And, sir, what plausible apology is offered to mitigate the crime? The only plea which ingenuity itself can invent, is grounded upon a false notion of honor. A gentleman is bound by his honor to commit an act of murder. His honor must be sustained by the commission of an offence beneath the dignity of the human species. If this be a correct mode of sustaining a gentleman's honor, why is it prohibited in your army? Why are laws against it? If it will sustain the honor of an individual, it will sustain the honor of the community; the honor of your country; and why do your laws condemn that on which your country's glory is erected?

But, sir, it is a gentleman's way of deciding a controversy. Yes, and the servants; the boys in the street, by this practice, learn high notions of honor, and, to display them, must fight a duel. Base practice, indeed; repugnant to all the refined feelings of a cultivated mind. The better feelings of man revolt at the act. Conscience condemns it, and it must, in time and eternity. From this view of the subject, sir, I am induced to offer the resolution, and am led to hope it will be adopted by the Senate. Let this be as it may, I have discharged my duty; I have expressed my opinion without reserve.

Mr. BARBOUR addressed the Senate as follows:

Mr. President, the event to which the resolution relates has filled me with the deepest affliction. I claim the melancholy privilege of being the chief mourner here. Mason was my friend—a long and intimate acquaintance, ripened into a sincere friendship by an association in this body for several years, gave me an opportunity of appreciating his distinguished worth. Virginia loved him as one of her favorite sons—in war her shield, her ornament in peace. With her the very name had been consecrated to patriotism, through successive generations. Its lustre lost nothing in the person of the deceased. He united the amiable qualities of the man to the higher virtues of the patriot. His loss will be mourned by his country as a public calamity. In the vigor of life, uniting both the affection and confidence of all, and surrounded with every blessing that promised happiness, he has suddenly fallen the victim of a barbarous practice. Cut off in the commencement of a splendid career, he leaves a wretched mother, a disconsolate widow, a fatherless child, and a weeping country.

Oh, what a scene was there! But yesterday Selma was the abode of happiness; to-day it is wrapped in mourning. See on yesterday the affectionate husband, the amiable wife, the tender infant—the pledge and cement of their happiness. To-day, behold that husband carried into the presence of his wife, bathed in gore. See her, frantic with despair, precipitating herself upon the corpse of her bleeding husband, mingling her tears with his flowing blood, and contending with the icy arms of death for the lifeless prize. She lifts her eyes to Heaven, the last refuge of the wretched, and in tones of agony cries out, my God, my God, restore my husband! Her prayers are given to the winds; his disembodied spirit has found its refuge and its home in the bosom of its God, while his earthly remains are consigned to the cold and narrow house appointed for all the living. Peace be to his ashes! And may a kind Providence become the friend of the widow; pour balm into her afflicted bosom, and bind up the broken heart; be the father of the fatherless, and let him be the mother's prop; rock the cradle of her declining years, and be a consolation in her dying hour! If anything can now administer to the affliction of his surviving friends, it will be the knowledge that Virginia, this day, through all her borders, weeps his untimely fall.

As to the practice of duelling, I have already, long since, given proofs of my sentiments, more substantial than mere professions. Whatever credit, if any, be due to it, to me it belongs, of having first presented to the Legislature of my native State the law against duelling. What will be its result on society, all-trying time must decide. The best hopes of humanity are connected with its success; nor is it presumptuous to hope that Heaven may smile on our efforts.

And yet, sir, with these sentiments, I must still be opposed to the resolution under consideration. As to the rumors to which the mover refers, and on which he rests, in part, at least, the success of

this motion, they may or may not be true. Incidents of this kind are generally attended with the most exaggerated statements. If, indeed, they be true, as represented, I should feel no hesitation in pronouncing them as deserving the deepest abhorrence. Of some of the persons concerned in this melancholy tragedy, I know nothing; with others I have a slight acquaintance, Their characters forbid the belief that they have acted dishonorably. The statement made by the mover, unsustained by proof, furnishes a strong reason against the adoption of the resolution. For it is palpably an *ex parte* proceeding, and we are called upon to consign to infamy men who have had no opportunity of being heard in their defence. Let us not multiply the regrets already attending this melancholy event, by doing an act of injustice. Let us not commit the dignity of the Senate, by taking cognizance of a subject which belongs to others. If a crime has been committed, the offenders are subject, if, as the resolution supposes, they be military men, to trial by court martial, and, in any event, by a civil tribunal. To the President, as Commander-in-Chief, belongs the former; the latter to the civil magistrate. By this irregular proceeding, should it prevail, we depart from our own duty, in prescribing to others, to whom of right the subject belongs, and of whose remissness there is no imputation. The crime of duelling is not to be corrected by a proceeding of this kind. The roots of the evil are too deep to be extirpated by a solitary paroxysm of zeal. Public opinion is the only corrective. No matter what may be the number or severity of penalties that are denounced against this ferocious practice; they, as experience has evinced, are inoperative, unless their enforcement can be secured by the coincidence of public sentiment, or unless, as with us, the law executes itself by disfranchising the offender. So long as public opinion requires of an individual a submission to what is most improperly called the laws of honor, to maintain his grade in society, it is as capricious as unjust to anathematize those who submit to its decrees. Let the press, let your schools, let the pulpit, let your legislatures, throughout the nation, make a simultaneous effort, and continue it with zeal and perseverance, to extirpate this practice, the undisputed progeny of a barbarous age. Upon such an undertaking, let us hope for the blessing of Heaven.

After other gentlemen had spoken—

Mr. MORRILL made the following remarks:

Mr. PRESIDENT: I learn with pleasure, from what honorable gentlemen have advanced on this subject, there is but one sentiment with respect to the nature and atrocity of the act. A difference of opinion as to the expediency and policy of the measure proposed, is the only difficulty to be encountered.

The honorable gentleman from Kentucky intimates a want of information, and an apprehension that no guilt can be attached to any implicated in this affair. It is very desirable, sir, that this should be the fact. If no guilt, no blame; and of course no injury can be sustained by the innocent; and no evil is to be apprehended.

But, the gentleman suggests, that favorable expressions have fallen from gentlemen on the floor of the other House. Is this a fact, sir? it is the more to be lamented, and furnishes another reason why this House should express an opinion on the subject. But, sir, the honorable gentleman from Virginia, with whose eloquence I am generally captivated, and by whose arguments I am commonly drawn into his mode of thinking, has expressed the generous feeling of his heart, on the nature of the act, in a manner in perfect coincidence with my views of the subject. The spontaneous effusions of his heart, thus exhibited, I can by no means doubt, and can hardly suppose the social intercourse which he has holden in this House with the unfortunate sufferer should not have created a more than ordinary attachment. But, sir, the honorable gentleman intimates several reasons why this resolution should not be adopted. It is assuming the exercise of a power vested in another department. Your articles of war do not reach the case. They provide for the punishment of those who give or accept a challenge, but not those who are accessory thereto. As to the civil authority, sir, crimes of this kind, in this region, have passed too long unobserved to justify the most remote expectation that cognizance will be taken of this transaction. But, says the gentleman, it may consign to infamy individuals. If guilty, be it so; to this I have no objection. Would to God that all who are guilty of duelling might, by public disapprobation, be consigned to infamy as lasting as time itself. This would be the most successful and sure way to suppress the practice. The honorable gentleman intimates, the public opinion is incorrect, and this is the best corrective; and it is hard to criminate a person for committing a crime when public opinion requires him so to do to maintain his grade in society. Admit, sir, the public opinion is the best corrective, and that public opinion is incorrect—I would ask that honorable gentleman, what is the best method to correct public opinion? Will resolutions passed in private circles effect the object? Would not the opinion of the President have more influence upon society than that of an obscure individual? Would the gentleman, to purify a stream, cast his corrective into the ocean where it empties, or into the fountain where it originated? I presume, into the fountain. And, sir, upon the same principle, if the public opinion is corrupt, let the correction commence here—in the Senate of the United States. Let the stream be purified. Here, I wish to record my vote against an act so inhuman and wicked. A crime which I detest with all the powers of my soul. But, sir, as my desire is to accommodate the feelings of gentlemen, I will withdraw the resolution and submit a substitute.

Mr. M. then offered the following, which was agreed to:

Resolved, That the Committee on the Judiciary be

instructed to inquire into the expediency of providing, by law, for the punishment of all persons concerned in duelling within the District of Columbia.

WEDNESDAY, February 10.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the bill, entitled "An act to authorize the Secretary of War to appoint an additional agent for paying pensions in the State of Tennessee," reported the same without amendment.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the bill, entitled "An act for the relief of Hannah Ring and Luther Frink," reported the same with amendments; which were read.

Mr. NOBLE, from the same committee, who were instructed, by a resolution of the Senate, "to inquire into the expediency of placing Thos. Lucas on the pension list," made a report; which was read.

Mr. NOBLE, from the same committee, who were instructed, by a resolution of the Senate, "to inquire into the expediency of authorizing the Secretary of War to place upon the pension list Abraham Edwards, a mariner in the naval service of the United States in the Revolutionary war, who is now insane, and in such reduced circumstances as to need the assistance of his country," made a report; which was read.

On motion by Mr. MORROW, the Committee on Public Lands, to whom was referred the petition of William Edgar and Alexander Macomb, were discharged from the further consideration thereof, and the petitioners had leave to withdraw their petition and documents.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill providing for the correction of errors in making entries of land at the land offices; and the bill was read, and passed to the second reading.

Mr. BURRILL, from the Committee on the Judiciary, to whom was referred the memorial of William Thornton, reported a bill relative to the Patent Office, and the salary of the superintendent thereof; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the bill "concerning the widows of the militia," (granting five years' pension to the widows of such of the militia as died within four months after their return home, of disease contracted in service;) and, on motion of Mr. LACOCK, the bill was postponed a day beyond the session, and of course rejected.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to amend the act, entitled 'An act supplementary to the act, entitled An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to vacant and unappropriated land within the same, passed the eighteenth of April, 1806;" a bill, entitled "An act to authorize the Secretary of War to convey a lot or parcel of land belonging to the United States, laying in Jefferson county, in the State of Virginia;" and a bill, entitled "An act for the relief of Isaac Minis, and others;" and, also, a resolution authorizing the transmission of the documents accompanying the report of the committee to examine into the proceedings of the Bank of the United States, free of postage; in which bills and resolutions they request the concurrence of the Senate.

The said bills and resolution were read, and passed to the second reading.

The said resolution was read the second time by unanimous consent, and considered as in Committee of the Whole; and, no amendment having been made, it was reported to the House, read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill making appropriations to carry into effect treaties concluded with several Indian tribes therein mentioned; and, no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Daniel Pettibone; and, the bill having been amended, it was reported to the House; and, the amendment being concurred in, the bill was ordered to be engrossed and read a third time.

The bill supplementary to an act, passed the second day of March, 1807, entitled "An act to prohibit the importation of slaves into the United States," was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act directing the payment of certain bills drawn by General Armstrong in favor of William Morgan;" and, no amendment having been made, it was reported to the House, and passed to a third reading.

The bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes, was read a third time, and passed.

STATUE OF WASHINGTON.

The Senate then resumed the consideration of the bill, providing for the erection of an equestrian statue of General WASHINGTON, in pursuance of the resolution of the Congress of 1783.

Considerable discussion took place on this subject; in the course of which Mr. WILSON moved to postpone the bill to the 5th of March, (to reject it,) with a view of then moving for estimates of expense, &c., to be reported to the House at the next session; which motion was decided by yeas and nays, as follows:

YEAS—Messrs. Barbour, Burrill, Crittenden, Dickerson, Edwards, Eppes, Lacock, Leake, Macon, Morrow, Noble, Palmer, Roberts, Ruggles, Tait, Taylor, Williams of Massachusetts, and Wilson—18.

NAYS—Messrs. Daggett, Eaton, Forsyth, Fromentin, Goldsborough, Horsey, Hunter, Johnson, King, Mellen, Morril, Otis, Sanford, Stokes, Talbot, Tichenor, Van Dyke, and Williams of Tennessee—18.

The Senate being equally divided on the question, the PRESIDENT gave the casting vote against postponing the bill, and the motion was accordingly negatived.

After further debate as to the amount necessary to be appropriated for the object, the bill was laid over until to-morrow.

THURSDAY, February 11.

The bill, entitled "An act to amend the act supplementary to the act, entitled 'An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to vacant and unappropriated land within the same, passed the 18th of April, 1806," was read the second time, and referred to the Committee on Public Lands.

The bill, entitled "An act to authorize the Secretary of War to convey a lot or parcel of land belonging to the United States, lying in Jefferson county, in the State of Virginia," was read the second time, and referred to the Committee on Military Affairs.

The bill, entitled "An act for the relief of Isaac Minis, and others," was read the second time, and referred to the Committee of Claims.

Mr. GOLDSBOROUGH, from the Committee of Claims, reported a bill for the relief of William and James Crooks; and the bill was twice read by unanimous consent.

Mr. GOLDSBOROUGH, from the same committee, reported a bill for the relief of Noah Brown, and others; and the bill was read, and passed to the second reading,

Mr. MORROW, from the Committee on Public Lands, reported a bill to revive the powers of the commissioners for ascertaining and deciding on claims to land in the district of Detroit, and for settling the claims to land at Green Bay and Prairie du Chien, in the Territory of Michigan; and the bill was read, and passed to the second reading.

Mr. JOHNSON, presented the memorial of Hyacinthe Bernard, of Louisiana, praying to be confirmed in his title to certain land, as stated in the memorial; which was read, and referred to the Committee on Public Lands.

The PRESIDENT communicated the memorial of Joseph Krittman, praying indemnity for property of which he was illegally deprived by the Senate of Hamburg, as stated in the memorial; which was read, and referred to the Committee of Claims.

Mr. HUNTER presented the memorial of Nathaniel Cutting, praying additional compensation, in consideration of his "long" and "faithful" public services, as stated in the memorial; which was read, and referred to the Committee of Claims.

Mr. WILLIAMS, of Mississippi, submitted the following motion for consideration:

Resolved, That the Secretary of the Treasury lay before the Senate, as early in their next session as practicable, an abstract of all bonds for duties on merchandise imported into the United States, which shall have become payable, and remain unpaid on the thirtieth day of September next; exhibiting, in such abstract, the date of such bond, and the time when it became payable, its amount, the name of the obligors, distinguishing principals from sureties, and the district of the customs in which taken; together with such information as will show how much or what parts of such bonds are irrecoverable and lost to the United States.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Cornelia Schoonmaker, widow and administratrix, and Peter Marius Green, administrator of Zachariah Schoonmaker, deceased, late paymaster of the second regiment of United States volunteer artillery; and, on motion by Mr. WILSON, the further consideration thereof was postponed until the 5th day of March next.

The Senate resumed the consideration of the report of the Committee on Military Affairs, to whom was referred the petition of Harbaugh and Potter; and, in concurrence therewith, the petitioners had leave to withdraw their petition.

The bill making further provision for the sale of public lands; the bill providing for the correction of errors in making entries of land at the land offices; and the bill relative to the Patent Office, and the salary of the superintendent thereof; were respectively read the second time.

Mr. ROBERTS presented the petition of Rebecca Hodgson, widow of Joseph Hodgson, praying payment for the value of a certain house which was consumed by fire, whilst in the occupation of the Government of the United States, as the War Office in the City of Washington, in the year 1800, as stated in the petition; which was read, and referred to the Committee of Claims.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I transmit to Congress, for their consideration, applications which have been received from the Minister Resident of Prussia, and from the Senators of the Free and Hanseatic cities of Hamburg and Bremen, the object of which is, that the advantages secured by the act of Congress of 20th April last, to the vessels and merchandise of the Netherlands, should be extended to those of Prussia, Hamburg, and Bremen. It will appear from these documents, that the vessels of the United States, and the merchandise laden in them, are, in the ports of those Governments, respectively entitled to the same advantages, in respect to imports and duties, as those of the native subjects of the countries themselves. The principle of reciprocity appears to entitle them to the return of the same favor, on the part of the United States, and I recommend it to Congress, that provision to that effect may be made.

JAMES MONROE.

FEBRUARY 11, 1819.

The Message together with the accompanying documents, were read, and referred to the Committee on Foreign Relations.

The following Message was also received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I transmit to Congress, a copy of a letter from Governor Bibb, to Major General Jackson, connected with the late military operations in Florida. This letter had been mislaid, or it would have been communicated with the other documents at the commencement of the session.

JAMES MONROE.

WASHINGTON, *February* 6, 1819.

The Message together with the accompanying letter, were read.

Mr. WILSON submitted the following motion for consideration:

Resolved, That the Secretary of the Senate procure, for the use of the Senate, —— copies of the memorial of William Jones, late President of the Bank of the United States, to the House of Representatives of the United States, and presented to that body on the 8th instant, with the documents annexed thereto.

The bill making appropriations to carry into effect treaties concluded with several Indian tribes therein mentioned, was read a third time, and passed.

The bill for the relief of Daniel Pettibone was read a third time, and passed.

The bill entitled "An act directing the payment of certain bills drawn by General Armstrong, in favor of William Morgan," was read a third time, and passed.

Mr. FROMENTIN presented the petition of Labedoyere de Kermion, of the State of Louisiana, praying indemnity for losses sustained during the invasion of said State by the enemy in the Winter of 1814–'15, as stated in the petition; which was read, and referred to the Committee of Claims.

COASTING TRADE.

The Senate resumed the consideration of the bill "supplementary to the acts concerning the coasting trade.

[This bill provides—1. That, for the more convenient regulation of the coasting trade, the seacoast and navigable rivers of the United States be divided into four great districts; the first to include all the districts on the seacoast and navigable rivers, between the eastern limits of the United States and the western limits of Rhode Island; the second to include all the districts between the western limits of Rhode Island and the southern limits of Virginia; the third to include all the districts between the southern limits of Virginia and the southern limits of Georgia; and the fourth to include all the districts between the river Perdido and the western limits of the United States.

2. That every ship or vessel of the burden of twenty tons or upwards, licensed to trade between the different districts of the United States, is authorized to carry on such trade between the districts included within the aforesaid great districts respectively, in manner, and subject only to the regulations that are now by law required to be observed by such ships or vessels in trading from one district to another in the same State, or from a district in one State to a district in the next adjoining State.

3. That every ship or vessel of the burden of twenty tons or upwards, licensed to trade as aforesaid, is required, in trading from one to another district, to conform to and observe the regulations that, at the time of passing this act, are required to be obsefved by such vessels in trading from a district in one State to a district in any other than an adjoining State.

4. That the trade between the districts not included in any of the four great districts aforesaid, shall continue to be carried on in the manner, and subject to the regulations, already provided for this purpose.]

The bill received some amendments, not affecting its principle, and was ordered to be engrossed for a third reading.

STATUE OF WASHINGTON.

The Senate resumed the consideration of the bill for the erection of an equestrian statue of General GEORGE WASHINGTON, in the Capitol square.

Mr. OTIS moved to postpone the bill to the 5th day of March, (to reject it;) which motion was decided in the negative, by yeas and nays, as follows:

YEAS—Messrs. Barbour, Burrill, Crittenden, Dickerson, Eppes, Lacock, Leake, Macon, Morrow, Noble, Otis, Roberts, Tait, Taylor, and Wilson—15.

NAYS—Messrs. Daggett, Eaton, Forsyth, Fromentin, Goldsborough, Horsey, Hunter, Johnson, King, Mellen, Morril, Sanford, Stokes, Storer, Talbot, Tichenor, Van Dyke, and Williams of Tennessee—18.

On motion of Mr. DAGGETT, the bill was amended, by adding a proviso, that, if the President should find that the monument would cost more than $150,000, the sum appropriated, he should not proceed to execute the act, but make a report of the estimated cost to the next session of Congress.

The question was then taken on ordering the bill, as amended, to be engrossed and read a third time, and decided affirmatively, by yeas and nays, as follows:

YEAS—Messrs. Barbour, Burrill, Crittenden, Daggett, Dickerson, Fromentin, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Mellen, Morril, Otis, Sanford, Stokes, Storer, Talbot, Thomas, Tichenor, Van Dyke, and Williams of Tennessee—23.

NAYS—Messrs. Eaton, Edwards, Eppes, Forsyth, Lacock, Macon, Morrow, Palmer, Roberts, Ruggles, Tait, Taylor, Williams of Mississippi, and Wilson—14.

FRIDAY, February 12.

Mr. EPPES, from the Committee on Finance, to whom was referred the bill, entitled "An act providing additional penalties for false entries for the benefit of drawback, or bounty on exportation," reported the same without amendment; and it was considered as in Committee of the Whole; and no amendment having been made, it was reported to the House, and passed to a third reading.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Harold Smyth," reported the same without amendment.

On motion by Mr. GOLDSBOROUGH, the Committee of Claims, to whom was referred the petition of Richard I. Jones, and also the petition of Mary Cassin, were discharged from the further consideration thereof respectively, and the peti-

tioners had leave to withdraw their papers; and the said committee, to whom was referred the memorial of Joseph Krittman, were discharged from the further consideration thereof, and it was referred to the Committee on Foreign Relations.

The bill for the relief of Noah Brown, and others, was read the second time.

Mr. WILSON, from the Committee of Claims, reported a bill for the relief of Labedoyere de Kermion; and the bill was read, and passed to the second reading.

On motion by Mr. STORER,

Resolved, That the President of the United States be, and he is hereby, requested to procure the cession of jurisdiction in and over such military and naval sites as have been or may be purchased for the use of the United States, and where such cession has not already been made.

The Senate resumed the consideration of the motion of yesterday, calling for an abstract of all bonds for duties on merchandise imported into the United States, which shall have become payable and remain unpaid on the 30th day of September next; and agreed thereto.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Joseph Lefebre; whereupon, on motion by Mr. JOHNSON, the Committee of Claims were instructed to bring in a bill authorizing the Secretary of the Treasury to pay to the petitioner the amount claimed, or such part thereof as may be supported by satisfactory evidence that the property destroyed was taken by the authority of the commanding officer, and proving the several articles, and the amount thereof.

The bill to erect an equestrian statue of General Washington, in the Capitol square, was read a third time; and on motion by Mr. RUGGLES, that the further consideration thereof be postponed until the 5th day of March next, it was determined in the negative—yeas 13, nays 21, as follows:

YEAS—Messrs. Eaton, Edwards, Eppes, Lacock, Macon, Morrow, Noble, Otis, Roberts, Ruggles, Taylor, Williams of Mississippi, and Wilson.

NAYS—Messrs. Barbour, Burrill, Crittenden, Daggett, Fromentin, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Mellen, Morril, Sanford, Stokes, Storer, Talbot, Thomas, Tichenor, Van Dyke, and Williams of Tennessee.

On the question, "Shall this bill pass?" it was determined in the affirmative. So it was resolved, that this bill pass, and that the title thereof be, "An act to erect an equestrian statue of General Washington in the Capitol square."

The Senate resumed the consideration of the motion of yesterday, for procuring for the use of the Senate —— copies of the memorial of William Jones, to the House of Representatives, with the documents annexed thereto; and the blank having been filled with "five hundred," on the question to agree thereto, it was determined in the negative.

The Senate resumed the consideration of the report of the Committee on Pensions, in the case of Peter Francisco; and the further consideration thereof was postponed until Monday next.

The bill supplementary to the acts concerning the coasting trade was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning invalid pensions;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of Kenzie and Forsyth," together with the amendment reported thereto by the Committee of Claims; and the amendment having been agreed to, the bill was reported to the House amended; and the amendment being concurred in, it was ordered to be engrossed, and the bill be read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Adam Kingsley, Thomas French, and Charles S. Leonard;" and no amendment having been made, the bill was reported to the House, and it passed to a third reading.

Mr. CRITTENDEN presented the petition of Archibald Felts, praying for a pension in consideration of services rendered during the Revolutionary war, as stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. OTIS presented the memorial of Benjamin Dearborn, praying Congress to take into consideration an invention for propelling wheel carriages, which would insure greater security against robbery, and promote celerity of movement, as stated in the memorial; which was read, and referred to the Committee on the Post Office and Post Roads.

The PRESIDENT communicated the petition of William Chivvis, of the city of New York, praying a grant of one hundred acres of land, for reasons stated in the petition; which was read, and referred to the Committee on Public Lands.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Henry Davis;" and no amendment having been made, it was reported to the House, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Benjamin Pool;" and no amendment having been made, it was reported to the House, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to incorporate a company to build a bridge over the Eastern Branch of Potomac, from the southern termination of Eleventh street east, in the City of Washington; and the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill confirming the claim of Alexander Macomb to a tract of land in the Territory of Michigan; and no amendment having been made, it was reported to the

House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of B. and P. Jourdan, brothers; and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning the heirs and legatees of Thomas Turner, deceased;" and the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Michael Hogan; and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of the heirs of Edward McCarty; and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

A message from the House of Representatives informed the Senate that the House have passed the bill which originated in the Senate, entitled "An act to increase the salaries of certain officers of Government," with amendments; in which they request the concurrence of the Senate. They have passed a bill, entitled "An act for the relief of Joseph Wheaton;" and a bill, entitled "An act making appropriations for the support of Government, for the year 1819;" in which bills they request the concurrence of the Senate.

The said two bills were read, and passed to the second reading.

The amendments of the House of Representatives to the bill, entitled "An act to increase the salaries of certain officers of Government," were read; and the further consideration thereof postponed to, and made the order of the day for, Tuesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the benefit of Jacob Purkhill; and the further consideration thereof was postponed until Wednesday next.

The Senate adjourned to Monday.

MONDAY, February 15.

Mr. EPPES, from the Committee on Finance, reported a bill, further supplementary to an act, entitled "An act to regulate the collection of duties on tonnage," passed on the second day of March, 1799; and the bill was read, and passed to the second reading.

The PRESIDENT communicated the memorial of the Society of the State of Delaware, for the promotion of American manufactures, praying protection; and the memorial was read, and referred to the Committee on Commerce and Manufactures.

The PRESIDENT also communicated the general account of the Treasurer of the United States, from the first of January, 1817, to the first of July, 1818, as also the accounts of the War and Navy Departments, from the first of October, 1817, to the first of October, 1818, together with the reports thereon; which were read.

Mr. WILSON, from the Committee of Claims, to whom was referred the memorial of Vincent Grant, of Buffalo, in the State of New York, made a report, accompanied by a bill for the relief of Vincent Grant; and the report and bill were read, and the bill passed to the second reading.

The bill for the relief of Labedoyere Kermion was read the second time.

Mr. FROMENTIN submitted the following motion for consideration:

Resolved, That the Library Committee be instructed to inquire into the propriety of further extending the privilege of using the books in the Library of Congress.

The bill, entitled "An act for the relief of Joseph Wheaton," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act making appropriations for the support of Government for the year 1819," was read the second time, and referred to the Committee on Finance.

The bill to revive the power of the Commissioners, for ascertaining and deciding on claims to land in the district of Detroit, and for settling the claims to land at Green Bay and Prairie du Chien, in the Territory of Michigan, was read the second time.

The bill, entitled "An act for the relief of Adam Kingsly, Thomas French, and Charles S. Leonard," was read a third time, and passed.

The bill, entitled "An act for the relief of Henry Davis," was read a third time, and passed.

The bill, entitled "An act for the relief of Benjamin Pool," was read a third time, and passed.

The bill, entitled, "An act for the relief of Kenzie and Forsyth," was read a third time, and passed with an amendment.

The bill, entitled "An act providing additional penalties for false entries for the benefit of drawback or bounty on exportation," was read a third time, and passed.

The bill confirming the claim of Alexander Macomb to a tract of land in the Territory of Michigan was read a third time, and passed.

The bill for the relief of B. and P. Jourdan brothers, was read a third time, and passed.

The bill for the relief of Michael Hogan was read a third time, and passed.

The bill for the relief of Edward McCarty was read a third time, and passed.

The VICE PRESIDENT of the United States having retired from the Chair, the Senate proceeded to the election of a President, *pro tempore;* when Mr. BARBOUR, of Virginia, was duly elected, and took the Chair accordingly, from whence he made his acknowledgments to the Senate for the honor conferred on him.

On motion of Mr. BURRILL, it was ordered that the Secretary wait upon the President of the United States, and acquaint him with the election of

Mr. BARBOUR as President *pro tempore* of the Senate, and that he make a similar communication to the House of Representatives.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act concerning the allowance of pensions upon a relinquishment of bounty lands;" a bill, entitled "An act for the relief of Henry Batman;" and a resolution for the appointment of a joint committee, to inquire into and report what subjects it will be proper to act on during the present session; in which bills and resolution they request the concurrence of the Senate.

The two bills and resolution last mentioned were read, and passed to the second reading.

On motion by Mr. WILSON, the said resolution was read the second time by unanimous consent, and considered as in Committee of the Whole; and, no amendment having been made, it was reported to the House, passed to a third reading, and was read a third time by unanimous consent, and passed; and Messrs. BURRILL, MORROW, and GAILLARD, were appointed the committee on the part of the Senate.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to incorporate a company to build a bridge over the Eastern Branch of the Potomac, from the southern termination of Eleventh street east, in the City of Washington;" and, the bill having been amended, it was reported to the House, and the amendments ordered to be engrossed, and the bill read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill making further provision for the sale of the public lands; and, the bill having been amended, the further consideration thereof was postponed to, and made the order of the day for, Wednesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning the heirs and legatees of Thomas Turner, deceased;" and, no amendment having been made, it was reported to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning invalid pensions;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the better organization of the Military Academy; and the further consideration thereof was postponed until Thursday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to repeal part of an act passed on the 27th day of February, 1813, entitled "An act in addition to an act regulating the Post Office Establishment;" and the further consideration thereof was postponed until Friday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill respecting he location of certain sections of lands, to be granted for the seat of government in the State of Indiana; and, no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act allowing further time to complete the issuing and locating of military land warrants;" and, no amendment having been made, it was reported to the House, and passed to a third reading.

Mr. GOLDSBOROUGH, from the Committee of Claims, reported a bill for the relief of Joseph Lefebre; and the bill was read, and passed to the second reading.

TUESDAY, February 16.

On motion by Mr. MACON, the Committee on Foreign Relations, to whom was referred the memorial of Joseph Krittman, were discharged from the further consideration thereof, and it was referred to the Secretary of State, to consider and report thereon to the Senate.

Mr. MACON, from the Committee on Foreign Relations, reported a bill, in addition to "An act concerning tonnage and discriminating duties in certain cases;" and the bill was read, and passed to the second reading.

Mr. WILLIAMS, of Mississippi, presented the petition of John Linton, of the city of New Orleans, praying the confirmation of his claim to a certain lot of ground, as stated in the petition; which was read.

Mr. ROBERTS presented the memorial of the Select and Common Councils of the city of Philadelphia, praying an exemption from duty, on the importation of certain cast-iron pipes, to be substituted in place of wooden pipes, at present used for the purpose of watering the city; and the memorial was read, and referred to the Committee on Finance.

Mr. R. also presented the memorial of James Smith and others, praying compensation for property of which they were wrongfully dispossessed by the authority of France, and for the detention of it from the year 1807, as stated in the memorial; which was read, and referred to the Secretary of State, to consider and report thereon to the Senate.

Mr. KING presented the petition of the stockholders of the Bank of the United States, residing in the city of New York, deprecating the abrogation of the bank charter, and praying that measures may be adopted by Congress to restore the bank to the confidence of the public; and the petition was read.

On motion, by Mr. VAN DYKE, the Committee on Pensions, to whom was referred the petition of William Langston, were discharged from the further consideration thereof; and the petitioner had leave to withdraw his petition.

The bill entitled "An act concerning the allowance of pensions, upon a relinquishment of bounty lands," was read the second time, and referred to the Committee on Pensions.

The bill entitled "An act for the relief of

Henry Batman was read the second time, and referred to the Committee on Public Lands.

The bill for the relief of Vincent Grant was read the second time.

The bill for the relief of Joseph Lefebre was read the second time.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the case of Peter Francisco; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing the Postmaster General to contract, as in other cases, for carrying the mail in steamboats between New Orleans, in the State of Louisiana, and Louisville, in the State of Kentucky;" together with the amendment reported thereto by the Committee on the Post Office and Post Roads; and the further consideration thereof was postponed until Friday next.

Mr. VAN DYKE, from the Committee on Pensions, to whom was referred the petition of Archibald Felts, made a report accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read, considered, and agreed to.

Mr. STOKES, from the Committee on the Post Office and Post Roads, to whom was referred a resolution of the Senate of the 4th instant, instructing them "to inquire into the expediency of authorizing the Postmaster General to employ an armed guard for protection of the mails of the United States, on such mail routes as he may deem necessary," made a report, accompanied by the following resolution:

Resolved, That it is not expedient to authorize the Postmaster General to employ an armed guard for the protection of the mails of the United States.

The report and resolution were read.

The Senate resumed the consideration of the amendments of the House of Representatives to the bill, entitled "An act to increase the salaries of certain officers of Government."

On motion, by Mr. TALBOT, that the said amendments be referred to a select committee, with instructions "to provide for an increase of the salaries of the district judges," it was determined in the negative—yeas 16, nays 21, as follows:

YEAS—Messrs. Crittenden, Dickerson, Edwards, Eppes, Gaillard, Lacock, Macon, Noble, Palmer, Ruggles, Stokes, Talbot, Taylor, Thomas, Williams of Mississippi, and Wilson.

NAYS—Messrs. Barbour, Burrill, Daggett, Eaton, Fromentin, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Mellen, Morril, Otis, Roberts, Sanford, Storer, Tait, Tichenor, Van Dyke, and Williams of Tennessee.

On the question to agree to the second amendment proposed, as follows:

Line 9. After the word "dollars," insert, "to the Chief Justice of the United States, five thousand dollars; and to each of the Judges of the Supreme Court of the United States, four thousand five hundred dollars; and to the Assistant Postmaster General, and additional Assistant Postmaster General, two thousand five hundred dollars each;"

It was determined in the affirmative—yeas 21, nays 17, as follows:

YEAS—Messrs. Barbour, Burrill, Daggett, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Mellen, Otis, Ruggles, Sanford, Storer, Tait, Thomas, Tichenor, Van Dyke, and Williams of Tennessee.

NAYS—Messrs. Crittenden, Dickerson, Eaton, Edwards, Eppes, Lacock, Macon, Morril, Morrow, Noble, Palmer, Roberts, Stokes, Talbot, Taylor, Williams of Mississippi, and Wilson.

The other amendments having been agreed to, it was resolved, that the Senate concur in all the amendments of the House of Representatives to said bill.

The amendments to the bill, entitled "An act to incorporate a compay to build a bridge over the Eastern Branch of the Potomac, between Eleventh and Twelfth streets east, in the City of Washington," having been reported by the committee correctly engrossed, the bill was read a third time, as amended, and passed.

The bill entitled "An act concerning the heirs and legatees of Thomas Turner, deceased," was read a third time, and passed.

The bill entitled "An act allowing further time to complete the issuing and locating of military land warrants," was read a third time, and passed.

The bill respecting the location of certain sections of lands to be granted for the seat of government in the State of Indiana, was read the third time, and passed.

The Senate resumed the consideration of the motion of yesterday, for instructing the Library Committee to inquire into the propriety of further extending the privilege of using the books in the Library of Congress, and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Pierre Denis de la Ronde; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to regulate the pay of the army when employed on fatigue duty; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Rees Hill; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of the heirs and legal representatives of Nicholas Vreeland, deceased; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill authorizing the purchase of live-oak timber for naval pur-

poses; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Thomas Hall Jervey;" and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making provision for the claim of M. Poirey;" and no amendment having been made, it was reported to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making provision for the claim of M. de Vienne;" and no amendment having been made, it was reported to the House, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Gabriel Godfroy; and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Nathan Ford; and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of David Henley; and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize William Prout to institute a bill in equity before the circuit court for the District of Columbia, against the Superintendent of the Public Buildings, and to direct a defence therein; and the bill having been amended, it was reported to the House; and the amendment being concurred in, the bill was ordered to be engrossed and read a third time.

WEDNESDAY, February 17.

The PRESIDENT communicated a letter from JOHN FORSYTH, notifying the resignation of his seat in the Senate; and the letter was read; and, on motion by Mr. TAIT, the President was requested to notify the Executive of the State of Georgia, of this resignation.

The bill further supplementary to an act, entitled "An act to regulate the collection of duties on imports and tonnage," passed on the 2d day of March, 1799, was read the second time.

The bill in addition to "An act concerning tonnage and discriminating duties in certain cases," was read the second time.

The bill, entitled "An act for the relief of Thomas Hall Jervey" was read a third time, and passed.

The bill, entitled "An act making provision for the claim of M. Poirey" was read a third time, and passed.

The bill, entitled "An act making provision for the claim of M. de Vienne" was read a third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States;" and also, a bill, entitled "An act for the relief of Patrick Callan;" in which bills they request the concurrence of the Senate.

The two bills last mentioned were read, and passed to the second reading.

On motion, by Mr. TALBOT, the bill to authorize the people of the Missouri Territory to form a constitution and State government was read the second time, by unanimous consent, and referred to the committee on the memorial of the Legislative Council and House of Representatives of the Alabama Territory, praying admission into the Union as a State.

On motion, by Mr. GOLDSBOROUGH, the Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of William and James Crooks; and, on motion, it was referred to the Committee on Finance.

The bill for the relief of Pierre Denis de la Ronde was read a third time, and passed.

The bill to regulate the pay of the army, when employed on fatigue duty, was read a third time, and passed.

The bill for the relief of Rees Hill was read a third time, and passed.

The bill for the relief of the heirs and legal representatives of Nicholas Vreeland, deceased, was read a third time, and passed.

The bill authorizing the purchase of live oak timber for naval purposes was read a third time, and passed.

The bill for the relief of Gabriel Godfroy was read a third time, and passed.

The bill to authorize William Prout to institute a bill in equity before the circuit court for the District of Columbia, against the Superintendent of Public Buildings, and to direct a defence therein, was read a third time, and passed.

The bill for the relief of Nathan Ford was read a third time, and passed.

The bill for the relief of David Henley was read a third time, and passed.

COMMITTEE ON THE SEMINOLE WAR.

Mr. LACOCK submitted the following motion:

Resolved, That a member be added to the committee already appointed on the subject of the Seminole war, in the place of the honorable Mr. FORSYTH, who has recently been appointed to a foreign mission.

After considerable debate, Mr. EATON moved to postpone the motion to the 5th day of March next, [to defeat it,] on the ground that it would be an unnecessary consumption of the time of the Senate, if not a deviation from the line of its duty, to enter at this late period of the session

into an investigation and debate on this subject, which, after a debate of unexampled length, had been solemnly decided on in the House of Representatives. To this it was replied, that nothing more was proposed, in this instance, than was on other occasions considered as matter of course. When an inquiry into the conduct of a public officer or officers, was asked from a respectable source, it was invariably granted; and it would be, it was said, no more than consistent with self-respect, to prosecute to some result the inquiry already commenced in this case. This motion to postpone was negatived, by yeas and nays, 21 to 16, as follows:

YEAS—Messrs. Crittenden, Dickerson, Eaton, Edwards, Fromentin, Johnson, King, Leake, Morrow, Otis, Ruggles, Sanford, Stokes, Storer, Williams of Mississippi, and Wilson.

NAYS—Messrs. Barbour, Burrill, Daggett, Eppes, Gaillard, Goldsborough, Horsey, Hunter, Lacock, Macon, Mellen, Noble, Palmer, Roberts, Tait, Talbot, Taylor, Thomas, Tichenor, Van Dyke, and Williams of Tennessee.

The motion of Mr. LACOCK to fill up the committee was opposed, and of Mr. EATON to postpone the proceedings, was supported by Messrs. OTIS, EATON, and FROMENTIN; on the other side were Messrs. LACOCK, EPPES, BURRILL, TALBOT, GOLDSBOROUGH, and MACON. It was contended by the former, that, without deciding upon the right of the Senate, abstractly, to institute inquiries into the conduct of public officers, or to exercise a censorial power in other cases than those of impeachment, it was sufficient to show that, in this instance, such an interference would be entirely inexpedient. For, that the conduct of the commanding officer in the Seminole war had been at least excused by the President of the United States, and that, so far as that general officer was censured, there was no difference between previous orders and a subsequent excuse or justification. In either case, the mantle of his superior officer was a screen for him; and, if the Executive government had thus assumed the responsibility without sufficient motives and reasons, persons other than General Jackson might be held to answer before the Senate in another capacity, and that this body might thus be placed in a situation of embarrassment, unfavorable to a just and impartial discharge of judicial duties. That if this were true in ordinary cases, it was most emphatically so in the present instance. The House of Representatives was the great inquest and Constitutional accuser of the nation. And, after a most laborious investigation and debate, had decided in favor of a *nol. pros.* It would seem then to betray a great eagerness to exercise the faculty of censure and condemnation, to pursue a supposed delinquent after that House had rejected a bill of indictment. The Senate would be placed in an unfavorable and undignified attitude—be chargeable with a spirit of persecution, and would separate themselves, not only from the House of Representatives, but from the people, and excite, in favor of the principal party, feelings of sympathy that would defeat the object of exhibiting the triumph of the civil over the military power. Many remarks were also added to show that to refuse to fill up the committee, or to postpone generally, or to discharge the committee, were equivalent motions, and all in perfect conformity with correct and dignified proceedings.

On the other hand, the filling up the committee was supported and the postponement resisted, upon the suggestion that the committee, after making progress in their inquiries, and after much laborious research, and after a majority of them were agreed on many points, were divided upon others, and that the Senate was bound by the respect due to itself to fill up the vacancy and not stifle the report; and that afterwards, upon a motion to discharge the committee, if it should be offered, conclusive reasons should be shown against that measure. To decline replacing a member, whose sentiments were known to be unfavorable to the proceedings in the Seminole war, and who had received an Executive appointment, would be to expose the motives of the Executive to misconstruction. That the Senate possessed a concurrent right with the House of Representatives to originate any investigation into the proceedings of public officers, or the conduct of public affairs, and was bound as an independent branch of the Legislature to discharge its duty, without any reference to the proceedings of the House, to which all allusions were unparliamentary and improper. It was denied to be the correct doctrine that a military officer is in all cases protected by the command or justification of his superior; and, if it were true, it might be better to disband the Army. That the present moment was favorable to sustaining and defining the rights of the Senate. And, finally, that it would not follow of course that the present proceedings would involve a question of censure or approbation of any officer; but the committee might possess evidence (and it was suggested that they did) of irregularities not exhibited to the House, which might demand legislative interposition and reform.

The motion of Mr. LACOCK, was then agreed to, and Mr. EPPES was appointed the member.

The Senate resumed, as in Committee of the Whole, the consideration of the bill making further provision for the sale of public lands; and, after debate, the Senate adjourned.

THURSDAY, February 18.

The bill, entitled "An act for the relief of Patrick Callan," was read the second time, and referred to the Committee of Claims.

Mr. OTIS gave notice that, to-morrow, he should ask leave to bring in a bill to authorize the President of the United States to employ the public armed vessels in protecting the merchant vessels of the United States from piratical aggression.

The Senate resumed the consideration of the report of the Committee on Post Offices and Post Roads, on the subject of protecting the

mails of the United States; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act supplementary to the act entitled 'An act to provide for the prompt settlement of public accounts;" and no amendment having been made, it was reported to the House, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to designate the boundaries of districts, and establish land offices for the disposal of the public lands not heretofore offered for sale in the States of Ohio and Indiana; and, the bill having been amended, it was reported to the House, and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill respecting the transportation of persons of color, for sale, or to be held to labor; and no amendment having been made, it was reported to the House.

On motion by Mr. FROMENTIN, it having been agreed to take the question on passing said bill to be engrossed and read a third time, by yeas and nays, on his motion the further consideration thereof was postponed until Monday next.

Mr. MORROW, from the Committee on Public Lands, reported a bill to continue in force for a further time the act, entitled "An act for establishing trading-houses with the Indian tribes, and for other purposes;" and the bill was read and passed to the second reading.

PUBLIC LANDS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill making further provision respecting the sale of the public lands.

Mr. EDWARDS moved to strike out the second section of the bill, which provides that,

"Credit shall not be allowed for the purchase money on the sale of any of the public lands which may be sold after the —— day of —— next, but every purchaser of land sold at public sale thereafter, shall, on the day of purchase, make complete payment therefor; and the purchaser at private sale shall produce to the register of the land office a receipt from the Treasurer of the United States, or from the receiver of public moneys of the district, for the amount of purchase money on any tract, before he shall enter the same at the land office; and if any person, being the highest bidder at a public sale for a tract of land, shall fail to make payment therefor on the day on which the same was purchased, the tract shall be again offered at public sale, on the next day of sale, and such person shall not be capable of becoming the purchaser of that or any other tract offered at such public sales;

And to insert in lieu thereof, the following:

"That credit shall not be allowed for the purchase money on the sale of any of the public lands which shall be sold after the —— day of —— next, at any land office which shall have been open for the sale of lands five years previous to said day; nor at any other land office now established, at any time after five years from the time it was first opened for the sale of public lands; but every purchaser of land, after the periods above specified, shall, on the day of purchase, make complete payment therefor; and the purchaser at private sale, after the said periods respectively, shall produce to the register of the land office a receipt from the Treasurer of the United States, or from the receiver of public moneys of the district, for the amount of purchase money on any tract, before he shall enter the same at the land office; and if any person, being the highest bidder at the said public sales for a tract of land, shall fail to make payment therefor, on the day on which the same was purchased, the tract shall be again offered at public sale, and such person shall not be capable of becoming the purchaser of that or any other tract offered at such public sale."

This question was decided in the negative by yeas and nays, 32 to 1—as follows:

YEA—Mr. Edwards.

NAYS—Messrs. Barbour, Burrill, Crittenden, Daggett, Dickerson, Eaton, Eppes, Gaillard, Horsey, Hunter, Johnson, King, Lacock, Leake, Macon, Mellen, Morril, Morrow, Noble, Otis, Palmer, Roberts, Ruggles, Sanford, Storer, Tait, Taylor, Thomas, Tichenor, Van Dyke, Williams of Mississippi, and Wilson.

Mr. EDWARDS then moved to strike out of the 3d section (which prescribes the terms to purchasers at private sale) the words "at one dollar and fifty cents an acre, to be paid at the time of making such entry as aforesaid;" and in lieu thereof to insert the following:

"Upon the following terms, viz: to the purchaser of not more than eighty acres, at fifty cents an acre; to the purchaser of not more than one quarter section, at seventy-five cents an acre; to the purchaser of not more than one section, at one dollar an acre; and to purchasers of any amount exceeding one section, at —— an acre: *Provided, however,* That no tract less than one section, purchased as aforesaid, shall be transferable in any manner whatever at any time within five years from the time of the purchase thereof."

This motion was determined in the negative—yeas 2, nays 32, as follows:

YEAS—Messrs. Edwards, and Thomas.

NAYS—Messrs. Barbour, Burrill, Crittenden, Daggett, Dickerson, Eaton, Eppes, Gaillard, Horsey, Hunter, Johnson, King, Lacock, Leake, Macon, Mellen, Morril, Morrow, Noble, Otis, Palmer, Roberts, Ruggles, Sanford, Storer, Tait, Taylor, Tichenor, Van Dyke, Williams of Mississippi, Williams of Tennessee, and Wilson.

The fourth section of the bill being taken up, Mr. EDWARDS moved to strike therefrom the following clause:

"That the public lands heretofore sold, or which shall have been sold prior to the —— day of —— next, on terms of credit for part of the purchase money, and which have, or shall hereafter become forfeited, or revert in any manner to the United States, for failure to make payment, shall not be subject to entry at private sale, after the —— day of —— next, aforesaid: but all the lands which at that day shall have been forfeited or reverted to the United States, as aforesaid, in any of the districts established for the sale of the public lands, shall be offered at public sale, to the highest bidder, at the land office for such respective district,

under the superintendence of the register and receiver of public money for such district, in half-quarter sections, on the terms of a cash payment of the purchase money, on such day or days, in the respective districts, as the President of the United States shall, by proclamation, designate for that purpose; and all the heretofore reserved sections, for the future disposal of Congress, which shall remain unsold on the said —— day of —— next, shall be offered at public sale, at the same time and manner, and on the same terms with the lands which had reverted, and which are hereby directed to be sold; and any lands which shall have been sold prior to the —— day of —— next, and which shall thereafter revert, or become forfeited to the United States, for failure in making payment, shall not be subject to entry at private sale, until such lands shall have been first offered at public sale, in the manner and on the terms provided with respect to lands which shall revert, or become forfeited, before that day. The public sales for which shall take place at such time as shall be designated for the purpose, by the proclamation of the President of the United States."

And in lieu thereof to insert the following:

"That where any person shall be actually settled on any quarter section of land which shall have been previously offered at public sale, and remain unsold, such person shall, upon application to the register of the land office in the district in which the land may lie, be entitled, upon satisfactory proof thereof, to receive from said register a license to remain on the said land for the term of five years; during which time, provided the said settler shall continue to reside thereon, the said land shall not be liable to be sold to any other person; but if the said settler shall, at any time within the said five years, and during his actual residence on said land, tender payment for the same, at the rate of —— an acre, with legal interest thereon, from the date of his license, and shall actually pay the same to the receiver, and produce his receipt as in other cases, the land shall be sold to the said settler, upon his making oath, before the register, that he has not purchased any other tract of land subsequent to the date of this license."

This motion was also decided in the negative—yeas 4, nays 32, as follows:

YEAS—Messrs. Edwards, Fromentin, Johnson, and Thomas.

NAYS—Messrs. Barbour, Burrill, Crittenden, Daggett, Dickerson, Eaton, Eppes, Gaillard, Horsey, Hunter, King, Lacock, Leake, Macon, Mellen, Morril, Morrow, Noble, Otis, Palmer, Roberts, Ruggles, Sanford, Storer, Tait, Talbot, Taylor, Tichenor, Van Dyke, Williams of Mississippi, Williams of Tennessee and Wilson.

Mr. EDWARDS next moved to add to the third section the following proviso:

"*Provided, however,* That no person shall be permitted to purchase, either directly or indirectly, at any land office, more than one section of land in any one year, and all purchases made contrary to this provision shall be utterly null and void."

The question being taken on this motion, it was determined in the negative—yeas 7, nays 29, as follows:

YEAS—Messrs. Edwards, Fromentin, Macon, Morril, Ruggles, Thomas, and Wilson.

NAYS—Messrs. Barbour, Burrill, Crittenden, Daggett, Dickerson, Eaton, Eppes, Gaillard, Horsey, Hunter, Johnson, King, Lacock, Leake, Mellen, Morrow, Noble, Otis, Palmer, Roberts, Sanford, Storer, Tait, Talbot, Taylor, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

Mr. EDWARDS then proposed to strike out of the third section, fixing the minimum price at which public lands shall be offered at public sale, at one dollar and fifty cents, per acre, the words "and fifty cents," so as to reduce the price to one dollar.

This motion was negatived—yeas 11, nays 24, as follows:

YEAS—Messrs. Crittenden, Edwards, Fromentin, Johnson, Leake, Noble, Ruggles, Taylor, Thomas, Williams of Tennessee, and Wilson.

NAYS—Messrs. Barbour, Burrill, Daggett, Dickerson, Eaton, Eppes, Gaillard, Horsey, Hunter, King, Macon, Mellen, Morril, Morrow, Otis, Palmer, Roberts, Sanford, Storer, Tait, Talbot, Tichenor, Van Dyke, and Williams of Mississippi.

The bill having been amended, it was reported to the House, and the amendments being concurred in—

Mr. EDWARDS moved so to amend the third section as to fix the price at one dollar and twenty-five cents per acre, instead of one dollar and fifty cents.

This motion was also negatived—yeas 9, nays 26, as follows:

YEAS—Messrs. Crittenden, Edwards, Johnson, Leake, Ruggles, Taylor, Thomas, Williams of Tennessee, and Wilson.

NAYS—Messrs. Barbour, Burrill, Daggett, Dickerson, Eaton, Eppes, Fromentin, Gaillard, Horsey, Hunter, King, Lacock, Macon, Mellen, Morril, Morrow, Noble, Otis, Palmer, Roberts, Storer, Tait, Talbot, Tichenor, Van Dyke, and Williams of Mississippi.

Mr. NOBLE then proposed in effect to reject the bill, by moving to postpone it to the fifth day of March.

This motion was determined in the negative—yeas 6, nays 28, as follows:

YEAS—Messrs. Edwards, Noble, Palmer, Ruggles, Talbot, and Thomas.

NAYS—Messrs. Barbour, Burrill, Daggett, Dickerson, Eppes, Fromentin, Gaillard, Horsey, Hunter, Johnson, King, Lacock, Leake, Macon, Mellen, Morril, Morrow, Otis, Roberts, Sanford, Storer, Tait, Taylor, Tichenor, Van Dyke, Williams of Mississippi, Williams of Tennessee, and Wilson.

Mr. EDWARDS moved to fill the blanks in the bill so as to put the act into operation on the 1st of October, 1820, which motion was lost—yeas 12, nays 24, as follows:

YEAS—Messrs. Barbour, Burrill, Edwards, Lacock, Mellen, Noble, Ruggles, Stokes, Talbot, Taylor, Thomas, and Williams of Tennessee.

NAYS—Messrs. Daggett, Dickerson, Eaton, Eppes, Fromentin, Gaillard, Horsey, Hunter, Johnson, King, Leake, Macon, Morril, Morrow, Otis, Palmer, Roberts, Sanford, Storer, Tait, Tichenor, Van Dyke, Williams of Mississippi, and Wilson.

The blanks having been filled with the "first day of July, 1820," the bill was ordered to be engrossed and read a third time.

[For the following remarks, made by Mr. CRITTENDEN, in conclusion of a speech in support of the bill, we are obliged to a friend who was present at the debate, for being enabled to lay before our readers.—*Editors.*]

Mr. President, I must acknowledge to you that I feel a peculiar sort of partiality for this bill; and that, independent of the reasons which I have had the honor of submitting, I am influenced by feelings somewhat of a personal character to desire its passage. It is the work of the honorable gentleman from Ohio, (Mr. MORROW,) who is so soon to be finally separated from us. He has long been our Palinurus in everything that related to this important subject. He has steered us safely through all its difficulties, and, with him for our helmsman, we have feared neither Scylla nor Charybdis. We have heretofore followed him with increasing confidence. We have never been deceived or disappointed. The bill now before you is probably the last, the most important, act of his long and useful political life. If it shall pass, sir, it will identify his name and his memory with this interesting subject. It will be his "perennius ære." A noble monument! which, whilst it guides the course of future legislation, shall perpetuate the remembrance of an honest man. Sir, if the ostracism of former times prevailed with us, I do not know the individual whose virtues would more expose him to its envious and jealous sentence. The illustrious Greek himself, who derived such unfortunate distinction from that ancient usage, did not better deserve the epithet of "just." Mr. President, I do not intend to flatter the honorable gentleman from Ohio. Flattery is falsehood. I burn no such incense at the shrine of any man. The sincere homage of the heart is not flattery. I have spoken the spontaneous feelings of my own breast. I am confident, too, that I have spoken the sentiments of the Senate. But yet, sir, I ought, perhaps, to beg pardon of the honorable gentleman. For, I have much cause to fear that the gratification I have had in offering this poor tribute of my respect, is more than counterbalanced by the pain it has inflicted on him.

FRIDAY, February 19.

Mr. GOLDSBOROUGH presented the memorial of a number of the citizens of the State of Maryland, on the subject of the deranged state of the circulating medium of the country, and the expediency of additional duties on cotton goods imported into the United States; and the memorial was read and referred to the Committee on Commerce and Manufactures.

Mr. LEAKE presented the memorial of the Legislature of the State of Mississippi, praying the establishment of a port of entry at or near the mouth of Pearl river; and the memorial was read.

Mr. LEAKE also presented the memorial of the said Legislature, on the subject of British claims to lands in Hancock and Jackson counties in said State; and the memorial was read.

Mr. NOBLE presented the petition of Samuel Sterrett, praying payment for his services as a mounted ranger; and the petition was read and referred to the Committee of Claims.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the petition of Captain Biggar's company, made a report accompanied by a resolution that the petitioners have leave to withdraw their petition. The report and resolution were read.

Mr. WILSON, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Joseph Wheaton," reported the same without amendment.

Mr. OTIS asked and obtained leave to bring in a bill to protect the commerce of the United States from piracy; and the bill was twice read by unanimous consent, and referred to the Committee on Foreign Relations.

Mr. VAN DYKE, from the Committee on Pensions, to whom was referred the bill, entitled "An act concerning the allowance of pension upon a relinquishment of bounty lands," reported the same without amendment.

On motion by Mr. MACON, the Committee on Foreign Relations, to whom was referred the petition of James Simpson, American Consul at Morocco, were discharged from the further consideration thereof.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of Daniel Moss," reported the same without amendment.

The bill, entitled "An act supplementary to the act entitled 'An act to provide for the prompt settlement of public accounts,'" was read a third time and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the benefit of Jacob Purkhill; and no amendment having been made thereto, it was reported to the House, and ordered to be engrossed and read a third time.

The bill to continue in force, for a further term, the act entitled "An act for establishing trading-houses with the Indian tribes, and for other purposes," was read the second time.

The bill making further provision for the sale of public lands was read a third time, and passed.

The bill to designate the boundaries of districts and establish land offices for the disposal of the public lands not heretofore offered for sale in the States of Ohio and Indiana, was read a third time and passed.

Mr. VAN DYKE, from the Committee on Pensions, to whom was referred the petition of Elizabeth B. H. Forsyth, widow of the late Lieutenant Colonel Benjamin Forsyth, made a report, accompanied by a resolution that the petitioner have leave to withdraw her petition. The report and resolution were read.

Mr. MORROW, from the committee to whom was referred so much of the Message of the President of the United States as relates to the Indian tribes, reported the following bill, which was read and passed to the second reading:

A bill making provision for the civilization of the Indian tribes adjoining the frontier settlements.

Be it enacted &c., That, for the purpose of providing against the further decline and final extinction of the Indian tribes adjoining to the frontier settlements of the United States, and for introducing among them the habits and arts of civilization, the President of the United States shall be, and he is hereby, authorized in every case where he shall judge the improvement in the habits and conditions of such Indians practicable, and that the means of instruction can be introduced with their own consent, to employ capable persons, of good moral character, to instruct them in the mode of agriculture suited to their situation, and for teaching their children in reading, writing, and arithmetic, and for performing such other duties as may be enjoined according to such instructions and rules as the President may give and prescribe for the regulation of their conduct in the discharge of their duties.

Sec. 2. *And be it further enacted*, That the annual sum of —— dollars be, and the same is hereby, appropriated for the purpose of carrying into effect the provisions of this act; and an account of the expenditure of the money, and proceedings in execution of the foregoing provisions, shall be annually laid before Congress.

PUBLIC PRINTING.

Mr. WILSON, from the Joint Committee on the subject of the Public Printing, made the following report:

That, regarding the subject committed to them as connected with the convenience of the members, the information of the community, the economy of time and money, and the character of the country, they have given it all the consideration which their other engagements permitted.

That three different modes of procuring the printing of Congress to be executed have undergone their discussion and deliberation:

I. Offering the work by advertisement (as at present) to the lowest bidder.

On this mode the committee would remark that, although at the first glance it may strike the mind as the most economical, experience and observation do not prove it so. Competitors for the work underbid each other, until it is undertaken for a less sum than it can be afforded at; and too small an establishment and too few workmen are consequently employed to execute the printing with the necessary promptitude. Hence both Houses have frequently to wait long for interesting and important communications from the President or heads of Departments, reports, bills, resolutions, &c., upon which they are called to act; and the loss of time thus incurred, considering the daily expense at which Congress sits, costs the nation much more than the difference between the present price and a liberal allowance, which would justify the application of a greater capital to insure the despatch of the work.

Another disadvantage attending the present mode is, that the reduced price of the work prevents that care and attention from being bestowed on it which is necessary to its neatness and accuracy. And documents are not only distributed through this nation, but dispersed through Europe, which are executed in such an inelegant and incorrect manner as must bring disgrace and ridicule on the literature and the press of our country.

That the present price of printing is too low would be readily discovered by any of the profession; and the fact that no other printer in the District could be found by the Secretary or the Clerk who would execute the work at the contract prices must satisfy the mind of every gentleman of the truth of what the committee have asserted. How far it is reputable for Congress to endeavor to get their work done below a fair and reasonable price, may be a matter of doubt; but it does not admit of a question that the compensation ought to be adequate to the object of procuring that work to be done at a proper time, and in a suitable manner.

II. A second mode suggested to and considered by the committee was the establishment of a national printing office, (with a bindery and stationery annexed,) which should execute the work of Congress while in session, and that of the various Departments of Government during the recess; and should do all the binding and furnish all the stationery for the Departments as well as for Congress. To ascertain the amount of expenditures on these objects, inquiries were addressed by the committee to the heads of Departments, Attorney General, and Postmaster General, and an answer received from each. Some of the reports were made in such a manner as not to enable the committee to separate the accounts for printing from those for binding and stationery; but the whole amount exceeds $41,000. Add to this the expenditures of the Senate and House of Representatives on the same objects, viz: the former $8,000 and the latter $15,000, and the aggregate cost of the public printing, binding, and stationery, is about $65,000 a year, of which probably one-half is for printing. And this, it will be remembered, does not include the great variety and number of blanks executed elsewhere than at the seat of Government, from copies furnished by the Departments of the Treasury, War, &c., and which might all be done here at a much less expense were a national printing office established.

The committee are of opinion that such an establishment, under the superintendence of a man of activity, integrity, and discretion, would be likely to produce promptitude, uniformity, accuracy, and elegance, in the execution of the public printing; and they are not certain that it would not, in the result, connecting with it a bindery and stationery, as already suggested, be found the most economical. But, as the principle is somewhat novel, and the details would require some deliberation, the committee have not deemed it advisable, at this late period of the session, and amidst the pressure which both Houses experience from the accumulation of business important to the nation, or interesting to individuals, to submit a proposition on which there would probably be a considerable diversity of opinion and consumption of time.

III. Under all circumstances, the committee have deemed it their duty to recommend that a tariff of prices for every kind of printing required to be done for Congress be fixed by a joint resolution of the two Houses, to continue in force for two years; and that, before the close of the present session, each House make choice by ballot of a printer, to execute its own work during the next Congress. The prices should be adequate to the employment of sufficient capital and workmen to perform the work expeditiously, and to insure such care and attention as shall give it such a degree of accuracy and elegance as shall not dishonor the literature and typography of the country.

With former contracts before us, and with the professional knowledge which may be called in aid, no difficulty would occur in forming the tariff alluded to on principles at once liberal to the printer and advantageous to Congress; and, in the selection of its printer, each House would doubtles take especial care to choose a man of capacity, probity, and responsibility. In addition to the bond and security to be required of them for the faithful performance of their obligations, a provision might be added, that, in case of any unreasonable delay, another person might be employed to do the work, at such a price as the Secretary or the Clerk might be able to get it done for, and that the public printers should, respectively, be responsible for any difference between the sum allowed them and that which it might be necessary to give him.

The committee, therefore, submit the following resolution:

Resolved, That the joint committee on public printing be instructed to report a resolution for carrying the foregoing propositions into effect.

The report and resolution were read.

BRITISH COLONIAL TRADE.

In Executive session—

Mr. MACON, from the Committee on Foreign Relations, to whom was referred so much of the documents accompanying the Commercial Convention with Great Britain, as relates to the colonial trade, made the following report, which was read:

That the object of the negotiation with Great Britain, respecting the colonial trade, is the establishment of a regulation whereby a trade in articles of the produce and manufacture of the United States, and of the British colonies, may be carried on between them; and secondly, a regulation whereby the shipping of the two countries may be placed on an equal footing in the carrying on of this trade.

In respect to the articles of the trade, the United States would agree that all articles of the produce and manufacture of the United States, and of the respective colonies, should be included, and all other articles excluded. But as Great Britain probably would not consent to this arrangement, the United States would not object to the catalogue of articles of the produce and manufactures of the United States, and of the said colonies, enumerated in the British act of Parliament, and according to which the trade has heretofore been carried on in British bottoms.

As respects duties and charges, they should be placed on a footing of reciprocal equality: if Great Britain would consent to impose no higher or other duties on articles of the produce and manufacture of the United States imported into the colonies, than upon the like articles imported from her continental colonies, (whence only they can be obtained,) the United States might agree to impose no greater or other duties and charges on articles the produce and manufacture of her colonies, than on the like articles from other countries. To this adjustment Great Britain will probably disagree: in lieu thereof, and as a compensation for the stipulation not to impose greater or other duties on the colonial articles of Great Britain, than on the like articles of other countries, it might be stipulated, on the part of Great Britain, that the duties and charges on articles of the produce and manufacture of the United States, should not exceed by more than —— per cent. those which should be imposed on the like articles imported from the British continental colonies.

In no event should articles of the produce and manufacture of the United States pay higher duties and charges in the direct voyage from the United States than in the indirect or circuitous voyage through New Brunswick, Nova Scotia, Bermudas, or other intermediate ports; and as the direct trade should not be more restrained in respect to the articles thereof, than the indirect or circuitous trade, no article should be allowed to go or come indirectly or circuitously, which might not go or come directly.

There is nothing in principle or policy, that forbids the confining of this trade to articles of the produce or manufacture of the respective countries; that is, of the United States and of the British colonies: articles of produce and manufacture of other portions of the British territories coming through these colonies being excluded from the United States, as articles not of the produce and manufacture of the United States are excluded from Great Britain, and would be excluded from the British colonies.

As respects the shipping employed in this trade, it must be placed on a footing of practical and reciprocal equality, both as respects duties and charges, and the equal participation of the trade; on this adjustment, even, there will exist an advantage in favor of the English navigation; as it will be exclusively employed in the transportation of articles of the produce and manufacture of the United States, between the intermediate colonies aforesaid and the West Indian colonies, and likewise in a disproportioned degree, in the distribution of these articles among the British West India colonies.

Furthermore, as the voyage from the United States to New Brunswick, Nova Scotia, and Bermuda, is a short one, and would yield but little profit, the duties and charges must be as great on the British ships, and the articles of the produce and manufacture of the United States composing their cargoes, arriving in the British West India colonies, through these intermediate colonies, as on the same ships and articles arriving directly from the United States; otherwise the direct trade will be deserted in favor of the circuitous trade, and thereby the object of the arrangement, an equality in the employment of the shipping of the two countries, will be defeated. So far as the operation of the late navigation law is understood, it seems to have been advantageous, and especially in the increase of the American shipping engaged in the direct trade between the United States and Great Britain, and the corresponding decrease of that of Great Britain—but sufficient time has not yet been afforded satisfactorily to ascertain this point, or to determine other questions that are in a course of solution.

Perhaps it would be prudent to allow time for this important experiment, and to suffer the negotiation on this subject to remain where it is for the present. It ought not to be forgotten, that without cutting off the trade with New Brunswick, Nova Scotia, and Bermuda, this experiment cannot be fairly made. Whether it would be expedient at the present session to adopt this measure, is perhaps doubtful.

If the effect of our navigation law, reinforced according to the above suggestion, should prove to be such as it not improbably will be, it might, and probably would be our true footing to adhere to the law, and decline any convention with Great Britain, touching the colonial trade.

MONDAY, February 22.

SAMUEL W. DANA, from the State of Connecticut, attended this day.

Mr. TAIT, from the committee to whom had been referred the bill, from the other House, authorizing a constitution and State Government, &c., in the Missouri Territory, reported the same with amendments, which were read. [The amendment recommended by the committee is to strike out the clause which prohibits slavery in the new State.]

The bill making provision for the civilization of the Indian tribes, adjoining the frontier settlements, was read the second time.

The Senate resumed the consideration of the report of the Committee on the Post Office and Post Roads, to whom was referred a resolution of the Senate, instructing them to "inquire into the expediency of authorizing the Postmaster General to employ an armed guard for the protection of the mails of the United States on such mail routes as he may deem necessary; and in concurrence therewith,

Resolved, That it is not expedient to authorize the Postmaster General to employ an armed guard for the protection of the mails of the United States.

Mr. VAN DYKE, from the Committee on Pensions, to whom was referred the bill for the relief of Phœbe Stuart, reported the same without amendment.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Elizabeth B. H. Forsyth; and in concurrence therewith, the petitioner had leave to withdraw her petition.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the better organization of the Military Academy; and, on motion by Mr. WILLIAMS, of Tennessee, the further consideration thereof was postponed until the 5th day of March next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to repeal part of an act passed on the twenty-seventh day of February, 1813, entitled "An act in addition to 'An act regulating the Post Office Establishment;" and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill authorizing the Postmaster General to contract, as in other cases, for carrying the mail in steamboats between New Orleans, in the State of Louisiana, and Louisville, in the State of Kentucky; together with the amendment reported thereto by the Committee on the Post Office and Post Roads; and the amendment having been disagreed to, and no amendment having been made to the bill, it was reported to the House, and passed to a third reading.

Mr. BURRILL, from the joint committee, appointed to inquire and report what business it will be necessary to act on during the present session, made a report; which was read.

The Senate resumed the consideration of the bill respecting the transportation of persons of color for sale, or to be held to labor.

Some debate arose on this bill, in which it was advocated by Messrs. BURRILL, EATON, and WILSON, and opposed by Messrs. MACON, and FROMENTIN; in the course of which the last named gentleman, for the purpose of destroying it, moved to postpone the bill indefinitely.

This question was decided in the negative—yeas 7, nays 25, as follows:

YEAS—Messrs. Fromentin, Gaillard, Johnson, Macon, Tait, Talbot, and Williams of Mississippi.

NAYS—Messrs. Barbour, Burrill, Crittenden, Daggett, Eaton, Eppes, Hunter, King, Lacock, Leake, Mellen, Morril, Noble, Otis, Palmer, Roberts, Ruggles, Sanford, Stokes, Storer, Taylor, Thomas, Tichenor, Van Dyke, and Wilson.

The bill was then ordered to be engrossed for a third reading.

A message from the House of Representatives informed the Senate that the House have passed the bill which originated in the Senate, entitled "An act supplementary to the acts concerning the coasting trade, with amendments; also, the bill, entitled "An act to enable the people of the Alabama Territory, to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States," with amendments; in which amendments they request the concurrence of the Senate. They have passed a bill, entitled "An act establishing a separate Territorial government in the southern part of the Territory of Missouri;" a bill, entitled "An act in addition to an act, supplementary to an act, entitled 'An act for the relief of Thomas Wilson;" and, also, a resolution declaring the manner in which the vessels composing the Navy of the United States shall be named; in which bills and resolution they request the concurrence of the Senate.

The bills and resolution last mentioned, were read, and passed to the second reading.

The bill, entitled "An act establishing a separate Territorial government in the southern part of the Territory of Missouri," was read the second time by unanimous consent, and on motion by Mr. CRITTENDEN, it was referred to the committee, to whom was referred on the 11th December, 1818, the memorial of the Legislature of the Alabama Territory, praying admission into the Union as a State, to consider and report thereon.

The bill, entitled "An act in addition to an act, supplementary to an act, entitled 'An act for the relief of Thomas Wilson," was read the second time by unanimous consent, and referred to the Committee of Claims.

The resolution declaring the manner in which the vessels composing the Navy of the United States shall be named, was read the second time by unanimous consent, and referred to the Committee on Naval Affairs.

The Senate resumed, as in Committee, the considerations of the bill making appropriations for the support of Government for the current year.

Various amendments were reported by the Committee of Finance, making appropriations for objects authorized since the passage of the bill in the House, and to conform the provisions of the bill to salaries increased, &c. One of the amendments reported, was making a further appropriation of $76,644 for the centre building of the Capitol.

The amendments were not gone through, when the bill was laid over until to-morrow.

TUESDAY, February 23.

The PRESIDENT communicated the credentials of WALLER TAYLOR, appointed a Senator by the Legislature of the State of Indiana, for the term of six years, commencing on the fourth day of March next; which were read, and laid on file.

Mr. WILLIAMS, of Mississippi, presented the petition of the inhabitants of Green, and of Jackson county, in the State of Mississippi, representing that the mouth of the Pascagoula river is the most suitable place for a port of entry and delivery in that State, and praying that it may be designated as such by the competent authority; and the petitions were read.

Mr. TAIT, from the committee, to whom was referred the bill entitled "An act establishing a separate Territorial government in the southern part of the Territory of Missouri," reported the same without amendment.

The Senate resumed the consideration of the report of the Committee on Military Affairs, to whom was referred the petition of Captain Biggar's company; and in concurrence therewith, the petitioners had leave to withdraw their petition.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Pierre Lacoste; and, on motion by Mr. GOLDSBOROUGH, the further consideration thereof was postponed until the 5th of March next.

Mr. ROBERTS presented the petition of Michael Zorger, praying the renewal of the patent right for the further term of fourteen years, for the invention of a machine for shelling or hulling clover seed; and the petition was read, and referred to the Committee on Commerce and Manufactures.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to enable the people of the Alabama Territory to form a constitution and State government," &c., and concurred therein.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act supplementary to the acts concerning the coasting trade;" and concurred therein.

Mr. DAGGETT, from the Committee on Foreign Relations, reported the bill to protect the commerce of the United States from piracy, with sundry amendments; which were considered and agreed to by the Senate, and the bill ordered to be engrossed for a third reading.

The bill in addition to the act concerning tonnage and discriminating duties; and the bill to continue in force for a further time the act for establishing trading-houses with the Indian tribes severally passed through Committees of the Whole, were amended, and ordered to be read a third time.

The bill from the House of Representatives authorizing the transportation of the mails in steamboats, was read the third time, and passed.

The engrossed bill for the relief of Jacob Purkhill; the engrossed bill to repeal a part of the act concerning the Post Office Department, passed in 1813; and the engrossed bill respecting the transportation of persons of color for sale or to be held to labor, were severally read the third time, and passed.

Mr. GOLDSBOROUGH, from the Committee of Claims, made an unfavorable report on the petition of Samuel Sterrett; which was read.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Patrick Callan," reported the same without amendment.

The Senate resumed the consideration of the report of the joint committee, on the subject of the public printing; and agreed thereto.

The joint resolution, directing the ascertainment of the 36th degree 30 minutes of north latitude, on the west bank of the Tennessee river, was taken up, and ordered to be engrossed, and was subsequently read the third time, and passed.

The bill for the better organization of the Treasury Department, passed through a Committee of the Whole, and was ordered to a third reading.

APPROPRIATION BILL.

The Senate resumed, as in Committee of the Whole, the consideration of the bill "making appropriations for the support of Government for the year 1819;" together with the amendments reported thereto by the Committee on Finance; and the amendments having been all agreed to, excepting the one proposing an appropriation for prosecuting the work on the centre of the Capitol, which was disagreed to, the bill was reported to the House amended accordingly; and, on the question, to concur in the following amendment, agreed to as in Committee of the Whole:

Strike from line 296, to the end of the 313th line, and insert the following:

"For claims due, and becoming due under existing contracts, for constructing the United States road from Cumberland to the Ohio river, two hundred and fifty thousand dollars, and for completing the said road, the sum of two hundred and eighty-five thousand dollars, which several sums hereby appropriated, together with the amount heretofore advanced by the United States for making said road, shall be repaid out of the fund reserved for laying out and making roads to the States of Ohio, Indiana, and Illinois, by virtue of the several acts for the admission of the aforesaid States into the Union:"

It was determined in the affirmative—yeas 22, nays 13, as follows:

YEAS—Messrs. Burrill, Daggett, Eaton, Eppes, Gaillard, Goldsborough, Horsey, Johnson, King, Lacock, Leake, Mellen, Morril, Otis, Palmer, Roberts, Sanford, Tait, Tichenor, Van Dyke, Williams of Mississippi, and Wilson.

NAYS—Messrs. Barbour, Crittenden, Edwards, Fromentin, Macon, Morrow, Noble, Ruggles, Stokes, Talbot, Taylor, Thomas, and Williams of Tennessee.

The other amendments having been concurred in, they were ordered to be engrossed, and the bill be read a third time as amended.

WEDNESDAY, February 24.

Mr. THOMAS gave notice that to-morrow he should ask leave to bring in a bill granting a donation of land to the State of Illinois, for the seat of government of said State.

Mr. OTIS presented the petition of Henry Rice, of Boston, and also of Joshua Aubin, of the same place, praying that certain duties paid by them may be refunded, with interest thereon, or some other relief granted, as stated in the petitions; which were read, and respectively referred to the Committee on Finance.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act in addition to an act, supplementary to an act, entitled 'An act for the relief of Thomas Wilson,'" reported the same without amendment.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the resolution declaring the manner in which the vessels composing the Navy of the United States shall be named, reported the same without amendment.

A message from the House of Representatives informed the Senate that the House have concurred in the amendments of the Senate to the bill, entitled "An act regulating passenger ships and vessels," except the sixth, and in that, with amendments, in which they request the concurrence of the Senate. They have passed a bill, entitled "An act supplementary to the act, entitled 'An act for the relief of Benjamin Wells;'" and also a bill, entitled "An act for the relief of George M. Brook and Edmund P. Kennedy;" in which bills they request the concurrence of the Senate.

The said two bills were read, and passed to the second reading.

The Senate proceeded to consider the amendments of the House of Representatives, to their sixth amendment to the bill, entitled "An act regulating passenger ships and vessels," and concurred therein.

The report of the Committee of Claims, unfavorable to the petition of Samuel Sterrett, was taken up, and agreed to.

The general appropriation bill for 1819 was read the third time as amended, and passed.

The engrossed bill, in addition to the act concerning tonnage and discriminating duties; the engrossed bill to continue in force for a further time the act to establish trading-houses with the Indian tribes; the engrossed bill to protect the commerce of the United States from piracy; and the engrossed bill for the better organization of the Treasury Department; were severally read the third time, and passed.

The bill to regulate and fix the salaries of the registers and receivers of public moneys; the bill for the relief of Francis B. Languille; the bill for the relief of Lewis H. Guerlain; the bill for the relief of Joseph McNeil; the bill for the relief of Rosalie P. Deslande; the bills for the relief of Eli Hart, of Nathaniel Birdseye, and Daniel Booth, of John Rodriguez, and for the relief of Joseph Dozet, and Antoine Bougoud, severally passed through Committees of the Whole, and were ordered to be engrossed for a third reading.

The PRESIDENT communicated a report from the Secretary of the Treasury, exhibiting the emoluments of the collectors of the customs; which was read.

REPORT ON THE SEMINOLE WAR.

Mr. LACOCK, from the committee appointed in pursuance of a resolution of the Senate of the 18th December last, "That the Message of the President and documents, relative to the Seminole war, be referred to a select committee, who shall have authority, if necessary, to send for persons and papers; that said committee inquire relative to the advance of the United States troops into West Florida; whether the officers in command at Pensacola and St. Marks were amenable to, and under the control of, Spain; and, particularly, what circumstances existed, to authorize or justify the Commanding General in taking possession of those posts," reported:

That they have, under the authority conferred on them, called for and examined persons and papers. The testimony obtained is herewith submitted. The committee, after the most mature and dispassionate examination of the subject, offer for the consideration of the Senate the following narrative of facts, and the opinions and deductions clearly arising from, and growing out of, the facts thus presented. On the origin of the hostilities between the United States and the Seminole Indians, the committee ask leave to remark, that the different savage tribes living within and on the borders of the Floridas, denominated Seminole Indians, were principally fugitives from the more northern tribes, resident within the limits of the United States. After the Treaty of 1814, with the Creek Indians, a considerable addition was made to the number of those fugitives, as the Indians who were dissatisfied with the provisions of that treaty took refuge in the Floridas; cherishing, there can be little doubt, feelings of hostility to the United States. These feelings seem to have been strengthened by the influence of foreign emissaries, who had taken up their residence among them; among whom, as the most conspicuous, were Alexander Arbuthnot and Robert C. Ambrister. In this state of things, it appears that the Executive Department of the Government deemed it necessary, for the security of the frontier, to establish a line of forts near the southern boundary of the United States, and to occupy those fortifications with portions of the regular forces, and by these means peace was maintained with the Indians until the Spring or Summer

of 1817, when the regular forces were withdrawn from the posts on the Georgia frontier, and concentrated at Fort Montgomery, on the Alabama river, a considerable distance west of the Georgia line. But it seems that about this time a border warfare was commenced between the Seminole Indians and the frontier inhabitants of Georgia. It is difficult to determine with certainty who commenced those hostilities, or on whom the greatest injuries were inflicted. General Gaines, however, demanded a surrender of the Indians who had committed outrages on the frontiers of Georgia. With this demand they refused to comply, alleging that the first and greatest aggressions had been made by the white men. In consequence of this refusal, General Gaines was authorized by the Secretary of War, at his discretion, to remove the Indians still remaining on the lands ceded to the United States by the treaty made with the Creeks in 1814; in so doing he is told that it might be proper to retain some of them as hostages, until reparation was made for the depredations committed by the Indians. In pursuance of this discretionary authority, General Gaines ordered a detachment of near three hundred men, under the command of Major Twiggs, to surround and take an Indian village, called Fowl Town, about fourteen miles from Fort Scott, and near the Florida line. This detachment arrived at Fowl Town in the night, and the Indians, taking the alarm, and flying to an adjacent swamp, were fired on by the detachment, and one man and one woman killed. Two Indians were made prisoners. The detachment returned to Fort Scott. A day or two afterwards, as stated by Captain McIntosh, who was of the party, about the same number of troops paid a second visit to the same village, as he states, for the purpose of obtaining property. While loading their wagons with corn, and collecting horses and cattle, they were fired upon by the Indians, and a skirmish ensued, in which a small loss was sustained on both sides. It is stated by Captain Young, the topographical engineer, that this town contained about 45 Indian warriors, besides women and children.

A few days after the affair of Fowl Town, Lieutenant Scott, with a detachment of forty men, seven women, and some children, ascending the Appalachicola, with clothing and supplies for the garrison of Fort Scott, when within a few miles of that place was attacked by a party of Indians; himself and his whole party fell victims to their fury, except six men, who made their escape, and one woman made prisoner.

From this time the war became more serious; the Indians, in considerable numbers, were imbodied, and an open attack was made on Fort Scott. General Gaines, with about 600 regular soldiers, was confined to the garrison. In this state of things, information having been communicated to the War Department, General Jackson was ordered to take the field; he was advised of the regular and militia force, amounting to 1,800 men, provided for that service, and the estimated force by General Gaines, of the enemy, said to be 2,800 strong; and directed, if he should consider the force provided insufficient to beat the enemy, to call on the Governors of the adjoining States for such portions of the militia as he might think requisite. On the receipt of this order General Jackson, instead of observing the orders of the Department of War, by calling on the Governor of Tennessee, then in Nashville, near the place of his residence, chose to appeal (to use his own expressions) to the patriotism of the West Tennesseeans, who had served under him in the last war. 1,000 mounted gun-men, and two companies of what were called life-guards, with the utmost alacrity, volunteered their services, from the States of Tennessee and Kentucky, and repaired to his standard. Officers were appointed to command this corps by the General himself, or by other persons acting under his authority. Thus organized, they were mustered into the service of the United States.

About the time General Jackson was organizing this detachment of volunteers in the State of Tennessee, or perhaps previously thereto, General Gaines was likewise employed in raising forces among the Creek Indians. There was this difference in the two cases: General Jackson raised his army in disregard of positive orders; General Gaines, without orders, took upon himself the authority of raising an army of at least 1,600 Creek Indians, appointing their officers, with a Brigadier General at their head, and likewise mustering this force into the service of the United States.

While your committee feel a pleasure in applauding the zeal and promptitude that have marked the military conduct of these general officers on many former occasions, they would feel themselves wanting in their duty to the Senate and the nation if they did not express their decided disapprobation of the conduct of the commanding generals, in the steps they took to raise and organize the force employed on this occasion. There was no law in existence that authorized even the President of the United States to raise or accept the services of volunteers. The law passed for that purpose had expired in the year 1815. The Constitution of the United States gives to Congress, exclusively, the power of raising armies, and to the President and Senate the power of appointing the officers to command those armies when raised. The Constitution, likewise, gives Congress power to provide for calling forth the militia to execute the laws of the Union—to suppress insurrections, and to repel invasions—but reserves to the States, respectively, the appointment of the officers. In conformity with the last recited provision of the Constitution, the Congress of the United States have passed laws authorizing the President, when the contingencies above alluded to should happen, to call on the governors, or any militia officers, of the respective States, for such portion of the militia as he might deem requisite for the occasion; and, in strict observance of these laws, was General Jackson ordered to call on the Governors of the States adjacent to the seat of war, for the requisite militia force.

It is with regret that the committee are compelled to declare, that they conceive General Jackson to have disregarded the positive orders of the Department of War, the Constitution, and laws; that he has taken upon himself not only the exercise of those powers delegated to Congress, as the sole legislative authority of the nation, and to the President and Senate, as it relates to the appointments, but of the power which had been expressly reserved to the States, in the appointment of the officers of the militia; a power the more valuable to the States because, as they had surrendered to the General Government the revenues and physical force of the nation, they could only look to the officers of the militia as a security against the possible abuse of the delegated power. The committee find the melancholy fact before them, that military officers, even at this early stage of this Republic, have, without the shadow of authority, raised an army of at least two thousand five hundred men, and mustered

them into the service of the United States. Two hundred and thirty officers have been appointed, and their rank established, from an Indian brigadier general down to the lowest subaltern of a company. To whom were those officers accountable for their conduct? Not to the President of the United States, for it will be found that it was not considered necessary even to furnish him with a list of their names; and not until the pay-rolls were made out, and payment demanded, were the persons known to the Department of War. And in this place it is proper to observe, that General Jackson seemed to consider those officers of his own creation, competent to discharge all the functions of officers appointed by the authority of the General or State Governments, for we find five of them detailed afterwards to set on a general court martial, on a trial of life and death. Might not, on the same principles, General Jackson have tried, condemned, and executed any officer of the Georgia militia, by the sentence of a court martial, composed of officers created by him, and holding their assumed authority by the tenor of his will?

Your committee will dismiss this branch of the subject by observing that, consistently with the character and genius of our Government, no officer, however high or exalted his station, can be justified for an infraction of the Constitution; it is an offence against the sovereignty of the nation, this sovereignty being vested in the great body of the people. The Constitution is the written expression of their will, and above the control of all the public functionaries combined. And when that instrument has been violated, the people alone have power to grant the indemnity for its infraction; and all that can be said in favor of the officer who transcends his constitutional powers, must be taken not in justification of the act, but in mitigation of the enormity of the offence committed. With this view of the subject, which they conceive to be a correct one, the committee have in vain sought for an excuse for the commanding general. He has stated in his letter to the Secretary of War, assuming the power to judge for the National Legislature, that a volunteer force of mounted gun men would be the least expensive and the most efficient. His duty was to execute the orders of his superior officers, not to disobey them; to observe and enforce the laws, not violate them. Obedience and subordination are the first and highest duties of a soldier, and no one knew better the truth of, and the necessity for, observing this maxim, than the officer in question. For the truth of this observation, we have his own declaration. In his letter to the Secretary of War, of 20th January, 1818, he says, "your letter, enclosing your general order of the 29th ultimo, has been received; like yourself, I have no other feelings to gratify than those connected with the public good, and it gives me pleasure to find we coincide in those opinions calculated to produce it. Responsibility now rests where it should—on the officer issuing the order—and the principle acknowledged is calculated to insure that subordination so necessary to the harmonious movement of every part of the military machine."

It is be regretted, that an officer who seemed to be so perfectly acquainted with what belonged to the duty of others, should have been so totally regardless or unconscious of his own; and while the committee are willing to admit that the volunteer forces called into service by General Jackson were more efficient and less expensive than the militia, had he confined himself to the usual proportion of officers, this, they conceive, should not be urged as an argument in favor of employing them, or plead in justification of the unlawful act; for if these reasons be considered conclusive, and should be acquiesced in, they will be applied with increased force (fortified by this precedent) in all future wars; an army of regulars will be considered (as they really are) more efficient and less expensive than either the volunteers, if authorized by law, or the militia; and the officer at the head of such army (acting on the principles before stated, and encouraged by the acquiescence of the nation) may dispense with the militia altogether, and increase the regular army to any extent that folly or ambition may suggest; and all this under the plea of necessity. The committee can scarcely imagine a possible case that may occur in a future war, where the necessity will be less strong than in the present. This war was waged when the United States were at peace with all the world, except this miserable undisciplined banditti of "deluded Indians" and fugitive slaves; their whole strength, when combined, not exceeding one thousand men; opposed to whom, (previous to General Jackson's taking the command,) and under General Gaines, were a force of one thousand eight hundred regulars and militia, besides the one thousand five hundred friendly Indians, illegally subsidized by the last mentioned general. What, then, in this state of the case, becomes of the plea of necessity? And if it be admitted in this case, to justify or palliate an act of military usurpation, the committee would anxiously inquire where it is to be disallowed or denied? And here the committee, having pledged themselves faithfully to disclose facts, and impartially to draw conclusions, beg leave to remark, that the conduct of the commanding general, in raising this volunteer corps, was approbated by the War Department, as will appear by the letter of the Secretary, dated the 29th day of January, 1818; and it is but justice to the Department to state, that it was not until the officers that had assisted in thus officering and organizing this corps, were examined by the committee, that they were apprized of the illegality of the measure; for there is nothing to be found in General Jackson's letters on this subject, to the Secretary of War, of the 12th, 13th, and 20th of February, 1818, from which it can be fairly inferred that he had appointed a single officer. Indeed, it would seem, from a fair interpretation of those letters, that the officers, at least, were of the regular militia of the States, and that the only departure from his orders by the general, was his having called on the subordinate officers of the militia, instead of the Governor of the State of Tennessee, and his preference of mounted men to infantry. And it will also appear, from the letters aforesaid, that had the Department of War disapproved of this conduct, and determined to countermand the order of General Jackson in raising this force, no order to that effect could have reached him before he had arrived at the seat of war, and of course the army might have been disbanded in sight of the enemy, and the objects of the campaign thereby jeopardized, and perhaps defeated.

The committee will next take notice of the operations of the army in the Floridas, whither they were authorized to pursue the enemy; and, connected with this authority, it was enjoined on General Gaines, to whom the first order to this effect was given, that in case the enemy took refuge under a Spanish garrison, not to attack them there, but to report the fact to the

Secretary of War; and the observance of this order, the committee conceive, was equally obligatory on General Jackson, who succeeded to the command—at least, it must have clearly evinced the will of the Secretary of War on that point, and how far this injunction was observed, will be found by what followed. It appears that General Jackson advanced into Florida with a force of 1,800 men, composed of regulars, volunteers, and the Georgia militia, and afterwards, on the first day of April, was joined by General McIntosh, and his brigade of 1,500 Indians, who had been previously organized by General Gaines; opposed to whom it appears, from the report of Captain Young, topographical engineer, and other evidence, the whole forces of the fugitive Seminole Indians and runaway negroes, had they all been imbodied, could not have exceeded nine hundred or one thousand men; and at no time did half that number present themselves to oppose his march—of course little or no resistance was made.

The Mickasuky towns were first taken and destroyed. The army marched upon St. Marks, a feeble Spanish garrison, which was surrendered "without firing a gun," and then occupied as an American post; the Spanish commandant having first, by humble entreaties, and then by a timid protest, endeavored to avert the measure. Here Alexander Arbuthnot was found, taken prisoner, and put in confinement, for the purpose, as it was stated by General Jackson, "of collecting evidence to establish his guilt;" and here, also, were taken two Indian chiefs, one of whom pretended to possess the spirit of prophecy; they were hung without trial, and with little ceremony.

This being done, and St. Marks garrisoned by American troops, the army pursued their march eastward to Suwaney river, on which they found a large Indian village, which was consumed, and the Indians and negroes were dispersed; after which the army returned to St. Marks, bringing with them Robert C. Ambrister, who had been taken prisoner on their march to Suwaney. During the halt of the army for a few days at St. Marks, a general court martial was called; Arbuthnot was arraigned; found guilty; sentenced to suffer death, and hung.

Ambrister was tried in like manner, found guilty, and sentenced to whipping and confinement. General Jackson annulled the sentence, and ordered him to be shot: and this order was executed.

It appears, by the testimony, that the army had arrived at St. Marks, on their return from Suwaney, on the 25th of April; and on the 26th General Jackson writes to the Secretary at War in the following manner: "I shall leave this in two or three days, for Fort Gadsden; and, after making all necessary arrangements for the security of the positions occupied and detaching a force to scour the country west of the Appalachicola, I shall proceed direct to Nashville; my presence in this country can be no longer necessary. The Indian forces have been divided and scattered; cut off from all communication with those unprincipled agents of foreign nations, who have deluded them to their ruin, they have not the power, if the will remains, of annoying our frontier." It appears, however, by the conduct of the commanding general, that he had, at this time, looked to different movements; for, at the time he was writing this letter, as will be seen by the testimony of Captain Call and Surgeon Bronaugh, he had despatched Lieutenant Sands to Mobile, to forward on a train of artillery, to a given point, to be ready to be made use of in reducing Pensacola and the fort of Barrancas, should that measure be thereafter thought proper. Having made these arrangements, the army marched to Fort Gadsden, on the Appalachicola river. There, as stated by General Jackson, and confirmed by the testimony of Colonel Butler, information was received by a private letter, written by a merchant at Pensacola to Mr. Doyle, and shown to General Jackson, that a number of Indians had recently visited Pensacola, and were committing depredations on the Spanish inhabitants of that place, and were receiving aid and comfort from the garrison. On the receipt of this intelligence, the resolution seems to have been taken to garrison that place with American troops; and, after a march of about twenty days, having met his artillery, General Jackson, with about twelve hundred men, the rest having been discharged, appeared before Pensacola, the capital of the province. The place was taken with scarce the show of resistance. The Governor had escaped, and taken refuge in the fort of the Barrancas; to which place, distant about six miles, the army marched, and the fortress was invested on the 25th of May; and a demand being made for its surrender, and refused, the attack was made on the fortress by land and water, and after the bombardment and cannonading had been kept up for a part of two days, and some lives lost, the fortress was surrendered, the garrison made prisoners of war; and the officers of the Government, civil and military, transported to the Havana, agreeably to the terms of the capitulation; which terms General Jackson, in his letter of the 2d of June, 1818, declares, "were more favorable than a conquered enemy would have merited." The civil and military government of Spain thus annulled, General Jackson thought it necessary to abolish the revenue laws of Spain, and establish those of the United States, as more favorable to the commerce of the United States; and, for this purpose, Captain Gadsden was appointed collector, and by him, under the authority of General Jackson, that department of the new government was organized. The Spanish authorities being thus put down by the sword, both civil and military, a new government was established for this newly acquired territory, the powers of which, both civil and military, were vested in military officers. And General Jackson having declared, in numerous communications to the Department of War, that the Seminole war was closed, and the object of the campaign at an end, he returned to his residence at Nashville, State of Tennessee. And here it would have given the committee sincere pleasure to have stated, that the story of the campaign had closed, but facts which it becomes now their duty to report, require that history to be continued. On the 7th of August, 1818, more than two months after his consummation of the conquest of West and part of East Florida, he issued an order to General Gaines, directing him to take possession of St. Augustine, a strong fortress, and the capital of East Florida. A copy of this order is subjoined to this report, and his reasons for this measure are stated at large in the order, and reiterated and enforced by his letter to the Secretary of War, dated the 10th of the same month, which reasons, fully and beyond the possibility of doubt, discover the motives of the commanding general in all his movements against Spain.

The tendency of these measures by the commanding general, seems to have been to involve the nation in a war without her consent, and for reasons of his own, unconnected with his military functions.

Your committee would be unwilling to attribute im-

proper motives, where those of a different character could be possibly inferred, more especially, when it is to affect a character, whose military fame is the pride and boast of the nation; but even such a character becomes more eminently dangerous, when he exalts himself above the majesty of the laws; declares the public will, and becomes the arbiter between the United States and foreign nations. That these high and transcendent powers have been usurped and exercised in the present case, is, it appears to the committee, incontrovertibly evident from the facts adduced.

The Constitution declares, article first, section eight, "Congress shall have power to declare war, grant letters of marque and reprisal, and to make rules concerning captures on land and water." Surely, it was never designed, by this provision, that a military officer should first make war, and leave it to Congress afterwards to declare it. This would involve an absurdity that it is unnecessary to expose. It is sufficient to say that the Executive authority of the United States, and much less a subordinate officer, has no power to change the pacific relations of the nation. The President of the United States is bound, constitutionally, to preserve the peace of the country until Congress declares it in a state of war; he can only, while thus in a state of peace, use the military forces of the nation in three specified cases, that is: "to execute the laws of the Union, to suppress insurrection, and repel invasion." [See Constitution, article first, section eight; also, the act for calling forth the militia, passed 28th February, 1795.] It will not be pretended that Spain had invaded the United States, or that Congress had declared war against that nation; and, of course, the relations of peace did exist between the two countries at the time General Jackson took possession of the Spanish possessions in the Floridas. These facts being admitted, and they cannot be denied, the only question to decide is, whether the military conduct of General Jackson was not war against Spain, and on this subject there can be no room to doubt. The capital of a Spanish province is taken by the sword; a fortress is invested and bombarded; lives are lost, and the place surrendered on capitulation, the terms of which are declared "more favorable than a conquered enemy merited;" military officers and men, as well as those in the civil departments of Government, are transported to the West Indies, and a new Government established for the conquered country. If all these acts of hostility combined do not constitute war, the committee confess themselves utterly at a loss for its definition; or, if the fact be denied, the consequence of such denial will be a proof that no war was made by the Seminole Indians on the United States, and, of course, that the invasion of Florida was an unauthorized act of aggression on the part of the United States. But the committee will pursue this subject a little farther, and examine the reasons offered by the officer commanding for taking possession of and occupying the Spanish fortresses, more especially Pensacola and the Barrancas. Those reasons are to be found in his numerous reports to the War Department, and his letter to the Spanish officers who commanded in the different fortresses, and are these: That Spain had not observed her treaty stipulations with the United States as it related to the Florida Indians, and whose peaceable conduct she was bound to guaranty to the United States; that she had furnished those Indians at war with the United States with arms, ammunition, and supplies necessary to carry on the war. Here the committee would observe that they are neither the advocates nor the apologists of Spain. There can be no doubt but she had, by the violation of her engagements, given sufficient cause of war; but they defend the Constitution by saying that General Jackson had no power to declare nor make the war; that neither he, nor even the President of the United States, had any discretion or power to judge what was or was not cause of war. This the Constitution had wisely lodged in Congress. The treaty with Spain still existed, it was made by the Constitution the supreme law of the land, and had Spain violated on her part every article of that treaty, still the Executive of the United States, who is bound to see the laws "faithfully executed," must, in good faith towards Spain, have observed on our part that treaty; and the obligation of preserving the peace of the nation would have remained until the treaty should have been revoked or annulled by Congress. Furnishing the Indians with arms, ammunitions, and supplies, were so many violations of treaty stipulations, and might have been considered good cause of war by Congress; but of this General Jackson was not the judge. His duty was pointed out. It was to subdue and punish the Seminole Indians, with whom we were at war. For this purpose he was ordered to pursue them into the territorial limits of Spain, and over a part of which territory those Indians had, at least, a qualified right of possession and property. Under these orders no act of aggression on the Spanish authorities could have been designed, nor can any such acts be justified. Spain, before she could become or be made a party to this war, must have merged her neutral character in that of the enemy, and clearly identified herself with the Seminole Indians, and, by acts of open and undisguised hostility to General Jackson, have opposed him by physical, not moral force.

But the weakness of the Spanish authorities is urged in justification of this outrage upon our Constitution. And is the weakness of an independent Power to disparage their neutral rights, or furnish pretences for a powerful neighbor to weaken them further by hostile aggressions? And is it thus we are to be furnished, by an American officer, with a justification for the dismemberment of Poland, the capture of the Danish fleet by Great Britain, and the subjugation of Europe by Bonaparte? and shall the United States be called upon to imitate the example, or silently acquiesce and thereby subscribe to doctrines and approve measures that are in direct opposition to the repeated and invariable declarations of the Government, given to this nation and the world, through the official medium of Presidential Messages and the correspondence of all her public Ministers, and sanctioned by all her public laws on the subject of neutral rights? Will it not be said that we have changed our national policy? Shall we not be addressed in the following language, by the nations of Europe?

"The time was, when the United States were also weak, she had no navy, she had no army. In those days, she was a strong advocate for neutral rights, anxious that free ships should make free goods; that the neutral flag of the Republic should protect all sailing under it, ever protesting against, and complaining of, the violation of her neutral rights by the belligerents of Europe. But these times have passed away; the nation has tried her strength in battle, and found herself quite equal to the struggle; she has had

time to strengthen her army and increase her navy; her former weakness forgotten, her former precepts abandoned, and feeling power and forgetting right, she walks over a prostrate Constitution to conquer and subdue a miserable and feeble, though neutral colony, whose very weakness (pleaded in excuse for the aggression) should have rather constituted an appeal to a generous people for protection."

In this unfavorable light, the committee have too much reason to fear, will the civilized world view this transaction, and, if sactioned by the nation, they regret to say, there will be too much reason given thus to consider it.

But there are still other reasons disclosed and facts developed, that discover the motives of the commanding officer more fully than those above stated. More than two months after this campaign had ended, and the Seminole war was terminated, another expedition is planned, and the land and naval forces of the United States ordered to execute it; which is to reduce the fortress of St. Augustine, the capital of East Florida. The reasons offered for this measure are stated in his orders to General Gaines, dated Nashville, August 7, 1818, and are as follows:

"I have noted with attention Major Twiggs's letter, marked No. 5. I contemplated that the agents of Spain, or the officers at Fort St. Augustine, would excite the Indians to hostility, and furnish them with the means of war. It will be necessary to obtain evidence substantiating this fact, and that the hostile Indians have been fed and furnished from the garrison of St. Augustine. This being obtained, should you deem your force sufficient, you will proceed to take and garrison Fort St. Augustine with American troops, and hold the garrison prisoners until you hear from the President of the United States, or transport them to Cuba, as, in your judgment, under existing circumstances, you may think best.

"Let it be remembered, that the proceedings carried on by me, or this order, is not on the ground that we are at war with Spain; it is on the ground of self-preservation, bottomed on the broad basis of the law of nature and of nations, and justified by giving peace and security to our frontiers; hence, the necessity of procuring evidence of the fact of the agents or officers of Spain having excited the Indians to continue the war against us, and that they have furnished them with the means of carrying on the war; this evidence being obtained, you will (if your force is sufficient) permit nothing to prevent you from reducing Fort St. Augustine, except a positive order from the Department of War.

"Orders some time since have been given to the officer of the ordnance, commanding at Charleston, to have in readiness a complete battering train, the number and calibre of the guns pointed out. I have no doubt you will find them in readiness.

"I enclose you the report of Captain Henley, of the naval force on that station; you will open a correspondence with Commandant A. J. Dallas, to insure his co-operation, provided it should be required."

In this projected expedition, it was not thought necessary or expedient to consult the Executive branch of the Government; the order sent to Gen. Gaines was peremptory, on the discovery being made that the Indians had been supplied with ammunition and provisions, and excited to war; the blow was to be struck, and nothing but an express order from the Secretary of War was to prevent it. Long before this period, the commanding general had, by his letters to the Secretary of War, declared the Seminole war at an end, and after which not a single new act of hostility had been committed. Yet, in this state of peace, is a military officer directed to ascertain certain facts, and, on such facts being substantiated, to make war on the neutral colony of a nation in peace and amity with the United States; thus disregarding not only the legislative and executive authorities of the United States, but setting at naught the usages of all civilized nations, by making war without a previous and public declaration. Were this nation subject to the will of a military despot, and were there no Constitutional barriers to the inordinate exercise of military ambition, more than this could scarcely have been expected. It is with pain the committee are constrained to make these observations; but, where the vital principles of the Constitution have been violated, as they conceive, it would be criminal in them, under the instructions they have received from the Senate, and the duty they owe the nation, to be silent. Silence on their part would have been considered an acquiescence in those measures, and they fear this precedent and example may be pleaded and followed on future occasions.

If these things be admitted in the South, will they not be considered as authorized in the North? Are there not fortresses there to be won, and provinces to be conquered; and are there not Indians in that quarter likewise, and may not the officer in command find means to prove that those Indians have been, or hereafter may be, furnished by the British with arms and munitions of war; and, if so, may he not follow the example set in the South, and add something to his stock of military fame by reducing the British fortresses of Canada, and unfurling the star-spangled banner of this nation on the walls of Quebec?

We hope better things of the distinguished officer at the head of our armies, and we had hoped better things of the hero of New Orleans, but we have been disappointed; and if the conduct of the officers in the South be sanctioned and approved by the nation, we are free to declare that the reduction of Quebec (where Montgomery fell, unable to conquer) would present a much stronger claim to public approbation.

It is necessary here to remark, that a copy of the order issued by General Jackson to General Gaines, for the reduction of St. Augustine, was transmitted to the Secretary of War, and a countermanding order promptly despatched to General Gaines, which reached him before the military expedition set on foot by General Jackson had commenced; and thus was suddenly arrested a military scheme, as unconstitutional as it was impolitic, and which might, as stated by the Secretary of War in his letter of the 8th day of September, 1818, have involved this nation in a war with all Europe.

In thus promptly prohibiting the unauthorized seizure, at the will of a commanding general, of the possessions of a neighboring nation with whom the United States are at peace, the committee recognise that sacred regard to the rights of other nations, which ought never to be departed from by the Executive of a free country, and that vigilant attention to the conduct of the officers of the army which is necessary to secure a due subordination of the military to the civil power.

They consider that, on this occasion, the Executive of the United States has, by promptly restoring St. Marks and Pensacola, wrested from Spain in violation

of instructions, pursued the course that the Constitution demanded, that all former precedents justified, and to which the public sentiment gave a decided approbation.

In reviewing the execution of Arbuthnot and Ambrister, your committee cannot but consider it as an unnecessary act of severity, on the part of the commanding general, and a departure from that mild and humane system towards prisoners, which, in all our conflicts with savage or civilized nations, has heretofore been considered, not only honorable to the national character, but conformable to the dictates of sound policy. These prisoners are subjects of Great Britain, with whom the United States are at peace. Having left their country, and united their fate with savages, with whom the United States were at war, they forfeited their claim to the protection of their own Government, and subjected themselves to the same treatment, which might, according to the practice and principles of the American Government, be extended towards those with whom they were associated. No process of reasoning can degrade them below the savages with whom they were connected. As prisoners of war they were entitled to claim from the American Government that protection which the most savage of our foes have uniformly experienced when disarmed and in our power.

Humanity shudders at the idea of a cold-blooded execution of prisoners, disarmed, and in the power of the conquerer. And, although savages, who respect no laws, may, according to the strict principles of the law of nations, have their own system of cruelty inflicted on them by way of retaliation, it is believed that such a system would degrade and debase the civilized nation who should resort to it, and is not only repugnant to the mild principles of the Christian religion, but a violation of those great principles of moral rectitude which distinguish the American character. Retaliation in the United States has always been confined to specified acts of cruelty. It is not believed that any attempt has ever been made to retaliate for charges so general as those exhibited against Arbuthnot and Ambrister, viz: "Inciting the Indians to war." During the Revolutionary war, only two cases occurred of persons seized for purposes of retaliation, neither of whom was executed. The case of Asgill, seized on account of the murder of Huddy; and Governor Hamilton, of Vincennes, for specific acts of cruelty also. Hamilton was confined for a short time with rigor, and afterwards released. During the late war, marked with some cases of cold-blooded massacre on the part of our enemy, particularly the one at the river Raisin, no such measure as retaliation was resorted to.

The principle assumed by the commanding general, that Arbuthnot and Ambrister, by uniting in war against the United States, while we were at peace with Great Britain, "became outlaws and pirates, and liable to suffer death," is not recognised in any code of national law. Nothing can be found in the history of civilized nations, which recognises such a principle, except a decree of the Executive Directory of France, during their short career of folly and madness, which declares that neutrals, found on board enemy's ships, should be considered and treated as pirates.*

The committee forbear to make any other remarks on the violation of the usual and accustomed forms in the punishment and conviction of Arbuthnot and Ambrister, except that even despots claiming to exercise absolute power cannot, with propriety, violate their own rules.

Having detailed a court martial, for the purpose of trying the prisoners, the commanding general, by his own authority, set aside the sentence of the court, and substituted for that sentence his own arbitrary will. In trials involving the life of an individual, a strict adherence to form is in ordinary cases considered the best security against oppression and injustice.

A departure from these forms is calculated to inflict a wound on the national character and tarnish the laurels so justly acquired by the commanding general by his former victories. Such are the facts, as they appear to the committee, and such are the views taken by them of the important subjects referred to their consideration, and, together with their report, they submit various depositions and documents, to which, and to the correspondence and documents relating to the Seminole war, communicated to the Senate by the President of the United States, at the last and present session, they refer.

* See Mr. King's letter to the Secretary of State, Vol. 10. p., — State Papers.

THURSDAY, February 25.

The PRESIDENT communicated the credentials of JOHN GAILLARD, appointed a Senator by the Legislature of the State of South Carolina, for the term of six years, commencing on the fourth day of March next; which were read, and laid on file.

Mr. THOMAS asked and obtained leave to bring in a bill granting a donation of land to the State of Illinois, for the seat of government of said State; and the bill was twice read by unanimous consent, and referred to the Committee on Public Lands.

Mr. WILLIAMS, of Mississippi, submitted the following motion for consideration:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the propriety of making an extra allowance to the postmasters at the Chickasaw and Choctow agencies.

The bill, entitled "An act supplementary to the act, entitled 'An act for the relief of Benjamin Wells,'" was read the second time, and referred to the Committee on Finance.

The bill, entitled "An act for the relief of George M. Brook and Edmund P. Kennedy," was read the second time, and referred to the same committee.

The bill explanatory of the act for the final adjustment of land titles in Louisiana and Territory of Missouri; and the bill concerning invalid pensioners, severally passed through Committees of the Whole, were amended, and ordered to a third reading.

The PRESIDENT communicated a report of the Secretary of War, comprehending contracts made by that Department in the year 1818, and those made by the Purchasing and Ordnance departments, for the same period, in compliance with "An act concerning public contracts," passed April 21st, 1808; and the report was read.

The bill for the relief of Francis B. Languille was read a third time, and passed.

The bill for the relief of Lewis H. Guerlain was read a third time, and passed.

The bill for the relief of Rosalie P. Deslande was read a third time, and passed.

The bill for the relief of Joseph McNeil was read a third time, and passed.

The bill for the relief of Eli Hart was read a third time, and passed.

The bill for the relief of John Rodriguez was read a third time, and passed.

The bill to regulate and fix the salaries and compensation of the registers and receivers of public moneys of the land offices was read a third time, and passed.

The bill for the relief of Nathan G. Birdseye and Daniel Booth was read a third time, and passed.

The bill for the relief of Joseph Dozet and Antoine Bougoud was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to regulate the pay of invalid pensioners," together with the amendment reported thereto by the Committee on Pensions; and the amendment having been agreed to, the bill was reported to the House amended accordingly; and the further consideration thereof was postponed until to-morrow.

On motion by Mr. VAN DYKE, the Committee on Pensions, to whom was referred the petition of William Crawford, of Indiana, were discharged from the further consideration thereof.

On motion by Mr. VAN DYKE, the Committee on Pensions, to whom was referred the petition of Experians Fisk, were discharged from the further consideration thereof, and the petitioner had leave to withdraw his petition and papers.

The bill authorizing the purchase of fire engines, for the protection of the public buildings; the bills for the relief of Robert McCalla, of Solomon Provost, of Bartholomew Duverge, of John Pellet, of John Anderson, of Alexander Milne, and of Christopher Fowler—were severally considered in Committee of the Whole, and ordered to be engrossed for a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, supplementary to an act passed the 2d day of March, 1807, entitled "An act to prohibit the importation of slaves into the United States." And the bill having been amended, on motion, the Senate adjourned.

FRIDAY, February 26.

On motion of Mr. RUGGLES, the Committee of Claims, to whom was referred the memorial of Joseph Landon, were discharged from the further consideration thereof.

Mr. JOHNSON, from the Committee on Public Lands, to whom was referred the bill granting a donation of land to the State of Illinois, for the seat of government of said State, reported the same without amendment; and, on motion by Mr. THOMAS, the bill was taken up and considered as in Committee of the Whole; and having been amended, it was reported to the House; and the amendment being concurred in, the bill was ordered to be engrossed and read a third time.

Mr. SANFORD asked and obtained leave to bring in a bill to fix the time for the next meeting of Congress; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the motion of yesterday, for instructing the Committee on the Post Office and Post Roads to inquire into the propriety of making an extra allowance to the postmasters at the Chickasaw and Choctaw agencies; and agreed thereto.

On motion by Mr. MORROW, the Senate resumed, as in Committee of the Whole, the consideration of the bill making provision for the civilization of the Indian tribes adjoining the frontier settlements; and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act establishing a separate Territorial government in the southern part of the Territory of Missouri;" and no amendment having been made, it was reported to the House, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States," together with the amendments reported thereto by the select committee; and, after debate, the further consideration thereof was postponed until to-morrow.

A message from the House of Representatives informed the Senate that the House have passed the bill, which originated in the Senate, entitled "An act to designate the boundaries of districts, and establish land offices for the disposal of the public lands not heretofore offered for sale in the States of Ohio and Indiana," with an amendment; in which they request the concurrence of the Senate. They have passed a bill, entitled "An act to regulate duties on certain wines:" a bill entitled "An act making appropriations for the public buildings, for the purchase of a lot of land, and furnishing a supply of water for the use of certain public buildings;" a bill entitled "An act to enforce those provisions of the act, entitled 'An act to incorporate the subscribers to the Bank of the United States,' which relate to the right of voting for directors, and for other purposes;" and also a resolution authorizing the President of the United States to cause astronomical observations to be made, to ascertain the longitude of the Capitol, in the City of Washington, from some known meridian in Europe; in which bills and resolution they request the concurrence of the Senate.

The three bills and resolution last mentioned were read, and passed to the second reading.

The bill entitled "An act explanatory of the act, entitled 'An act for the final adjustment of land titles in the State of Louisiana and Terri-

tory of Missouri," was read a third time as amended, and passed.

Mr. EPPES, from the Committee of Finance, to whom was referred the memorial of the Select and Common Councils of the city of Philadelphia, praying to be allowed to import, free from duty, cast-iron pipes, for the purpose of conveying water through the streets of the city, made a report, accompanied by a resolution that the prayer of the petitioner ought not to be granted. The report and resolution were read, considered, and agreed to.

Mr. EPPES, from the Committee on Finance, to whom was referred the bill, entitled "An act supplementary to the act, entitled 'An act for the relief of Benjamin Wells," reported the same without amendment; and the bill was taken up and considered as in Committee of the Whole; and the further consideration thereof was postponed until Monday next.

Mr. EPPES, from the same committee, to whom was referred the bill, entitled "An act for the relief of George M. Brook and Edmund P. Kennedy," reported the same without amendment; and the bill was taken up and considered as in Committee of the Whole; and no amendment having been made, it was reported to the House, and passed to a third reading.

Mr. EDWARDS gave notice that to-morrow he should ask leave to bring in a bill to establish a land office in the State of Illinois.

SATURDAY, February 27.

The resolution declaring the manner in which the vessels composing the Navy of the United States shall be named, was considered; and no amendment having been made thereto, it was ordered to be read a third time, but was subsequently postponed to Tuesday, in order to let the vessel to be launched on Monday receive the name intended for her before the resolution takes effect.

The bill to regulate the duties on certain wines was read the second time, and referred to the Committee on Finance.

The bill to enforce those provisions of the act, entitled "An act to incorporate the subscribers to the Bank of the United States," which relate to the right of voting for directors, and for other purposes, was read the second time, and referred to the same committee.

The bill making appropriations for the public buildings, for the purchase of a lot of land, and furnishing a supply of water for the use of certain public buildings, was read the second time, and referred to the Committee on the District of Columbia.

A message from the House of Representatives informed the Senate that the House have concurred in all the amendments of the Senate to the bill, entitled "An act making appropriations for the support of Government for the year 1819," except that which proposes an "appropriation of four thousand two hundred and forty-three dollars, to pay William and James Crooks the amounts of the sales of the schooner Lord Nelson," to which they disagree. They have passed a bill, entitled "An act to alter and establish certain post roads;" in which bill they request the concurrence of the Senate.

The resolution authorizing the President of the United States to cause astronomical observations to be made, to ascertain the longitude of the Capitol, in the City of Washington, from some known meridian in Europe, was read the second time, and referred to the committee to whom was referred on the 24th November, 1818, the memorial of William Lambert.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act to amend the act, entitled 'An act supplementary to the act, entitled An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated land within the same,' passed the 18th of April, 1806," reported the same without amendment.

Mr. EDWARDS asked and obtained leave to bring in a bill to establish a new land office in the State of Illinois; and the bill was read, and passed to the second reading.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act to designate the boundaries of districts, and establish land offices for the disposal of public lands, not heretofore offered for sale in the States of Ohio and Indiana." Whereupon,

On motion by Mr. NOBLE, resolved that they disagree thereto.

The bill, entitled "An act concerning invalid pensions," was read a third time as amended, and passed.

The bill, entitled "An act for the relief of Robert McCalla and Matthew H. Jouett," was read a third time as amended, and passed.

The engrossed bill authorizing the purchase of fire engines, and building houses for the safe-keeping of the same, was read a third time, and passed.

The engrossed bill for the relief of Solomon Prevost was read a third time, and passed.

The engrossed bill for the relief of Bartholomew Duverge was read a third time, and passed.

The engrossed bill for the relief of John Pettit was read a third time, and passed.

The engrossed bill for the relief of John Anderson was read a third time, and passed.

The engrossed bill for the relief of Alexander Milne was read a third time, and passed.

The engrossed bill for the relief of Christopher Fowler was read a third time, and passed.

MISSOURI CONSTITUTION.

The bill, entitled "An act establishing a separate Territorial government in the southern part of the Territory of Missouri," was read a third time; and,

The bill from the other House to authorize the people of Missouri to form a constitution, &c., was resumed; and, with the various motions

relative to it, gave rise to a long and animated debate.

Mr. WILSON moved to postpone the further consideration of the bill to a day beyond the session, which motion was decided as follows:

YEAS—Messrs. Burrill, Daggett, Dickerson, King, Lacock, Mellen, Morril, Otis, Roberts, Sanford, Storer, Tichenor, Van Dyke, and Wilson—14.

NAYS—Messrs. Barbour, Crittenden, Dana, Eaton, Edwards, Eppes, Fromentin, Gaillard, Goldsborough, Horsey, Johnson, Leake, Macon, Morrow, Noble, Palmer, Ruggles, Stokes, Tait, Talbot, Thomas, Williams of Mississippi, and Williams of Tennessee—23.

So the question was negatived.

On the question to agree to a proposition to strike out the restriction against the introduction or toleration of slavery in said new State, a division of the question was called for, and the question was taken on striking out the latter clause of said restriction, as follows: "And that all children of slaves, born within the said State, after the admission thereof into the Union shall be free, but may be held to service until the age of twenty-five years." And decided as follows:

YEAS—Messrs. Barbour, Crittenden, Dagget, Dana, Eaton, Edwards, Eppes, Fromentin, Gaillard, Goldsborough, Horsey, Johnson, King, Lacock, Leake, Macon, Morrow, Otis, Palmer, Roberts, Sanford, Stokes, Storer, Tait, Talbot, Thomas, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee—31.

NAYS—Messrs. Burrill, Dickerson, Mellen, Morril, Noble, Ruggles, and Wilson—7.

So it was agreed to strike out that clause.

The question was then taken to strike out the first clause of said restriction, in the words following: "*And provided also*, That the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes, whereof the party shall have been duly convicted;" and decided as follows:

YEAS—Messrs. Barbour, Crittenden, Eaton, Edwards, Eppes, Fromentin, Gaillard, Goldsborough, Horsey, Johnson, Lacock, Leake, Macon, Otis, Palmer, Stokes, Tait, Talbot, Thomas, Van Dyke, Williams of Mississippi, and Williams of Tennessee—22.

NAYS—Messrs. Burrill, Daggett, Dana, Dickerson, King, Mellen, Morril, Morrow, Noble, Roberts, Ruggles, Sanford, Storer, Taylor, Tichenor, Wilson—16.

So it was decided to strike out this clause also; when, before finally acting on the bill, the Senate adjourned.

MONDAY, March 1.

Mr. WILSON, from the Committee of Claims, reported a bill for the relief of Samuel J. Axon, and the bill was read and passed to the second reading.

The bill granting a donation of land to the State of Illinois, for the seat of government of said State, was read a third time, and passed.

The bill making provision for the civilization of the Indian tribes, adjoining the frontier settlements, was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to revive the powers of the commissioners for ascertaining and deciding on claims to land in the district of Detroit, and for settling the claims to land at Green Bay and Prairie du Chien, in the Territory of Michigan; and the bill having been amended, it was reported to the House, and ordered to be engrossed and read a third time—yeas 18, nays 6, as follows:

YEAS—Messrs. Barbour, Burrill, Crittenden, Daggett, Dana, Dickerson, Gaillard, Lacock, Morrow, Noble, Roberts, Ruggles, Sanford, Tait, Taylor, Thomas, Williams of Tennessee, and Wilson.

NAYS—Messrs. Eaton, Edwards, King, Leake, Macon, and Storer.

The Senate resumed the bill entitled "An act establishing a separate Territorial government in the southern part of the Territory of Missouri;" it having been previously read a third time.

On motion by Mr. BURRILL,

"That the said bill be recommitted to the committee to whom the same was first referred, with instructions so to amend the same that the further introduction of slavery or involuntary servitude within the said Territory, except for the punishment of crimes, be prohibited:"

It was determined in the negative—yeas 14, nays 19, as follows:

YEAS—Messrs. Burrill, Daggett, Dana, Dickerson, King, Lacock, Mellen, Noble, Roberts, Ruggles, Sanford, Storer, Tichenor, and Wilson.

NAYS—Messrs. Barbour, Crittenden, Eaton, Edwards, Eppes, Fromentin, Gaillard, Goldsborough, Johnson, Leake, Macon, Morrow, Stokes, Tait, Talbot, Taylor, Thomas, Williams of Mississippi, and Williams of Tennessee.

On the question, "Shall this bill pass?" it was determined in the affirmative. So it was resolved that this bill pass.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act confirming certain claims to land in the State of Illinois;" a bill entitled "An act for the relief of James Orr;" a bill entitled "An act to authorize the building, erecting, and placing light-houses, beacons, and buoys on places designated in Boston, Buzzard, and Chesapeake Bays, Lakes Ontario and Erie, and for other purposes;" a bill entitled "An act extending the term of half-pay pensions to the widows and children of certain officers, seamen, and marines, who died in the public service;" a bill entitled "An act for the relief of John M'Causland;" and a bill entitled "An act for the relief of Robert Kid, Seth Webber, and Thomas Page;" in which bills they request the concurrence of the Senate.

The six bills last mentioned were read, and passed to the second reading.

The bill confirming certain claims to land in the State of Illinois was read the second time by unanimous consent, and referred to the Committee on Public Lands.

The bill for the relief of James Orr was read the second time by unanimous consent, and referred to the Committee on Military Affairs.

The bill to authorize the building, erecting, and placing light-houses, beacons, and buoys on places designated in Boston, Buzzard and Chesapeake bays, Lake Ontario and Lake Erie, and for other purposes, was read the second time by unanimous consent, and referred to the Committee on Commerce and Manufactures.

The bill extending the term of half-pay pensions to the widows and children of certain officers, seamen, and marines, who died in the public service, was read the second time by unanimous consent, and referred to the Committee on Pensions.

The bill for the relief of John M'Causland was read the second time by unanimous consent, and referred to the Committee on the Militia.

The bill for the relief of Robert Kid, Seth Webber, and Thomas Page, was read the second time by unanimous consent, and referred to the Committee on Finance.

The bill to alter and establish certain post roads was twice read, and referred to the Committee on the Post Office and Post Roads.

The bill to fix the time for the next meeting of Congress was read the second time.

The bill to establish a new land office in the State of Illinois was read the second time, and referred to the Committee on Public Lands.

The Senate proceeded to consider their amendment to the bill entitled "An act making appropriations for the support of Government for the year 1819," disagreed to by the House of Representatives, and resolved to recede therefrom.

Mr. DICKERSON, from the committee to whom was referred the resolution authorizing the President of the United States to cause astronomical observations to be made to ascertain the longitude of the Capitol in the city of Washington from some known meridian in Europe, reported the same with an amendment; which was read.

The bill authorizing a State government in the Missouri Territory was taken up, and having been further amended, was ordered to a third reading.

The bill for the relief of George M. Brook and Edmund P. Kennedy was read a third time, and passed.

The Senate resumed the consideration of the bill, entitled "An act regulating the pay of invalid pensioners;" and the amendment made, as in Committee of the Whole, having been concurred in, it was ordered to be engrossed, and the bill be read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to authorize the Secretary of War to appoint an additional agent for paying pensions in the State of Tennessee;" and no amendment having been made, it was reported to the House, and passed to a third reading.

Mr. EPPES, from the Committee on Finance, to whom was referred the bill, entitled "An act to enforce those provisions of the act, entitled 'An act to incorporate the subscribers to the Bank of the United States,' which relate to the right of voting for directors, and for other purposes;" and also the bill, entitled "An act to regulate the duties on certain wines," reported the same, respectively, without amendment.

Mr. GOLDSBOROUGH, from the committee to whom was referred the bill, entitled "An act making appropriations for the public buildings, for the purchase of a lot of land, and furnishing a supply of water for the use of certain public buildings," reported the same without amendment.

On motion of Mr. EPPES, the Committee on Finance, to whom was referred the petition of Joshua Aubin, and also of Henry Rice, were discharged from the further consideration thereof, respectively, and the petitioners had leave to withdraw their papers.

On motion of Mr. BURRILL, the Committee on the Judiciary, to whom was referred the petition of a number of the inhabitants of the city of Perth Amboy, praying that the district court of the United States may be held at that place, instead of New Brunswick, were discharged from the further consideration thereof.

Mr. KING presented the memorial of the New York Chamber of Commerce, representing the great evils that would arise from a repeal of the charter of the Bank of the United States; and the memorial was read.

On motion, by Mr. DICKERSON, the Library Committee, who were instructed to inquire into the propriety of further extending the privilege of using the books in the Library of Congress, were discharged from the further consideration thereof.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Hannah Ring and Luther Frink," together with the amendment reported thereto by the Committee on Pensions; and the amendment having been agreed to, the bill was reported to the House amended, and the amendment being concurred in, it was ordered to be engrossed, and the bill read the third time as amended.

Mr. LACOCK submitted the following motion for consideration, which was read, and passed to the second reading:

Resolved, That the Committee of Accounts be authorized and directed to make the same allowance for extra services to each person serving this House, as was granted at the end of the last session.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, providing for the correction of errors in making entries of land at the land offices; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

On motion of Mr. RUGGLES, the Committee on the Militia, who were instructed to inquire into the expediency of making some further provision by law to insure annual and accurate returns of the militia of the several States and Territories, were discharged from the further consideration of the subject.

The Senate resumed, as in Committee of the

Whole, the consideration of the bill relative to the Patent Office, and to the salary of the superintendent thereof; and the blank having been filled with "two thousand," the bill was reported to the House; and, being concurred in, the bill was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Noah Brown and others; and, on motion by Mr. ROBERTS, the further consideration thereof was postponed until the fifth day of March, instant.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Harold Smyth;" and no amendment having been made, it was reported to the House, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Labedoyere de Kermion; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Vincent Grant; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Joseph Lefebre; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

TUESDAY, March 2.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the bill, entitled "An act for the relief of James Orr," reported the same without amendment.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, to whom was referred the bill, entitled "An act supplementary to the act, entitled 'An act to authorize and empower the President and Managers of the Washington Turnpike Company of the State of Maryland, when organized, to extend and make their turnpike road to or from Georgetown, in the District of Columbia, through the said District to the line thereof," reported the same without amendment.

The PRESIDENT communicated the credentials of JOHN F. PARROT, appointed a Senator by the Legislature of New Hampshire, for the term of six years, commencing on the fourth day of March, instant; which were read, and laid on file.

Mr. LACOCK, from the Committee on Pensions, to whom was referred the bill, entitled "An act extending the term of half-pay pensions to the widows and children of certain officers, seamen, and marines, who died in the public service," reported the same without amendment.

On motion, by Mr. GOLDSBOROUGH, the Committee on the District of Columbia, to whom was referred the petition of the Corporation of the City of Washington, praying for a renewal of their charter; the memorial of John Mason and others, praying the repeal of an act of Congress exempting the City of Washington from county taxes; the memorial of the Columbian Institute, praying the grant of a part of the public reservation of ground in the City of Washington; and the resolution of the Senate instructing them to inquire into the expediency of amending the laws existing in the District of Columbia, regulating the seizure and sale of persons of color suspected to be runaway slaves, were discharged from the further consideration thereof, respectively.

On motion, by Mr. GOLDSBOROUGH, the Committee of Claims, to whom was referred the petition of Elderken Potter, the memorial of Nathaniel Cutting, the petition of Rebecca Hodgson, and the resolution of the Senate instructing them to inquire into the expediency of reporting a bill to provide for the payment of slaves impressed into the public service, and lost in the said service, were discharged from the further consideration thereof, respectively.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom was referred the bill, entitled "An act to authorize the building, erecting, and placing light-houses, beacons, and buoys, on places designated in Boston, Buzzard, and Chesapeake bays, Lakes Ontario and Erie, and for other purposes," reported the same without amendment; and the bill was considered as in Committee of the Whole, and, having been amended, it was reported to the House, and the amendment being concurred in, it was ordered to be engrossed, and the bill was read a third time as amended.

On motion of Mr. TAIT, the committee to whom was referred the memorial of the Legislature of the Alabama Territory, against the construction of the limits of said Territory, were discharged from the further consideration thereof; and, on his motion, the Committee on Naval Affairs, to whom was referred, on the 8th of January, 1819, three reports of the Secretary of the Navy, were discharged from the further consideration thereof, respectively.

Mr. WILSON, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Isaac Minis, and others," reported the same without amendment.

The PRESIDENT communicated a letter from E. de Krafft, offering himself as a candidate for the printing of the Senate; and the letter was read.

Mr. RUGGLES, from the Committee on the Militia, to whom was referred the bill, entitled "An act for the relief of John McCausland," reported the same without amendment.

The Senate resumed the resolution, declaring the manner in which the vessels comprising the Navy of the United States shall be named, it having been previously read a third time—and resolved that this resolution pass.

The bill, entitled "An act for the relief of Harold Smyth," was read a third time, and passed.

The bill, entitled "An act to authorize the Sec-

retary of War to appoint an additional agent for paying pensions in the State of Tennessee," was read a third time, and passed.

The amendments to the bill, entitled "An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed with amendments.

The amendment to the bill, entitled "An act regulating the pay of invalid pensioners," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed with an amendment.

The amendment to the bill, entitled "An act for the relief of Hannah Ring and Luther Frink," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed with an amendment.

The bill providing for the correction of errors in making entries of land at the land offices, was read a third time, and passed.

The bill relative to the Patent Office, and to the salary of the superintendent thereof, was read a third time, and passed.

The bill for the relief of Labedoyere de Kermion was read a third time, and passed.

The bill for the relief of Vincent Grant was read a third time, and passed.

The bill for the relief of Joseph Lefebre was read a third time, and passed.

The bill to revive the powers of the commissioners for ascertaining and deciding on claims to land in the district of Detroit, and for settling the claims to land at Green Bay and Prairie du Chien, in the Territory of Michigan, was read a third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed the bill, which originated in the Senate, entitled "An act to continue in force an act regulating the currency within the United States, of the gold coins of Great Britain, France, Portugal, and Spain, and the crowns of France, and five franc pieces," with an amendment; in which they request the concurrence of the Senate. They have passed a bill, entitled "An act in behalf of the Connecticut Asylum for teaching the deaf and dumb;" a bill, entitled "An act authorizing the sale of certain military sites;" a bill, entitled "An act in addition to the acts prohibiting the slave trade;" and also a bill, entitled "An act to authorize the President of the United States to take possession of East and West Florida, and establish a temporary government therein;" in which bills they request the concurrence of the Senate. They have concurred in all the amendments of the Senate to the bill, entitled "An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," except the eleventh, and to that they disagree.

The Senate proceeded to consider the eleventh amendment, disagreed to by the House of Representatives. [This amendment struck out the prohibitory clause concerning the toleration of slavery in said State.]

Whereupon, on motion of Mr. TAIT, the Senate resolved to adhere to their said amendment.

The four bills last brought up for concurrence were read, and passed to the second reading.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act to continue in force an act regulating the currency within the United States of the gold coins of Great Britain, France, Portugal, and Spain, and the crowns of France and five franc pieces."

Whereupon resolved, that the Senate concur therein.

The bill, entitled "An act in addition to the acts prohibiting the slave trade," was read the second time by unanimous consent, and referred to the committee appointed the 15th of December, 1818, on the subject of the slave trade.

Mr. EATON, from the said committee, subsequently reported the said bill with an amendment; [proposing to strike out the sixth section thereof, inserted in the other House, on motion of Mr. PINDALL, to make the offence of smuggling slaves from Africa punishable with death.]

The amendment was agreed to, and the bill was read a third time, and passed.

The bill, entitled "An act authorizing the sale of certain military sites," was read the second time by unanimous consent, and referred to the Committee on Military Affairs.

Mr. WILLIAMS, of Tennessee, from said committee, reported the bill without amendment.

The bill, entitled "An act in behalf of the Connecticut Asylum for teaching the deaf and dumb," was read the second time by unanimous consent, and referred to the Committee on Public Lands.

Mr. MORROW, from the said committee, reported the bill without amendment, and it was considered as in Committee of the Whole; and, no amendment having been made, it was reported to the House, and passed to a third reading.

The bill, entitled "An act to authorize the President of the United States to take possession of East and West Florida, and establish a temporary government therein," was read the second time by unanimous consent, and referred to the Committee on Foreign Relations.

Mr. MACON, from the said committee, reported the bill with amendments, which were read and considered as in Committee of the Whole; and, having been agreed to, the bill was reported to the House amended accordingly; and, the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended.

Mr. EPPES, from the Committee on Finance, to whom was referred the bill, entitled "An act for the relief of Robert Kid, Seth Webber, and Thomas Page," reported the same without amendment.

Mr. STOKES, from the Committee on the Post Office and Post Roads, to whom was referred the

bill, entitled "An act to alter and establish certain post roads," reported the same with amendments, which were read, and considered as in Committee of the Whole; and, having been agreed to with further amendments, the bill was reported to the House amended accordingly; and, the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended.

The PRESIDENT communicated a letter from Jonathan Elliot, offering himself as a candidate for the printing of the Senate; and the letter was read.

The bill for the relief of Samuel J. Axon was read the second time.

Mr. WILSON, from the joint committee on the subject, reported a resolution, directing the manner in which the printing of Congress shall be executed, fixing the prices thereof, and providing for the appointment of a printer or printers; and the resolution was twice read by unanimous consent, and considered as in Committee of the Whole; and, no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time. It was then read a third time by unanimous consent, and passed.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of Henry Batman," reported the same, with amendments; which were read.

The resolution authorizing an allowance for extra services to persons serving the Senate was read the second and third times by unanimous consent, and passed.

The PRESIDENT communicated a letter from Daniel Rapine, offering himself as a candidate for the printing of the Senate; and the letter was read.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill to establish a new land office in the State of Illinois, reported the same with amendments; which were read.

Mr. EDWARDS presented the petition of Samuel Abbott, of Randolph county, in the State of Illinois, praying relief for certain erroneous entries of land, as stated in the petition; which was read.

Mr. THOMAS presented the petition of the Legislature of the State of Illinois, praying that the right of pre-emption may be extended to certain settlers in said State, as stated in the petition; which was read.

WEDNESDAY, March 3.

The credentials of WILLIAM A. PALMER, appointed a Senator by the Legislature of the State of South Carolina, for the term of six years, commencing on the fourth day of March instant, were communicated and read, and laid on file.

The amendment to the bill, entitled "An act to authorize the building, erecting, and placing light-houses, beacons, and buoys, on places designated in Boston, Buzzard, and Chesapeake Bays, Lakes Ontario and Erie, and for other purposes," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The amendments to the bill, entitled "An act to alter and establish certain post roads," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The amendments to the bill, entitled "An act to authorize the President of the United States to take possession of East and West Florida, and establish a temporary government therein," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to fix the time for the next meeting of Congress; and the blank having been filled with "second Monday;" on motion by Mr. ROBERTS, that the further consideration thereof be postponed until to-morrow, it was determined in the negative—yeas 6, nays 22, as follows:

YEAS—Messrs. Eppes, Lacock, Macon, Roberts, Ruggles, and Williams of Tennessee.

NAYS—Messrs. Barbour, Burrill, Daggett, Dana, Dickerson, Eaton, Edwards, Fromentin, Gaillard, Goldsborough, Johnson, Leake, Mellen, Noble, Palmer, Sanford, Storer, Tait, Tichenor, Van Dyke, Williams of Mississippi, and Wilson.

No amendment having been made to said bill, it was reported to the House; and ordered to be engrossed and read a third time. The bill was then read a third time by unanimous consent, and passed.

The PRESIDENT communicated a letter from Messrs. Gales & Seaton, from William A. Davis and from Andrew Way, jr., respectively offering themselves as candidates for the printing of the Senate; and the letters were severally read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to regulate the duties on certain wines;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

A message from the House of Representatives informed the Senate that the House adhere to their disagreement to the eleventh amendment proposed and adhered to by the Senate to the bill, entitled "An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States."

The bill entitled "An act in behalf of the Connecticut Asylum for teaching the deaf and dumb," was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making appropriations for the public buildings; for the purchase of a lot of land, and furnishing a supply of water for the use of certain

public buildings;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Isaac Minis, and others;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Robert Kid, Seth Webber, and Thomas Page;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill supplementary to an act, passed the second day of March, 1807, entitled "An act to prohibit the importation of slaves into the United States;" and, on motion by Mr. BURRILL, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further supplementary to an act, entitled "An act to regulate the collection of duties on imports and tonnage, passed on the 2d day of March, 1799;" and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time. The bill was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning the allowance of pensions upon a relinquishment of bounty lands; and no amendment having been made, it was reported to the House; and it passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Joseph Wheaton;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Daniel Moss;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Phœbe Stuart;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Henry Batman," together with the amendments reported thereto by the Committee on Public Lands; and the amendments having been agreed to, the bill was reported to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended. The bill was then read a third time by unanimous consent as amended, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Patrick Callan;" and no amendment having been made, it was reported to the House; and passed to a third reading. It was then read a third time by unanimous consent, and passed.

A message from the House of Representatives informed the Senate that the House have passed the bill, which originated in the Senate, entitled "An act for the relief of Michael Hogan," with an amendment, in which they request the concurrence of the Senate.

The Senate proceeded to consider the amendment of the House of Representatives to the last mentioned bill, and they concurred therein.

Mr. LACOCK presented communications from Robert Butler, Adjutant General of the Southern Division of the Army of the United States, and of Colonel George Gibson, in relation to their testimony before the committee, appointed in pursuance of the resolution of the Senate of the 18th of December last, on the subject of the Seminole war; which were read, and ordered to be printed for the use of the Senate.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act supplementary to the act, entitled 'An act to authorize and empower the President and Managers of the Washington Turnpike Company of the State of Maryland, when organized, to extend and make their turnpike road to or from Georgetown, in the District of Columbia, through the said District to the line thereof;" and no amendment have been made thereto, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act extending the term of half-pay pensions to the widows and children of certain officers, seamen, and marines, who died in the public service;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act in addition to an act, supplementary to an act, entitled 'An act for the relief of Thomas Wilson;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the re-

lief of Samuel F. Hooker; and, on motion by Mr. ROBERTS, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to amend the act, entitled 'An act supplementary to the act, entitled An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated land within the same," passed the 18th of April, 1806, and, on motion by Mr. WILLIAMS, of Tennessee, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act supplementary to the act, entitled 'An act for the relief of Benjamin Wells;" and, on motion by Mr. EPPES, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to enforce those provisions of the act, entitled 'An act to incorporate the subscribers to the Bank of the United States,' which relate to the right of voting for directors and for other purposes;" and no amendment having been made thereto, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

A message from the House of Representatives informed the Senate that the House concur in all the amendments of the Senate to the bill, entitled "An act to authorize the President of the United States to take possession of East and West Florida, and establish a temporary government therein," except that which proposes to add a new section, as a fifth section of the said bill, with amendments, and that they do not agree to so much of the amendments as proposes to add a new section as a fifth section of the said bill. They have passed a bill, entitled "An act concerning invalid pensioners;" and also a bill, entitled "An act in addition to, and alteration of an act, entitled 'An act laying a duty on imported salt; granting a bounty on pickled fish exported, and allowances to certain vessels employed in the fisheries;" in which bills they request the concurrence of the Senate.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act confirming certain claims to land in the State of Illinois," reported the same without amendment; and, on his motion, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution authorizing the President of the United States to cause astronomical observations to be made, to ascertain the longitude of the Capitol, in the City of Washington, from some known meridian in Europe; and, on motion by Mr. BURRILL, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to establish a new land office in the State of Illinois; and the amendments being concurred in, the bill was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of James Orr;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate adjourned to six o'clock in the evening.

Six o'clock in the evening.

The Senate resumed the consideration of the amendments to the bill, entitled "An act to authorize the President of the United States to take possession of East and West Florida, and establish a temporary government therein:" whereupon,

Resolved That they do agree to the amendment of the House of Representatives to their fourth and fifth amendments, and that they do recede from their amendment, which proposes to add a new section, and disagreed to by the House of Representatives.

On motion by Mr. MORROW, the Committee on Public Lands were discharged from the further consideration of all subjects referred to them during the present session, upon which they have not reported.

On motion by Mr. STOKES, the Committee on the Post Office and Post Roads, to whom was referred the memorial of Benjamin Dearborn, were discharged from the further consideration thereof.

The bill, entitled "An act concerning invalid pensions," was read the first and second times by unanimous consent, and referred to the Committee on Pensions.

Mr. STOKES, from said committee, reported the bill without amendment; and, on motion, the further consideration thereof was postponed until to-morrow.

The bill, from the House of Representatives, entitled "An act, in addition to, and alteration of, an act, entitled 'An act laying a duty on imported salt, granting a bounty on pickled fish exported, and allowances to certain vessels employed in the fisheries," was read three several times by unanimous consent, and passed.

The bill, to establish a new land office in the State of Illinois, was read a third time by unanimous consent, and passed.

On motion by Mr. WILSON, the Senate proceeded to the appointment of a printer, on their part, agreeably to the provisions of a joint resolution of this date; and on the ballots having been counted, it appeared that Messrs. Gales and Seaton had a majority and were elected.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John McCausland;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to authorize the sale of certain military sites;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to authorize the Secretary of War, to convey a lot or parcel of land belonging to the United States, lying in Jefferson county, in the State of Virginia;" and no amendment having been made thereto, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Samuel J. Axson; and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further supplementary to an act, entitled "An act to regulate the collection of duties on imports and tonnage," passed on the 2d day of March, 1799; and, on motion, the further consideration thereof was postponed until to-morrow.

On motion by Mr. MACON, a committee was appointed on the part of the Senate, jointly with such committee as may be appointed on the part of the House of Representatives, to wait on the President of the United States, and notify him, that unless he may have other communications to make to the two Houses of Congress, they are ready to adjourn. Mr. MACON and Mr. DAGGETT, were appointed the committee.

On motion by Mr. BURRILL,

Resolved, unanimously, That the thanks of the Senate be presented to the honorable JAMES BARBOUR, Senator from Virginia, for the dignified and impartial manner in which he has discharged the important duties of the President of the Senate, since he was called to the Chair.

Resolved, unanimously, That the thanks of the Senate be also presented to the honorable JOHN GAILLARD, Senator from South Carolina, for the dignified and impartial manner in which he discharged the important duties of President of the Senate during the time he presided therein.

Whereupon, Mr. BARBOUR addressed the Senate as follows:

Gentlemen: The sensibility produced by this new evidence of your kindness and approbation, is beyond my power to express. I would rather refer to your own bosoms as furnishing a more correct standard by which to appreciate it. I have the consolation to reflect, that whatever of zeal or capacity I possess, has been devoted to the discharge of the duties of my station; your approbation is more than an ample reward. Permit me as the moment of separating is approaching, from all for a season, from some perhaps forever, to tender you all an affectionate farewell, and to pray that upon your return to your respective homes, your reception may be such, in all your relations, as may make you happy.

Mr. GAILLARD then rose and made the following address:

Mr. President: Next to the satisfaction arising from the consciousness of faithfully performing our duty, the favorable opinion of those with whom we are associated affords the highest gratification that can be received; and the present vote of approbation, together with the many acts of kindness I have experienced from this honorable body, have excited in my mind feelings of gratitude which neither time nor circumstances can ever efface.

A message from the House of Representatives informed the Senate that the House, having finished the business before them, are about to adjourn.

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

The Secretary was then directed to inform the House of Representatives that the Senate, having finished the Legislative business before them, are about to adjourn.

The PRESIDENT then adjourned the Senate *sine die.*

PROCEEDINGS AND DEBATES

OF THE

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE SECOND SESSION OF THE FIFTEENTH CONGRESS, BEGUN AT THE CITY OF WASHINGTON, MONDAY, NOVEMBER 16, 1818.

MONDAY, November 16, 1818.

This being the day fixed by law for the meeting of Congress, HENRY CLAY, the Speaker, THOMAS DOUGHERTY, the Clerk, and the following members of the House of Representatives, appeared and took their seats, to wit:

From New Hampshire—Josiah Butler, Clifton Clagett, Samuel Hale, Arthur Livermore, John F. Parrott, and Nathaniel Upham.

From Massachusetts—Benjamin Adams, Joshua Gage, John Holmes, Jonathan Mason, Marcus Morton, Benjamin Orr, Thomas Rice, Nathaniel Ruggles, Zabdiel Sampson, Henry Shaw, Nathaniel Silsbee, and Ezekiel Whitman.

From Rhode Island—John L. Boss, jun.

From Connecticut—Ebenezer Huntington, Jonathan O. Moseley, Timothy Pitkin, Nathaniel Terry, and Thomas S. Williams.

From Vermont—Heman Allen, Samuel C. Crafts, William Hunter, Orsamus C. Merrill, Charles Rich, and Mark Richards.

From New York—Oliver C. Comstock, John P. Cushman, Josiah Hasbrouck, John Herkimer, Thomas H. Hubbard, William Irving, Dorrance Kirtland, Thomas Lawyer, John Palmer, John Savage, Philip J. Schuyler, Tredwell Scudder, Henry R. Storrs, James Tallmadge, jun., John W. Taylor, George Townsend, Rensselaer Westerlo, James W. Wilkin, and Isaac Williams.

From New Jersey—Ephraim Bateman, Benjamin Bennett, Joseph Bloomfield, Charles Kinsey, John Linn, and Henry Southard.

From Pennsylvania—William Anderson, Henry Baldwin, Andrew Boden, Isaac Darlington, Joseph Hopkinson, William P. Maclay, David Marchand, Robert Moore, John Murray, Alexander Ogle, Thomas Patterson, Thomas J. Rogers, John Sergeant, Adam Seybert, Christian Tarr, James M. Wallace, John Whiteside, and William Wilson.

From Maryland—Thomas Bayley, Thomas Culbreth, John C. Herbert, Peter Little, George Peter, Philip Reed, Samuel Smith, and Philip Stuart.

From Virginia—Archibald Austin, Philip P. Barbour, William A. Burwell, John Floyd, Robert S. Garnett, William J. Lewis, William McCoy, Charles F. Mercer, Hugh Nelson, Thomas Newton, James Pindall, James Pleasants, Alexander Smyth, and Henry St. George Tucker.

From North Carolina—Weldon N. Edwards, Thos. H. Hall, George Mumford, Lemuel Sawyer, Thomas Settle, Jesse Slocumb, James S. Smith, James Stewart, Felix Walker, and Lewis Williams.

From South Carolina—Joseph Bellinger, Henry Middleton, and Sterling Tucker.

From Georgia—Zadock Cook, Joel Crawford, John Forsyth, and William Terrell.

From Kentucky—Joseph Desha, Richard M. Johnson, Anthony New, Tunstall Quarles, George Robertson, Thomas Speed, David Trimble, and David Walker.

From Tennessee—Thomas Claiborne, Francis Jones, and John Rhea.

From Ohio—John W. Campbell, and William Henry Harrison.

From Indiana—William Hendricks.

From Mississippi—George Poindexter.

The following members, elected to supply vacancies in the House, also appeared, were qualified, and took their seats, viz:

From Massachusetts, ENOCH LINCOLN, vice Mr. Parris, resigned.

From Connecticut, SYLVESTER GILBERT, vice Mr. Holmes, resigned.

From Pennsylvania, SAMUEL MOORE, vice Mr. Ingham, resigned; and JACOB HOSTETTER, vice Mr. Spangler, resigned.

From Virginia, JOHN PEGRAM, vice Mr. Goodwyn, deceased.

From Louisiana, THOMAS BUTLER, vice Mr. Robertson, resigned.

JOHN SCOTT, the delegate from the Territory of Missouri, and JOHN CROWEL, the delegate from the Territory of Alabama, also appeared and took their seats.

A quorum being present, messages were exchanged with the Senate to that effect.

Messrs. TAYLOR and BALDWIN were appointed on the part of this House, on the joint committee for waiting on the President.

The SPEAKER laid before the House a copy of the constitution of the State of Illinois, adopted

in convention at Kaskaskia, on the 26th day of August, 1818; which was ordered to lie on the table.

On motion of Mr. Newton, the Clerk was directed to furnish the members with such newspapers as they may elect; the expense of each member not to exceed the price of three daily papers.

Tuesday, November 17.

Several other members, to wit: from Massachusetts, Walter Folger, jr., and John Wilson; from New York, Benjamin Ellicott and David A. Ogden; from Delaware, Louis McLane; from Virginia, Thomas M. Nelson, Ballard Smith, and Edward Colston; from North Carolina, James Owen; from Georgia, Thomas W. Cobb; from Tennessee, Samuel Hogg; and from Ohio, Philemon Beecher and Levi Barber, appeared and took their seats.

Mr. Taylor, from the joint committee appointed to wait on the President of the United States, reported that they had discharged that duty, and that the President informed the committee he would this day make a communication to the two Houses of Congress.

STANDING COMMITTEES.

On motion of Mr. Taylor, the House proceeded to the appointment of the Standing Committees, pursuant to the rules and orders of the House. They are as follows:

Committee of Ways and Means—Mr. Smith, of Maryland, Mr. Burwell, Mr. Pitkin, Mr. Sergeant, Mr. Trimble, Mr. Crawford, and Mr. Tallmadge.

Of Elections—Mr. Taylor, Mr. Alex. Smyth, Mr. Merrill, Mr. Shaw, Mr. Boss, Mr. Whitman, and Mr. Tarr.

Of Commerce and Manufactures—Mr. Newton, Mr. Seybert, Mr. McLane, of Delaware, Mr. Mason, of Massachusetts, Mr. Irving, of New York, Mr. Baldwin, and Mr. Kinsey.

Of Claims—Mr. Williams, of North Carolina, Mr. Rich, Mr. McCoy, Mr. Samuel Moore, Mr. Walker, of Kentucky, Mr. Culbreth, and Mr. Gilbert.

For the District of Columbia—Mr. Herbert, Mr. Peter, Mr. Boden, Mr. Cobb, Mr. Claiborne, Mr. Colston, and Mr. Stuart, of Maryland.

On the Public Lands—Mr. Poindexter, Mr. Mercer, Mr. Campbell, Mr. Hendricks, Mr. Terry, Mr. Jones, and Mr. Butler, of Louisiana.

On Private Land Claims—Mr. Robertson, Mr. Pindall, Mr. Hogg, Mr. Hubbard, Mr. Bayley, Mr. Robert Moore, and Mr. Ballard Smith.

On the Post Office and Post Roads—Mr. Livermore, Mr. Blount, Mr. Barber, of Ohio, Mr. Townsend, Mr. Sampson, Mr. Terrell, and Mr. Settle.

On Pensions and Revolutionary Claims—Mr. Rhea, Mr. Wilkin, Mr. Ruggles, Mr. William P. Maclay, Mr. Ellicott, Mr. Owen, and Mr. Orr.

On Public Expenditures—Mr. Desha, Mr. Anderson, of Pennsylvania, Mr. Garnett, Mr. Cushman, Mr. Smith, of North Carolina, Mr. Hunter, and Mr. Williams, of Connecticut.

On the Judiciary—Mr. Hugh Nelson, Mr. Hopkinson, Mr. Edwards, Mr. Beecher, Mr. Storrs, Mr. Quarles, and Mr. Moseley.

Of Accounts—Mr. Little, Mr. Bennett, and Mr. Darlington.

Of Revisal and Unfinished Business—Mr. Taylor, Mr. Hale, and Mr. Whiteside.

A communication, in writing, was received from the President of the United States; which was read, and committed to a Committee of the Whole on the state of the Union. [For this Message, see Senate proceedings of this date, *ante* page 11.]

The Speaker laid before the House a letter from the Secretary of the Treasury, transmitting the annual statement of the receipts and expenditures of the United States for the year 1816; which was ordered to lie on the table.

Wednesday, November 18.

Several other members, to wit: from New York, John R. Drake, James Porter, and John C. Spencer; from Virginia, Burwell Bassett; and from Tennessee, William G. Blount, appeared and took their seats.

PRESIDENT'S MESSAGE.

The House resolved itself into a Committee of the Whole, Mr. H. Nelson in the Chair, on the state of the Union, and took into consideration the Message of the President of the United States, yesterday received.

Mr. Taylor, of New York, moved sundry resolutions, for reference of the different parts of the Message, to the following effect:

1. That so much as relates to the subject of foreign affairs, and to the independence of the South American States, be referred to a select committee.

2. That so much as relates to military affairs, and so much as relates to the proceedings of the courts martial on the trial of Arbuthnot and Ambrister, and to the conduct of the war with the Seminole Indians, be referred to a select committee.

3. That so much as relates to the Navy and to the naval depots, be referred to a select committee.

4. That so much as relates to cessions of territory from the Indians, be referred to the Committee of Public Lands.

5. That so much as relates to the civilization of the Indian tribes, be referred to a select committee.

6. That so much as relates to the subject of manufactures, be referred to the Committee of Commerce and Manufactures.

7. That so much as relates to the unlawful introduction of slaves into the United States, be referred to a select committee.

8. That so much as relates to the subject of revenue, be referred to the Committee of Ways and Means.

9. That so much as relates to the District of Columbia, be referred to the Committee for said District.

10. That the said committees have leave to report thereon by bill or otherwise.

These resolutions were severally agreed to without opposition or remark; and

Mr. Forsyth, Mr. Holmes, Mr. Barbour, of Virginia, Mr. Spencer, Mr. Baldwin, Mr. Allen, of Vermont, and Mr. Hopkinson, were appointed a committee pursuant to the first resolution.

Mr. Johnson, of Kentucky, Mr. Reed, Mr. T. M. Nelson, Mr. Huntington, Mr. Gage, Mr. Stewart, of North Carolina, and Mr. Peter, were appointed a committee pursuant to the second resolution.

Mr. Pleasants, Mr. Silsbee, Mr. Parrott, Mr. Sawyer, Mr. Schuyler, Mr. Rogers, and Mr. Bateman, were appointed a committee pursuant to the third resolution.

Mr. Southard, Mr. Williams, of New York, Mr. Murray, Mr. Walker, of North Carolina, Mr. Richards, Mr. Butler, of New Hampshire, and Mr. Pegram, were appointed a committee pursuant to the fifth resolution.

Mr. Middleton, Mr. Upham, Mr. Lawyer, Mr. Floyd, Mr. Mumford, Mr. Lincoln, and Mr. Linn, were appointed a committee pursuant to the seventh resolution.

Mr. TAYLOR then submitted four other resolutions, to this effect:

1. That a committee be appointed to consider and report on the subject of the organization and discipline of the militia.
2. That a committee be appointed on the subject of internal improvement.
3. That a committee be appointed on the subject of the public buildings.
4. That a committee be appointed to inquire whether any amendment should be necessary to the act of the last session granting pensions to Revolutionary survivors.

Mr. TAYLOR remarked, on these resolves, that it would be seen they embraced subjects not referred to in the President's Message; but he believed it to be entirely consistent with parliamentary practice, in the Committee of the Whole on the state of the Union, to present for consideration any or all the important subjects likely to come before Congress during the session. Among these subjects, he thought, were those embraced in these resolutions. Among them, that of the organization and discipline of the militia was unquestionably of immense importance; the subject was, indeed, among the unfinished business of last session, but he thought it proper to raise a committee on it, that any propositions for improving or amending the system might be referred to it. The subject of roads and canals, too, though not noticed in the Message, was also lying over from the last session, and it was probable that other propositions of that character might be made during the session. The subject of the public buildings was one which had excited some interest and some inquiry into the causes of the disappointment of the reasonable expectations entertained that they would have been in a greater state of forwardness than they are at present: a committee would properly be appointed to inquire into the matter. The subject of Revolutionary pensions, also, incidentally noticed only in the Message, had produced some excitement in the country, and a disposition prevailed among some to restrict, and among others to enlarge, the provisions of the law on the subject. This, therefore, appeared to him to deserve the attention of the House. He thought the subjects all of sufficient moment to justify the reference of them to committees.

Mr. PITKIN, of Connecticut, objected to acting on these subjects, as proposed, on the ground that they did not flow from the Message; and that it had been usual, in Committee of the Whole on the state of the Union, on the President's Message, not to introduce any proposition foreign to the Message. He thought the practice a good one, and did not wish to depart from it without strong reason. He therefore moved that these propositions lie on the table.

Mr. TAYLOR said that, being in Committee of the Whole on the state of the Union, everything relating to the public concerns was fully before them. He did not think it important that his motion should originate in committee, but he protested against being limited, in Committee of the Whole on the state of the Union, although the Message had been referred to it, to the range of subjects embraced in that document.

The resolves were ordered to lie on the table, by a vote of 61 to 50.

The Committee rose, and reported the resolves previously agreed to, which were concurred in by the House.

Mr. TAYLOR then moved, anew, the propositions last above stated, which in committee had been ordered to lie on the table.

After some conversation as to the manner, rather than the matter of the resolves, in which Messrs. SMITH, of Maryland, TAYLOR, HARRISON, and POINDEXTER took part, the resolves were agreed to.

Mr. Harrison, Mr. Alexander Smyth, Mr. Quarles, Mr. Morton, Mr. Jones, Mr. Savage, and Mr. Owen, were appointed a committee pursuant to the first resolution.

Mr. Tucker, of Virginia, Mr. Storrs, Mr. Lewis, Mr. Sergeant, Mr. Porter, Mr. Crafts, and Mr. Marchand, were appointed a committee pursuant to the second resolution.

Mr. Bassett, Mr. Bellinger, Mr. Adams, Mr. Clagett, Mr. Folger, Mr. Bayley, and Mr. Rice, were appointed a committee pursuant to the third resolution.

Mr. Bloomfield, Mr. Burwell, Mr. Ogle, Mr. Wallace, Mr. Drake, Mr. Herkimer, and Mr. Wilson, of Massachusetts, were appointed a committee pursuant to the fourth resolution.

A resolution of the Senate, for appointing a joint Library Committee, was taken up and agreed to.

A resolution for the appointment of a Chaplain to each House, was also agreed to.

The House then proceeded to ballot for a Chaplain on its part. Rev. Burgess Allison was nominated by Mr. BLOOMFIELD, and Dr. William Rogers by Mr. SERGEANT. The votes being counted out, were found to be—for Rev. Burgess Allison 72, Dr. Wm. Rogers 52.

So Mr. ALLISON was chosen Chaplain on the part of the House of Representatives.

THURSDAY, November 19.

Three other members, to wit: from Massachusetts, JEREMIAH NELSON; from Pennsylvania, WILLIAM MACLAY; and from Kentucky, RICHARD C. ANDERSON, jr., appeared and took their seats.

The SPEAKER laid before the House a letter from the Governor of the State of Pennsylvania, enclosing the credentials of SAMUEL MOORE, as a member of this House, in the room of Samuel D. Ingham, resigned; which was referred to the Committee of Elections.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a report of the officers of the Army of the United States, their grade, where stationed, the number on duty, and those on furlough, with the period of furlough; made in obedience to the resolution of this House of the 20th of April last; which was ordered to lie on the table.

Ordered, That Mr. BASSETT be excused from serving on the Committee on the Public Buildings, and that Mr. BARBOUR, of Virginia, be appointed of that committee in his place.

On motion of Mr. IRVING, of New York, the Committee on Naval Affairs were instructed to inquire into the expediency of extending for the further term of five years the pensions heretofore granted to the widows and orphans of the officers, sailors, and marines, who were killed on board the armed ships of the United States during the late war.

On motion of Mr. JOHNSON, of Kentucky, a Committee was appointed to inquire into the expediency of allowing to the Territory of Michigan a Delegate in Congress; and Messrs. JOHNSON, of Kentucky, BEECHER, and PATTERSON, were appointed the said committee.

Ordered, That the Committee of the Whole to which is committed the fourth resolution submitted at the last session, (December 9, 1817,) by Mr. JOHNSON, of Kentucky, be discharged from the further consideration thereof, and that it be referred to the Committee on Military Affairs.

On motion of Mr. SAWYER, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of providing by law for staking the channel of Currituck sound, from the inlet to Powell's Point.

On motion of Mr. JOHNSON, of Kentucky, the Committee on Military Affairs were instructed to inquire into the expediency of establishing one or more additional military academies.

On motion of Mr. JOHNSON, of Kentucky, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of increasing the salary of the Assistant Postmaster General.

On motion of Mr. JONES, the Committee on Military Affairs were instructed to inquire into the expediency of providing by law for the payment for property lost or destroyed by the enemy; and for horses lost for want of forage, during the late war between the United States and the Seminole nation of Indians.

STATE OF ILLINOIS.

Mr. MCLEAN, Representative from the new State of Illinois, being in attendance—

The SPEAKER stated to the House a difficulty which he felt in deciding upon the propriety of administering the oath to him, in consequence of Congress not having concluded the act of admission of the State into the Union. Under this difficulty, he submitted the question to the decision of the House.

Mr. POINDEXTER, of Mississippi, said he thought it incumbent on the House, before admitting the Representative to a seat, to examine the constitution just laid before it, to see, first, whether the requisitions of the act of last session were complied with; and, secondly, whether the form of government established was republican, which the United States were bound to guaranty. He illustrated the irregularity of a different procedure, by putting the case that the member was admitted to a seat, allowed to vote on important questions, and the constitution subsequently rejected.

Mr. HARRISON, of Ohio, wished a different course to be pursued, and one for which he adduced precedent, in the case of the Representative from one of the States lately admitted. The House had taken for granted the fact of a compliance with the law, and of the republican form of government established, and had admitted the member without question to his seat. In the present case, Mr. H. was unwilling to depart from the precedent, for mere form's sake.

Mr. PITKIN, of Connecticut, said that this was a question which, he believed, had never before been presented to the House. He thought, for himself, that, before admitting a Representative to a seat, the question, whether the people who elected him were a State, ought to be decided. To the decision of this question, several things were necessary: for instance, the law of last session required that the Territory in question should have had a certain population, to justify its forming a constitution and State government. This fact ought to be officially established, &c. and the resolution of admission passed, before a Representative took his seat.

The question having been put, it was decided apparently by a large majority that the SPEAKER should not at this time administer the oath of office.

Ordered, That the constitution of the State of Illinois be referred to a select committee; and Messrs. ANDERSON, of Kentucky, POINDEXTER, and HENDRICKS, were appointed the said committee.

FRIDAY, November 20.

The SPEAKER presented a memorial and petition of Matthew Lyon, formerly a member o the House of Representatives from the State o

Vermont, detailing the circumstances attending his prosecution for sedition, in the year 1798, and complaining of the unconstitutionality of the act under which he was prosecuted, of illegality in the proceedings of the court, and of the fine which he was compelled to pay, and the imprisonment he suffered; and also setting forth the iniquity of the motives which prompted the said prosecution; and praying that the amount of the said fine, with the interest thereon, may be granted to him, together with such sum as Congress may think a just indemnity for his being dragged from his home, his family, friends, and business, and thrown into a loathsome dungeon, where he suffered every species of hardship and indignity, which the most persecuting spirit could devise, for four months.

Mr. WILLIAMS, of North Carolina, moved to refer the petition to the Judiciary Committee.

Mr. EDWARDS, of North Carolina, thought, that, as this petition embraced a claim, it would be proper to let it take the course of all other claims, by referring it to the Committee of Claims.

Mr. WILLIAMS said, though it was a claim, it was a claim arising from the operation of a law of the country supposed by the petitioner to be unconstitutional. Who could so well determine a question with regard to the constitutionality or unconstitutionality of a law, as the Judiciary Committee? Such cases had been usually referred to that committee; and even at the last session that committee had been directed to inquire into a fraud, said to have been committed in one of the courts of the United States.

On motion of Mr. SPENCER, of New York, the petition was read through, and was then referred to the Committee on the Judiciary.

On motion of Mr. WILLIAMS, of North Carolina, the Committee of Ways and Means were instructed to inquire into the expediency of abolishing the duty on salt imported into the United States.

On motion of Mr. RHEA, the Message of the President of the United States, of the 18th of January, 1816, recommending the confirmation of certain grants or reservations of lands, made by the friendly Creek Indians to Major General Andrew Jackson, Benjamin Hawkins, and others, was referred to the Committee on Private Land Claims.

On motion of Mr. POINDEXTER, the Committee on the Public Lands were instructed to inquire into the expediency of prohibiting the emigration and settlement of the Choctaw tribe of Indians, on the land of the United States, west of the river Mississippi, until they shall have acquired that right by treaty with the United States, founded on a cession of lands inhabited by said tribe of Indians, east of the river Mississippi.

STATE OF ILLINOIS.

Mr. ANDERSON, of Kentucky, from the select committee, to whom was referred the constitution of the State of Illinois, reported a resolution, declaring the admission of the State of Illinois into the Union, on an equal footing with the original States.

The resolution was read a first and second time.—Mr. ANDERSON proposed that it should be engrossed for a third reading.

Mr. SPENCER, of New York, inquired whether it appeared, from any documents transmitted to Congress, that the State had the number of inhabitants required by the law of the last session, as a preliminary to its formation of a constitution.

Mr. ANDERSON said, that the committee had no information on that subject before them, beyond what was contained in the preamble to the constitution, which states, that the requisitions of the act of Congress had been complied with, and that the convention had therefore proceeded to the formation of a constitution. Mr. A. said, the committee had considered that evidence sufficient; and he had, in addition, himself seen, in the newspapers, evidence sufficient to satisfy him of the fact, that the population did amount to forty thousand souls, the number required.

The resolve was then ordered to be engrossed for a third reading.

The House adjourned to Monday.

MONDAY, November 23.

Several other members to wit: from New York, DANIEL CRUGER, PETER H. WENDOVER, and CALEB TOMPKINS; from South Carolina, JAMES ERVIN, ELIAS EARLE, and ELDRED SIMKINS; appeared and took their seats.

Mr. HUGH NELSON presented a memorial of William Lambert, accompanied with abstracts of astronomical calculations, to ascertain the longitude of the Capitol in this city, from the observatory of Greenwich in England, soliciting the adoption of measures authorizing additional observations to be made to test the accuracy of the result already obtained; which was referred to a select committee; and Messrs. HUGH NELSON, FOLGER, SEYBERT, CRAWFORD, and BATEMAN, were appointed the said committee.

Mr. JOHNSON, of Kentucky, presented a petition of William Jackson, solicitor on behalf of the surviving officers of the Revolutionary army of the United States, praying that an act may be passed directing the accounting officers of the Treasury to adjust the claim of each surviving officer of the said army, who, by the resolves of Congress, was entitled to half pay for life, calculating the amount of the principal of the arrearages, from the time of his reduction, and deducting therefrom five years full pay; and, the balance of arrearages being thus ascertained, to issue a certificate, bearing interest, to the officer for the amount of said balance; and the officer to be thenceforth entitled to receive half pay, in half yearly payments, for, and during the time of his natural life, which petition was referred to a select committee; and Messrs. JOHNSON, of Kentucky, SIMKINS, MERCER, HOPKINSON, and SPENCER, were appointed the said committee.

On motion of Mr. P. P. BARBOUR, of Virginia, he was excused from serving on the Committee of

Public Buildings, on the ground that he was unacquainted with architecture, either in theory or practice, and that he had at the last session voted against the appropriation even for the commencement of some of those buildings; and another member [Mr. AUSTIN] was appointed in his place.

On motion of Mr. HARRISON, a committee was appointed to inquire into the expediency of authorizing the employment of a number of clerks (not exceeding twelve) in the Department of War, and Messrs. HARRISON, PEGRAM, and COMSTOCK, were appointed the said committee.

On motion of Mr. BALDWIN, the Committee on the Judiciary were instructed to inquire into the expediency of making provision, by law, to prevent the discontinuance of suits in the district court of the United States for the western district of Pennsylvania, on account of said court not having been holden on the day prescribed by law, and for other purposes.

The SPEAKER laid before the House a letter from the Secretary of the Navy, transmitting sundry documents showing the state and condition of the Navy Pension Fund, the sources from whence it arises, its amount, the manner in which it is collected, the sums received yearly from each State, since the 20th June, 1812; exhibited in obedience to a resolution of this House, of the 8th of April last; which was referred to the Committee on Naval Affairs.

The SPEAKER communicated to the House a letter addressed to him by JOHN FORSYTH, containing a notice of the resignation of his seat in this House, as one of the members for the State of Georgia.

DISTRICT OF COLUMBIA.

The SPEAKER also laid before the House a letter from William Cranch, Chief Justice of the circuit court of the United States, for the District of Columbia, transmitting a code of jurisprudence for the said district, prepared (by him) under the authority of the act of the 29th of April, 1816, entitled "An act authorizing the Judges of the circuit court, and the Attorney for the District of Columbia, to prepare a code of jurisprudence for the said District," which was referred to a select committee; and Messrs. HERBERT, CULBRETH, GARNETT, WILLIAMS, of Connecticut, and ADAMS, were appointed the said committee. The letter is as follows:

NOVEMBER 9, 1818.

SIR: The undersigned, one of the Judges of the circuit court for the District of Columbia, has the honor to present, for the consideration of Congress, a Code of Jurisprudence for that District, prepared under the authority of the act of the 29th of April, 1816, entitled "An act authorizing the Judges of the circuit court, and the Attorney for the District of Columbia, to prepare a Code of Jurisprudence for the said District."

It is to be regretted, that the engagements of the gentlemen intended by that act to have been associated with him in the business, have deprived the public of the benefit of their labors. This circumstance will in part account for the lateness of the period at which the report is made. It is, however, a work which could not have been hastily done; for, although the District is small, yet almost every case requiring the interposition of law, which can arise in the largest nation, may arise in this District, and ought to be provided for.

In preparing a substitute for the existing statute law, it was necessary, if possible to ascertain what that law was. This was not an easy task.

By the act of Congress, of the 27th of February, 1801, the laws of Virginia, as they then existed, were to remain in force in that part of the District which was ceded by Virginia, and the laws of Maryland in that part which was ceded by Maryland. The laws thus adopted, consisted of so much of the common law of England as was applicable to the situation of this country; of the bills of rights, constitution, and statutes of Virginia and Maryland, modified by the Constitution and laws of the United States, and, also, (in regard to that part of the District which was ceded by the State of Maryland,) of such of the English statutes as existed at the time of the first emigration to Maryland, "and which, by experience, had been found applicable to their local and other circumstances, and of such others as had been since made in England or Great Britain, and had been introduced, used, and practised by the courts of law or equity" of that State.

To ascertain, therefore, what was the existing statute law, it was necessary to know what statutes of England, enacted before the first emigration to Maryland, had by experience been found applicable to the local and other circumstances of the country, and what statutes since made in England or Great Britain, had been introduced, used, and practised by the courts of law or equity in that State: and also what statutes of England or Great Britain had been expressly re-enacted by the State of Virginia.

To obtain this knowledge with as much certainty as the nature of the case would permit, it was necessary to examine minutely the English and British statutes, and compare them with the statutes enacted by Virginia and Maryland.

From these three systems of statutes, to select such as were most important and best adapted to the circumstances of the District; to supply such defects as were discovered, and to combine the whole into one code—required more deliberation, and occupied more time, than was anticipated.

These circumstances must account for the apparent delay in making the present report, which is even now submitted with much diffidence.

With high consideration, the undersigned has the honor to be, sir, your obedient servant,

W. CRANCH.

Hon. HENRY CLAY,
Speaker House of Representatives.

ANNUAL TREASURY REPORT.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting his annual report upon the state of the finances; which was ordered to lie on the table. The report is as follows:

TREASURY DEPARTMENT, *Nov.* 21, 1818.

In obedience to the directions of the "Act supplementary to the Act to establish the Treasury Department," the Secretary of the Treasury respectfully submits the following report and estimates.

Revenue.

The net revenue arising from duties upon imports

and tonnage, internal duties, direct tax, public lands, postage, and incidental receipts, during the year 1816, amounted to $36,743,574, 07, viz:

Customs	$27,569,769 71
Internal duties	4,396,133 25
Direct tax	2,785,343 20
Public lands, exclusive of Mississippi stock	1,754,487, 38
Postage and incidental receipts	237,840 53
	$36,743,574 07

And that which accrued from the same sources during the year 1817, amounted to $24,387,993 08, viz:

Customs (see statement A)	$17,547,540 89
Internal duties and direct tax (see statement B)	4,512,287 81
Public lands exclusive of Mississippi stock (see statement C)	2,015,977 00
Postage and incidental receipts	312,187 38
	$24,387,993 08

It is ascertained that the gross amount of duties on merchandise and tonnage, which have accrued during the three first quarters of the present year exceeds $21,000,000, and that the sales of the public lands, during the same period, greatly exceed, both in quantity and value, those of the corresponding quarter of last year.

The payments into the Treasury during the three first quarters of the year, are estimated to amount to $17,167,862 26, viz:

Customs	13,401,409 65
Internal revenue and direct tax	993,574 36
Public lands, exclusive of Mississippi stock	1,875,731 20
Interest upon bank dividends	525,000 00
Postage and incidental receipts	49,438 19
Repayments into the Treasury	322,708 86
	$17,167,862 26
And the payments into the Treasury during the fourth quarter of the year, from the same sources, are estimated at	5,000,000 00
Making the total amount estimated, to be received into the Treasury during the year 1818	22,167,862 26
Which, added to the balance in the Treasury on the 1st day of January last, exclusive of $8,809,872 10 in Treasury notes, amounting to	6,179,883 38
Makes the aggregate amount of	$28,347,745 64

The application of this sum, for the year 1818, is estimated as follows. To the 30th September the payments (exclusive of $9,148,237 40 of Treasury notes, which had been drawn from the Treasury and cancelled) have amounted to $16,760,-337 05, viz:

Civil, diplomatic, and miscellaneous expenses	$3,289,806 28	
Military service, including arrearage	5,620,263 08	
Naval service, including the permanent appropriation for the gradual increase of the Navy	2,383,000 00	
Public debt, exclusive of the $9,148,237 40 of Treasury notes, which have been drawn out of the Treasury, and cancelled	5,467,267 69	
Amount brought forward		$28,347,745 64
During the 4th quarter it is estimated that the payments will amount to $9,475,-000, viz:		
Civil, diplomatic, miscellaneous expenses	520,000 00	
Military service	1,175,000 00	
Naval service	575,000 00	
Public debt to 1st of January, 1819	7,205,000 00	
Making the aggregate amount of		$26,235,337 05
And leaving, on the 1st day of January 1819, a balance in the Treasury, estimated at		$2,112,408 59

Of the Public Debt.

The Public Debt, which was contracted before the year 1812, and which was unredeemed on the 1st day of October, 1817, as appears by statement (1,) amounted to $31,835,788 29

By the same statement it appears that the funded debt contracted subsequent to the 1st day of January, 1812, amounted to 68,071,933 14

Making together the aggregate amount of $99,907,721 43

Which sum agrees with the statement of the unredeemed amount, on the 1st day of October, 1817, as per last report, excepting the sum of $4,123 98 over estimated, and which has now been corrected by actual settlement.

On the 1st day of January, there was added to the amount, for Treasury notes brought into the Treasury and cancelled, and for which the following stock was issued, viz:

In six per cent. stock	234,422 10	
In seven per cent. stock	99,019 00	
		333,441 10
		$100,241,162 53
From which deduct seven per cent. stock, purchased in the fourth quarter of 1817	332,984 60	
And also the reimbursement of old six per cent. and deferred, stock, between 1st October, 1817, and 1st January, 1818	800,830 98	
		1,133,815 58
Making the public debt which was unredeemed on the 1st of January, 1818, per statement (2) amount to		$99,107,346 95

From the 1st January to 30th September, 1818, inclusive, there was, by funding Treasury notes and 3 per cent. stock, ($20.08) issued, added to the public debt, as appears by statement (3,) the amount of		73,795 49
		$99,181,142 44
From which deduct the amount of stock purchased and redeemed during that period per statement (4)	415,993 87	
And also the estimated amount of the final reimbursement of the old 6 per cent. stock	709,312 03	
And the estimated reimbursement of the deferred six per cent. stock	230,401 76	
		1,355,707 66
Making on that day, as appears by statement (3,) the agregate amount of		97,825,434 78
Since the 30th September there has been redeemed, or provision made for the redemption of a moiety of the Louisiana stock, unpaid on the 1st October, 1818	4,977,950 00	
And there will be reimbursed, of the principal of the deferred six per cent. stock, on the first day of January, 1819, by estimate	252,091 63	
		5,230,041 63
There will remain unredeemed, by estimate, on the first day of January, 1819, the sum of		$92,595,393 15
By statement (5) the Treasury notes which are yet in circulation, are estimated at		$297,506 00
By statement (6) it appears that the whole of the awards made by the commissioners appointed under the several acts for indemnifying certain claimants of public lands, amount to		4,282,151 12
Of which sum there has been received at the office of the Commissioner of the General Land Office, as appears by statement C, the sum of		1,026,684 00
Leaving outstanding, at the date of the several returns from the land districts, the sum of		$3,255,467 12

It is proper to observe, however, that extensive sales were made in the Alabama Territory, in the months of September, October, and November, of which no returns have yet been received.

Of the Estimates of the Public Revenue and Expenditures for the year 1819.

In the annual report of the state of the Treasury, of the 5th of December, 1817, the permanent revenue was estimated at $24,525,000 per annum; and the annual expenditure, according to the then existing laws, was stated at $21,946,351 74. By the acts of the last session of Congress, the internal duties, estimated at $2,500,000 per annum, were repealed, whilst the expenditure was augmented to nearly $25,000,000; and that of the ensuing year is estimated at not less than $24,515,219 76.

The apparent deficit produced by these acts, and by the application of more than $2,500,000 to the payment of the interest and redemption of the principal of the public debt, beyond the annual appropriation of $10,000,000 for that object, has been supplied by the receipts into the Treasury on account of the arrearage of the direct tax and internal duties, and by the balance of more than $6,000,000, which was in the Treasury on the first day of January, 1818.

These temporary sources of supply being nearly exhausted, the expenditure of the year 1819 must principally depend upon the receipts into the Treasury from the permanent revenue during that year. As was anticipated in the last annual report, the reaction produced by the excessive importations of foreign merchandise, during the years 1815 and 1816, acquired its greatest force in the year 1817.

It is presumed that the revenue which shall accrue during the present year from imports and tonnage, may be considered as the average amount which will be annually received from that source of the revenue.

It is ascertained that the bonds taken for securing duties which were outstanding on the 30th day of September last exceeded $23,000,000, and the receipts into the Treasury from that source of revenue during the year 1819 are estimated at $21,000,000 00

Public Lands	1,500,000 00
Direct Tax and Internal Duties	750,000 00
Bank Dividends at six per cent.	420,000 00
First payment of bonus due by Bank of the United States	500,000 00
Postage and incidental receipts	50,000 00
Amounting together to	$24,220,000 00
Which, added to balance in the Treasury on the first day of January, 1819, estimated at	2,112,408 59
Makes the aggregate amount of	$26,232,408 59

The probable authorized demands on the Treasury during the year 1819 are estimated to amount to the sum of $24,515,219 76, viz:

Civil, Diplomatic, and Miscellaneous Expenses	$1,619,836 31
Military Department, including the Indian Department, permanent Indian annuities, military and Revolutionary pensions, and arming the militia	8,666,252 85
Navy Department, including one million dollars for the gradual increase of the navy	3,802,486 60
Public Buildings, and for discharging the demands of the contractors for making the Cumberland road	326,644 00
Public Debt	10,000,000 00

For building custom-houses and public warehouses at New Orleans and other ports - - - - - - -	100,000 00
Total of estimated demands -	$24,515,219 76
Which being deducted from the amount estimated to be received into the Treasury, including the balance on the first day of January, 1819 - - -	26,232,408 59
Leaves a balance in the Treasury on the first day of January, 1820, of	$1,717,188 83

In presenting this estimate of receipts for the year 1819, it is necessary to premise that the sum to be received from the customs is less than what, from the amount of the outstanding bonds, would under ordinary circumstances be received. The amount of the sales of public lands during the last year, and the sum due at this time by the purchasers, would justify a much higher estimate of the receipts from that important branch of revenue, if the most serious difficulty in making payments was not known to exist. The excessive issues of the banks during the suspension of specie payments, and the great exportation of the precious metals to the East Indies during the present year, have produced a pressure upon them which has rendered it necessary to contract their discounts for the purpose of withdrawing from circulation a large proportion of their notes. This operation, so oppressive to their debtors, but indispensably necessary to the existence of specie payments, must be continued until gold and silver shall form a just proportion of the circulating currency. In passing through this ordeal, punctuality in the discharge of debts, both to individuals and to the Government, will be considerably impaired, and well founded apprehensions are entertained that, until it is passed, payments in some of the land districts will be greatly diminished.

The extent to which the payments into the Treasury, during the year 1819, will be affected by the general pressure upon the community, which has been described, and which is the inevitable consequence of the overtrading of the banks and the exportation of specie to the East Indies, aggravated by the temporary failure of the ordinary supply of the precious metals from the Spanish American mines, cannot, at this time, be correctly appreciated. Should it exceed what has been contemplated in this report, the appropriations must be diminished, the revenue enlarged by new impositions, or temporary loans authorized to meet the deficiency. As the expenditure of the year 1820 will be greatly reduced by the irredeemable quality of the public debt, after the redemption of the remaining moiety of the Louisiana stock, which may be effected on the 21st day of October, 1819, a resort to temporary loans, or to the issue of Treasury notes, to the amount of the deficiency, should any occur, is believed to be preferable to the imposition of new taxes, which would not be required after that year.

All which is respectfully submitted.

WM. H. CRAWFORD.

STATE OF ILLINOIS—SLAVERY.

The engrossed resolution declaring the admission of the State of Illinois into the Union, on an equal footing with the original States, was read a third time; and on the question, Shall it pass?

Mr. TALLMADGE, of New York, assigned the reasons why, in his opinion, the resolution ought not to be adopted. It appeared to him, in the first place, he said, there ought to be before Congress some document, showing that the Territory had the population required by the law of the last session. The recitation of the fact in the preamble of the constitution he did not consider as the proper sort of evidence. It was not, however, upon this point that he meant to rest his opposition to the adoption of the resolution. The principle of slavery, if not adopted in the constitution, was at least not sufficiently prohibited. The ordinance for the government of the territory northwest of the Ohio, which was in the nature of a convention between the United States and the people of the States and Territories to be formed out of that territory, contained some provisions applicable to this subject. The sixth article of that ordinance provided that, in the cession of territory accepted by the United States from Virginia, and comprising the whole northwestern territory, there should be neither slavery nor involuntary servitude, otherwise than as a punishment for the commitment of crimes; with a proviso, that this provision should not be construed to prevent the reclamation of runaway slaves. If the constitution was found to comport with that provision, it ought to be received by Congress; if not, it ought to be rejected. The sixth article of the constitution of the new State of Illinois,* in each of its three sections, Mr. T.

*ART. 6. Neither slavery nor involuntary servitude shall hereafter be introduced into this State, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted; nor shall any male person, arrived at the age of twenty-one years, nor female person arrived at the age of eighteen years, be held to serve any person as a servant, under any indenture hereafter made, unless such person shall enter into such indenture while in a state of perfect freedom, and on condition of a bona fide consideration received, or to be received, for that service. Nor shall any indenture of any negro or mulatto, hereafter made and executed out of this State, or, if made in this State, where the term of service exceeds one year, be of the least validity, except those given in cases of apprenticeship.

SEC. 2. No person bound to labor in any other State shall be hired to labor in this State, except within the tract reserved for the salt works, near Shawneetown; nor even at that place for a longer period than one year at any one time; nor shall it be allowed there after the year one thousand eight hundred and twenty-five; any violation of this article shall effect the emancipation of such person from his obligation to service.

SEC. 3. Each and every person who has been bound to service by contract or indenture, in virtue of the laws of the Illinois Territory, heretofore existing, and in conformity to the provisions of the same, without fraud or collusion, shall be held to a specific performance of their contracts or indentures; and such negroes and mulattoes as have been registered in conformity with the aforesaid laws, shall serve out the time appointed by said laws: *Provided, however,* That the children hereafter born of such persons, negroes,

contended, contravened this stipulation, either in the letter or the spirit. These sections he separately examined, as to their construction and bearing, and felt himself constrained to come to the conclusion that they embraced a complete recognition of existing slavery, if not provisions for its future introduction and toleration; particularly in the passage wherein they permit the hiring of slaves, the property of non-residents, for any number of years consecutively. If Congress would observe in good faith the terms of the convention, he said, they were bound, under this circumstance, to reject the constitution of Illinois, or at least this feature of it. The State of Virginia, he said, had ceded the territory out of which this State was formed, on certain conditions, to the United States; one of which was that to which he had just adverted, and it was a monument to the fame of Virginia. It had often been cast as a reproach on this nation, that we, who boast our freedom, and pride ourselves on our independence, yet hold our fellow-beings in service. Americans had been represented, indeed, with one hand exhibiting the declaration of independence, and with the other brandishing the lash of despotism. When this stigma was attempted to be fixed on our country, it was a consolation to him, he said, that we have it in our power to cast it back again on the country from which we are severed—hers was the original sin, which we found in existence on our emancipation, and which it had been impossible to eradicate—we could do no more than control and regulate the evil. So far from wishing to invade the rights of the slaveholding States, or to assail their prerogatives, he believed they were equally sensible with him of the evils of slavery, and did what they could to control and regulate them. But, Mr. T. said, if Congress should voluntarily recognise this feature in a constitution submitted for their decision, and in violation, too, of a compact forbidding it, they would take upon themselves the unjust imputation he had alluded to. Mr. T. referred to the constitution of the State of Indiana, a State already admitted from the same territory, to show how carefully and scrupulously it had guarded against slavery in any shape, and in the strongest terms reprobated it; and lest at some future day amendments to the constitution should admit its introduction, a clause of that constitution forbade any amendment of that sort to be made. These sentiments of the State of Indiana, Mr. T. said, he reciprocated. Our interest and our honor, said he, calls on us rigidly to insist on the observance of good faith under the article of the ordinance I have referred to, so far as that no involuntary service be permitted to be recognised in the constitution of any State to be formed out of that territory.

Mr. POINDEXTER, of Mississippi, said he fully concurred with the gentleman from New York, in his solicitude to expel from our country, whenever practicable, anything like slavery. It is not with us, said he, a matter of choice whether we will have slaves among us or not: we found them here, and we are obliged to maintain and employ them. It would be a blessing, could we get rid of them; but the wisest and best men among us have not been able to devise a plan for doing it. The only question at present is whether the State of Illinois has virtually complied with her contract, and followed the example of the two other States already erected from the same territory. To illustrate that fact, Mr. P. referred to the constitution of Ohio, the erection of which State, from the Northwestern Territory, the gentleman appeared to have overlooked; and showed that the article on the subject of slaves was almost literally copied from the constitution of Ohio into that of Illinois. The third section of the article in question, in the latter, was the only variation, and the necessity of that additional provision would be obvious to any gentleman who would examine and reflect upon the subject. By an antecedent law of the Territorial government, all persons, slaves or under indenture, in the Territory, were required to be registered, as the only way in which they could be discriminated from fugitives, &c. The constitution directs that their children also shall be registered, that they may be secure of enjoying their freedom, when by the constitution they become entitled. From their color, (being *prima facie* slaves in other States,) was it not more secure to the freedom of the people of color, that their births, parentage, &c., should be recorded in the new State, than otherwise? So far from constituting an objection to it, Mr. P. said, he considered this a valuable part of the constitution of Illinois. As to children, born of slaves, not being free until eighteen or twenty-one years of age, Mr. P. said that would be no great hardship, seeing it was as soon as white persons were free from their parents, or from their indentures, if apprenticed. With respect to constitutional provisions on this subject, Mr. P. said, after all, it would be found impracticable, after admitting the independence of a State, to prevent it from framing or shaping its constitution as it thought proper. As to a constitution like that of Indiana, prohibiting the introduction of an amendment to it, of whatever nature, if the people were to form a convention to-morrow, that provision would be of no force: the whole power would be with the people, whom, in their sovereign capacity, no provision of that nature can control. Nor could Congress prevent them. Various attempts had already been made in Ohio to alter that feature. In the nature of free governments, no law could be irrepealable; though on this head, he observed, he hoped that neither Ohio, Indiana, nor Illinois, would ever permit the introduction of slavery within their limits. He hoped, as far as we could, we should expel slavery from the country. At the same time, he thought that Illinois, so far as she had gone, had done

---

or mulattoes, shall become free, the males at the age of twenty-one years, the females at the age of eighteen years. Each and every child born of indentured parents shall be entered with the clerk of the county in which they reside, by their owners, within six months after the birth of said child.—*Constitution of Illinois.*

better than the States which had preceded her in the same quarter, because she had provided for the security of the freedom of negroes, mulattoes, &c., and to prevent them from being kidnapped, by causing them to be registered.

Mr. ANDERSON, of Kentucky, repeated what he had said on Friday last, respecting the population of Illinois, and his own conviction that it was of the required amount. If on this subject Congress had been very scrupulous, Mr. A. said, they would have directed a census of the population to be taken by persons appointed by the United States for that purpose; but they had always heretofore in like cases submitted to Territorial counts and Territorial results, and he did not see why they should not do the same in the present case. All that was necessary was that they should be reasonably satisfied of their accuracy. With respect to the other objection of the gentleman, he thought he could satisfy him that his position was manifestly incorrect. It would be seen, on reading the articles of cession by Virginia, that no condition, such as the gentleman supposed, was annexed to it, respecting slavery. The conditions she required were of a different character, and this provision respecting slavery had been prescribed by Congress, among other articles framed for the government of the Territory thus ceded. Virginia had no concern in it, except so far as she was represented on the floor of Congress, when the ordinance was passed. Still less were the people of the Northwestern Territory a party to the compact, as the gentleman supposed it, not being represented at all, nor consulted on the occasion. Congress then are not in this respect bound by any pledge, nor by anything but a sense of expediency, co operating with the like sense of the people of Illinois. The conditions reserved by Virginia on making the cession were that a certain number of States should be erected from the Territory, and all existing rights of the people preserved; and, Mr. A. said, there were slaves in the Territory at that day. So far from Virginia requiring the abolition of slavery, doubts had arisen whether, under the stipulations she made on ceding the Territory to the United States, Congress should pass the ordinance which they subsequently enacted. Serious doubts had arisen, after stipulating to make three States, whether Congress had a right to prescribe any condition respecting slavery, &c.; not, Mr. A. said, that he would destroy the ordinance, but he meant to state only how far its scope extended. There was nothing unconstitutional, in any view, in Congress accepting what the people of Illinois have done, if they thought proper; since the consent of the two contracting parties (supposing the ordinance to be a compact) would thus be given. With respect to the nature of the provisions referred to in the constitution, the gentleman who preceded him had clearly shown that they had been misunderstood by the gentleman from New York.

Mr. TALLMADGE replied.—In referring to the ordinance, as binding Congress not to permit slavery, in any of the States formed from the Northwestern Territory, he conceived Congress to be bound by a tie not to be broken: but, if in this he was wrong, and Congress are bound by nothing but their sense of expediency, that tie became ten thousand times more strong. Are we, said he, to be drawn into a discussion of slavery, its merits and demerits, on abstract principles? He would not enter into such a discussion; but must persist in stating it as his opinion, that the interest, honor, and faith of the nation, required it scrupulously to guard against slavery's passing into a territory where they have power to prevent its entrance. Mr. T. again enumerated the provisions in the constitution of Illinois, to which he objected, and made further remarks on them. He considered it such, that to accept it, would be to violate a pledge solemnly given, and, if not a stipulation, yet, so simultaneously given, as to amount to a compact with Virginia. With respect to the power of a State to change its constitution, he was not prepared to say that a State was, in that respect, under no restraint. Would gentlemen admit a State into the Union to-day under a republican form of government, and permit it to call a convention to-morrow, and change its form of government to a monarchy? That State would cease, by the very act, to be a component part of the Union, and the same result would follow, he presumed, if a State were to violate the condition on which it was admitted into this Union, by admitting the introduction of slavery.

Mr. LIVERMORE requested the yeas and nays on the decision of this question.

Mr. HARRISON said, that, as a Representative of Ohio, he protested against the doctrine of the gentleman from New York. He could assure the gentleman that the people of that State were fully aware of their privileges, and would never come to this House, or to the State of New York, for permission so to alter their constitution as to admit the introduction of slavery, the object of the gentleman's abhorrence, as, said Mr. H., it is of mine. They had entered into no compact which had shorn the people of their sovereign authority. Mr. H. proceeded to make some remarks respecting the operation of the ordinance, cessions, &c. Though there were slaves in that country when ceded, there had been none in that part of it from which the State of Ohio had been formed, so that no provision had been necessary respecting them in the constitution of that State. In Indiana, the question relating to this description of property had been reserved for the decision of the courts of justice, &c., and he sincerely wished that Illinois had either emancipated its slaves, or followed the example of Indiana. In regard to the supposed compact, however, and its efficacy, Mr. H. said, he had always considered it a dead letter. He could not put his hand on the page, or on the letter, but he believed it would be found that, in one of the pages of the Federalist, the authority of which he presumed, at least, the gentleman from New York would respect, Alexander Hamilton had expressly declared the same opinion. He could not believe, he said,

that Congress would refuse to accept the State of Illinois on the ground of that compact: for his part, he wished to see that State, and all that Territory, disenthralled from the effect of articles to which they never gave their assent, and to which they were not properly subject. This much he wished, however he was opposed to slavery, and should lament its introduction into any part of that Territory.

After a few further remarks, from Mr. Tallmadge, Mr. Anderson, and Mr. Storrs, the question on the passage of the resolution was decided in the affirmative—yeas 117, nays 34, as follows:

Yeas—Messrs. Anderson of Pennsylvania, Anderson of Kentucky, Austin, Baldwin, Barbour of Virginia, Bateman, Bayley, Beecher, Bellinger, Bloomfield, Blount, Boden, Bryan, Burwell, Butler of New York, Butler of Louisiana, Campbell, Claiborne, Cobb, Colston, Cook, Crawford, Cruger, Culbreth, Cushman, Desha, Drake, Edwards, Ervin of South Carolina, Floyd, Garnett, Hall of North Carolina, Harrison, Hendricks, Herbert, Hogg, Holmes, Hopkinson, Hostetter, Hubbard, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Lewis, Lincoln, Linn, Little, McLane of Delaware, McCoy, Marchand, Mason of Massachusetts, Mercer, Middleton, Robert Moore, Samuel Moore, Moseley, Mumford, H. Nelson, T. M. Nelson, New, Newton, Ogden, Ogle, Owen, Palmer, Patterson, Pegram, Peter, Pindall, Pitkin, Pleasants, Poindexter, Porter, Quarles, Rhea, Rice, Robertson, Rogers, Ruggles, Sampson, Sawyer, Schuyler, Scudder, Settle, Shaw, Sherwood, Silsbee, Simkins, Slocumb, S. Smith, Ballard Smith, Alexander Smith, J. S. Smith, Speed, Spencer, Stewart of North Carolina, Storrs, Stuart of Maryland, Tarr, Terrell, Terry, Tompkins, Trimble, Tucker of South Carolina, Upham, Walker of North Carolina, Walker of Kentucky, Wallace, Westerlo, Whiteside, Wilkin, Williams of Connecticut, Williams of New York, Williams of North Carolina—117.

Nays—Messrs. Adams, Bennett, Boss, Clagett, Crafts, Darlington, Ellicott, Folger, Gage, Gilbert, Hale, Hasbrouck, Hunter, Huntington, Livermore, Wm. Maclay, Wm. P. Maclay, Merrill, Morton, Murray, Jeremiah Nelson, Orr, Reed, Rich, Richards, Savage, Seybert, Southard, Tallmadge, Taylor, Wendover, Whitman, Wilson of Massachusetts, and Wilson of Pennsylvania—34.

So the resolution was passed, and sent to the Senate for concurrence.

Tuesday, November 24.

Another member, to wit: from Massachusetts, Samuel C. Allen, appeared, and took his seat.

Mr. H. Nelson, from the Committee on the Judiciary, reported a bill concerning the western district court of Pennsylvania; which was twice read, and committed.

Mr. N., from the same committee, to whom was referred the memorial of Matthew Lyon, praying a reimbursement of the expenses incurred by the prosecution under the act of Congress of July, 1798, commonly called the sedition law, he then being a Representative in Congress from the State of Vermont, made a report thereon, that the prayer of the petitioner ought not to be granted.

Mr. N. said, he felt himself constrained to state to the House that, on this question, he had been in a minority in the committee, and wished the subject to be fully laid before the House. He therefore moved that the report be referred for consideration to a Committee of the whole House.

The motion was agreed to.

Mr. Hopkinson, under the instruction of the Judiciary Committee, reported a bill to establish a uniform system of Bankruptcy throughout the United States.

In introducing this bill, Mr. H. remarked, that the bill was in form the same which he had the honor to introduce to the consideration of Congress at their last session. It was not his intention, he said, to fatigue the House by a long argument at present; but he had thought it his duty to bring the subject once more before Congress, and have a vote taken on it, because the necessities of the people demanded it, and in the hope that, during the recess of Congress, the opinions of some gentlemen might have changed, from reflection, or from information derived from others, of the pressing occasion for such a law. Mr. H. hoped that gentlemen would not turn from this question with alarm, but that there would be a fair expression of the opinion of Congress on the subject.

The bill was read, and committed.

Mr. Harrison, from the committee to whom the subject was referred, reported a bill to increase the number of clerks in the Department of War; which was twice read, and committed.

Mr. Johnson, of Kentucky, from the select committee, to whom the subject was referred, reported a bill to authorize the election of a Delegate from the Michigan Territory to Congress, and extending the right of suffrage to the people of said Territory; which was twice read, and committed.

Mr. Taylor introduced a resolution authorizing the franking of the documents accompanying the President's late Message; which was read three times, and passed.

On motion of Mr. Poindexter, the Committee on Commerce and Manufactures were instructed to inquire into the expediency of giving effect, by law, to an act passed by the General Assembly of the State of Mississippi, entitled "An act making appropriations for the use of the Natchez hospital."

Mr. Campbell was appointed of the Committee on Foreign Affairs, vice Mr. Forsyth resigned.

The Speaker laid before the House a letter from Richard Bland Lee, late Commissioner of Claims, transmitting a letter from Jacob Dox, soliciting compensation for his services as agent on behalf of the United States, in the taking of evidence in certain claims of great magnitude, on the Niagara frontier of the State of New York; which letters were referred to the Committee of Claims.

On motion of Mr. SPENCER, the committee appointed at the last session of Congress, to inquire into the official conduct of certain judges of the courts of the United States, were discharged from so much of their duty as relates to the conduct of William Stephens, who has resigned his office of judge of the court of the United States for the district of Georgia.

The House then proceeded to the orders of the day, lying over from the last session, which, by a rule of the House, are revived in *statu quo*, at the expiration of the first week of the present session.

The House first resolved itself into a Committee of the Whole, on the report of the Committee of Ways and Means unfavorable to the petition of Daniel Manly and Aaron Walker. Mr. WHITMAN moved to reverse the report; on which motion a debate ensued, wherein Mr. WHITMAN supported, and Messrs. TRIMBLE and SMITH of Maryland, opposed the motion; which was finally negatived by a large majority, and the report adopted. In which the House concurred, on the Speaker's taking the Chair.

NEW JUDICIAL DISTRICT.

The House next resolved itself into a Committee of the Whole, on the bill, reported at the last session, for erecting a separate judicial district west of the Alleghany mountain, in the State of Virginia.

In the course of the consideration of the bill, among other propositions, was one made by Mr. COLSTON, of Virginia, so to amend the bill as to retain in the eastern circuit, by accepting them from the western, the counties of Hampshire and Hardy; and one by Mr. McCOY, of Virginia, to leave in the eastern circuit the county of Pendleton; both of which motions were agreed to.

Mr. B. SMITH moved to amend the bill so as to substitute the town of Lewisburg, in Greenbriar county, for Clarksburg and Wythe court-house, so as to have only one place of holding courts, instead of two, as proposed in the bill, and supported his motion by various explanations to establish its propriety.

This motion was opposed by Mr. PINDALL, and was in the end negatived.

Mr. TAYLOR, of New York, moved to strike out the provision for a salary to the marshal and attorney of the new district, on the ground that no salary had been allowed to those officers in the additional districts created in other States; and that, if any were allowed in this case, it ought to be by a general provision.

Mr. BALDWIN, of Pennsylvania, related some facts, showing that there were instances of salary allowed to those officers in some of the additional districts of other States; after which the motion was negatived.

Mr. FLOYD, of Virginia, moved to strike out Wythe court-house, and substitute Giles court-house, as one of the two places of holding the courts of the new district, and made some remarks in support of the motion.

Mr. A. SMYTH opposed the motion, and replied to Mr. FLOYD, who rejoined; and, after some further remarks by Mr. SMYTH, the motion was negatived; and the bill being gone through, and the blanks filled, &c., it was reported to the House, and the amendments of the committee agreed to.

Mr. McCOY, expressing his embarrassment how to vote on this bill, not being able to perceive any necessity for the proposed division, with the information he at present possessed, asked of the advocates of the measure to exhibit the reasons for its adoption.

Mr. PINDALL entered into a recapitulation of the reasons he had heretofore submitted in support of the justice and expediency of the establishment of the new district; and, after some remarks from Mr. McCOY in reply, the bill was ordered to be engrossed, as amended, and read a third time.

WEDNESDAY, November 25.

Several other members, to wit: from Virginia, JOHN TYLER, JAMES JOHNSON, and GEORGE F. STROTHER; and, from SOUTH CAROLINA, WILLIAM LOWNDES, appeared, and took their seats.

Mr. WILSON, of Pennsylvania, presented a petition of the President, Managers, and Company of the Milford and Oswego Turnpike Road, praying that an act may be passed authorizing a subscription on behalf of the United States to the capital stock of said company.—Referred to the Committee on Roads and Canals.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of William T. Nimmo, which was read; when Mr. W. reported a bill for the relief of the said William T. Nimmo, which was read twice, and committed.

On motion of Mr. SILSBEE, the Committee of Ways and Means were instructed to inquire into the expediency of allowing, in cases of exportation of goods entitled to debenture, the same time (of twenty days) for completing the export entry and oath, as is allowed by the act of the 20th of April last, for executing the export bonds, in lieu of ten days within which it is now required that the said oath and entry shall be completed.

Mr. WHITMAN offered for consideration the following resolution:

Resolved, That the Committee on Pensions and Revolutionary Claims be instructed forthwith to prepare and report a bill granting pensions to the individuals in whose favor a bill for that purpose passed this House at the last session, and at the rates and from the periods in the same bill prescribed.

Some debate took place on the relative propriety of acting as proposed, or of waiting for the Senate, in which body the bill fell through at the last session, to revive it. The latter course was supported by Mr. RHEA, and opposed by Mr. WHITMAN. With a view to his object, Mr. RHEA moved to lay the resolution on the table; which motion was negatived, and the resolution was agreed to.

An engrossed resolution authorizing the trans-

mission of certain documents free of postage, was read the third time, and passed.

The House spent some further time in Committee of the Whole, on the bill of last session, confirming certain claims to land in the Illinois Territory. After considerable debate, in which Messrs. POINDEXTER and HARRISON bore the principal part, the Committee rose, and obtained leave to sit again.

NEW JUDICIAL DISTRICT.

The engrossed bill to establish a separate judicial district in the State of Virginia, west of the Allehany mountains, was read a third time; and on the question, Shall the bill pass?

Mr. FLOYD, of Virginia, moved to recommit the bill, for the purpose of amending it, so as to divide the eastern from the western judicial district by county lines, believing that to be a much better dividing line than that established by the bill. [The bill provides that the new district shall be composed of so much of the State of Virginia as is situate west of the summit of the mountains which separate the waters emptying into the Chesapeake bay and Roanoke river from the waters which fall into the Ohio river.]

This motion was opposed by Mr. PINDALL, who, though he admitted some inconvenience might result from the line proposed by the bill, thought it was an inconvenience inseparable from any division, and which would be only varied in its operation, but not changed in its nature, by an amendment such as that proposed by Mr. FLOYD.

The question on recommitment was decided in the negative, and the bill was passed.

DISCONTINUANCE OF SUITS.

The bill to prevent the discontinuance of suits in the western district court of Pennsylvania, in consequence of the court not having been held at the time appointed by law, (because the judge's commission was not received in time,) passed through a Committee of the Whole.

A proposition was made by Mr. PORTER, to amend the bill, so as to allow to the marshal and clerk of the western district of New York, the same salary (two hundred dollars each) as the bill proposes to allow to those of the western district of Pennsylvania.

Mr. BALDWIN, to disembarrass this bill of any possible objection, as it was important it should pass speedily, moved to strike out the section allowing the salaries in question.

Which being agreed to, Mr. PORTER'S motion fell with it; and the bill was ordered to be engrossed for a third reading.

ADDITIONAL CLERKS.

The House then resolved itself into a Committee of the Whole, Mr. SMITH of Maryland in the Chair, on the bill for appointing an additional number of clerks in the War Department.

On motion of Mr. HARRISON, an appropriation was inserted for a year's salary to the twelve additional clerks proposed by the bill.

Mr. WALKER, of North Carolina, expressing a desire to be more particularly apprized of the causes which made this increase of clerks in the War Department necessary—

Mr. HARRISON stated that, from the information received from the Secretary of War, the committee who reported the bill had been satisfied of its necessity, to a timely decision on a large mass of applications under the act of the last session, for granting pensions to certain surviving Revolutionary officers. Among other facts, Mr. H. stated, that the applications which had been made under the act of last session, amounted to 19,973; of which 4,200 had been favorably received, 3,400 had been rejected or suspended for further evidence, and 12,373 remain to be decided. In this duty ten clerks had so far been employed, who, considering the labor necessary for examining and stating each claim, had decided on as many as possible. As an additional motive for passing the bill, besides its being the interest of the United States, to ascertain, as soon as possible, the total amount to be provided for, he said many of the applicants, who had formerly enjoyed pensions from the States or the United States, had been deprived of them in consequence of their application for the benefit of the new law, and were now in a state of great distress. In regard to the expense to be caused by the bill, which was limited to one year's duration, it was scarcely material, since so much clerk hire would be necessary for the business, whether it was expended at once to have it done, or protracted in its expenditure for two or three years.

The Committee rose and reported the bill, which was ordered to be engrossed for a third reading.

CITY OF WASHINGTON.

The House then spent some time in Committee of the Whole, on the bill to amend the act authorizing the sale of certain reserved lots in the City of Washington.

Mr. HERBERT explained the object of the bill to be, to enable the Commissioner of the city to carry into effect the common law, according to the intent of the act of Congress, and conformably to a plat by which Congress had intended those sales should be regulated; an object which was defeated by the wording of the former law.

Mr. SMITH, of Maryland, moved to strike out the first section of the bill, on the ground that the proceeding proposed to be sanctioned by it would be an interference with private rights, which, he said, ought to be touched with great circumspection at any time. Mr. S. proceeded to state the terms on which the proprietors had surrendered their rights in the land on which the city stands, taking alternate lots or squares, and receiving in addition twenty or twenty-five pounds per acre for the ground included in the public reservations. Any deviation from the plan of the city, which should throw these reservations into the market, these proprietors, he said, would consider as a violation of the contract they had entered into, and were ready, in case of the attempt to do it, to lay injunctions on the proceeding. Besides,

Mr. S. said, if Congress once began to alter the plan of the city, where would they stop? The citizens would be continually coming before them to make alterations, not to beautify the city only, but to serve their own interests. Indeed, he thought Congress must have been surprised into the passage of the law which this bill proposed to amend, or they would not have passed it.

Mr. HERBERT replied, that he had not been in favor of the principle of the original act; but that act had, after deliberation, received the approbation of Congress, and, if it was to have the effect intended when it passed, the amendment now proposed was necessary.

Mr. DESHA said, that, from what had taken place, the subject appeared to be but little understood, and information was wanting to enable the House to act understandingly on it. He, therefore moved that the Committee rise, and ask leave to sit again.

Which was agreed to, and the Committe rose, and had leave to sit again.

BANK OF THE UNITED STATES.

Mr. SPENCER, of New York, offered for consideration the following resolution:

Resolved, That a committee be appointed to inspect the books and examine into the proceedings of the Bank of the United States, and to report whether the provisions of its charter have been violated or not; and particularly to report whether the instalments of the capital stock of the said bank have been paid in gold and silver coin, and in the funded debt of the United States, or whether they were, in any instance, and to what amount, paid by the proceeds of the notes of stockholders, discounted for that purpose; and also to report the names of those persons who now own, or who have owned, any part of the capital stock of the said bank, and the amount of discounts, if any, to such persons respectively, and when made; and also to report whether the said bank, or any of its offices of discount and deposite, have refused to pay the notes of the bank in specie on demand, and have refused to receive in payment of debts due to them, or either of them, the notes of the bank, and whether the bank or any of its offices of discount, or any of their officers or agents have sold drafts upon other offices, or upon the bank, at an advance, and have received a premium for such drafts; also, the amount of the notes issued payable at Philadelphia, and at each office of discount respectively, and the amount of capital assigned to each office, together with the amount of the public deposites made at the bank and at each office, and an account of the transfers thereof, and the total amount of bills and notes discounted at the bank and its several offices since its organization; that the said committee have leave to meet in the city of Philadelphia, and to remain there as long as may be necessary; that they shall have power to send for persons and papers, and to employ the requisite clerks, the expense of which shall be audited and allowed by the Committee of Accounts, and paid out of the contingent fund of this House.

Mr. SPENCER remarked, on introducing this motion, that it was with considerable reluctance he had submitted it to the House—a reluctance, however, proceeding solely from his inability to do justice to the subject, and not from any doubt of the necessity or of the propriety of the proceeding. He had waited till this day, in the hope that some member, whose experience was more extensive than his own, would have moved the inquiry; but, having been in this respect disappointed, he had felt it his imperious duty to do it. As to the authority of this House to make the investigation, he thought there could be little doubt. If there should be any doubt on the mind of any gentleman on this subject, he referred him to the 23d section of the act establishing the bank, which expressly authorized an examination of the books of the bank, when required, by a committee of Congress. As to the necessity of the inquiry proposed, he presumed there were few of those near him who were not aware of the agitation which exists in the public mind on this subject, and who did not perceive that, from one end of the country to the other, loud complaints were made against the conduct of the officers of the banks. It was necessary for him to state, Mr. S. said, as he did explicitly state, that he meant to implicate the conduct of the bank in no respect; on that point he had formed no opinion, and would form none, until the facts reported by the committee should justify him in drawing his conclusions on the subject. He was neither hostile to the bank, nor particularly friendly; he owed nothing to it; he was the proprietor of none of its stock, nor, that he knew of, were any of his friends. But, that complaints existed against the bank, he well knew; and, whether well or ill-founded, it was equally due to the nation and to the bank that a fair inquiry should take place, and such a report be made as would show that the complaints were unjust, if such should prove to be the fact, or, if otherwise, should exhibit the specific instances of misconduct which the committee should be able to discover. The objects specified in the resolve, Mr. S. said, were all those respecting which, to his knowledge, complaints had been made; and they were subjects respecting which it was at least certain that the nation required information. The friends of the bank, he thought, ought to solicit the inquiry proposed; they should be anxious that a full investigation should take place, and that, too, by a committee having no resentments against the bank to gratify, nor any feelings of friendship or attachment to bias them against it—by a committee, depending on their own inspection for facts, and not on information of a general nature derived from the officers of the bank. A full and fair view of the whole subject, thus obtained, would be attended with the most happy consequences to the nation and to the bank. If it should be shown that immense discounts had not been made to particular persons, for the purpose of speculation merely; that, by this means, the stock of the bank had not been blown up into a bubble which had now burst; that the bank had distributed its accommodations with a view to the accommodation of the community rather than of individuals; that it had used its best exertions to accomplish, what was one of the objects of its establishment, the equalization of the currency, as far as practicable;

if it had done all this, and fairly endeavored to meet the public expectations, although it may have failed in that object, it would become an act of justice to rally around the institution, to sustain and give it credit, because no one could doubt the utility of such an institution to the nation, if properly conducted. With these observations, Mr. S. submitted the resolution to the will of the House.

Mr. McLane, of Delaware, rose, he said, not to offer any opposition to the inquiry, but merely to request time to give to the subject of the resolution such a consideration as its importance deserved. It would be recollected by the House, that a resolution had passed the Senate during the last session, calling on the Secretary of the Treasury to lay before Congress a particular account of the state and transactions of the bank. This report might be expected shortly to be laid before Congress; and in that report would, perhaps, be embraced all the information required by the resolve. Although rumors had existed, Mr. McL. said, with regard to certain transactions in the bank, he thought it would be well not to institute an inquiry hastily on the foundation of mere rumor. He wished the resolution to lie on the table for a day, or for a longer time, that the House might have time to reflect on it. He, therefore, moved that it lie on the table, and be printed.

Mr. Spencer said he had no sort of objection to this course; but he hoped that, after gentlemen should have reflected on it, they would be disposed to take it up and act on it at an early day.

Thursday, November 26.

Another member, to wit: from Ohio, Samuel Herrick appeared, and took his seat.

Mr. Rhea, from the Committee on Pensions, reported a bill concerning invalid pensions, (being in form and substance the same as passed this House during the last session, and fell through in the Senate.) The said bill was read a first and second time, and ordered to be engrossed for a third reading; and was subsequently read a third time, passed, and sent to the Senate.

Mr. Williams, of North Carolina, from the Committee of Claims, made an unfavorable report on the petition of sundry inhabitants of the town of Mobile, who pray indemnity for certain losses sustained by encampments of detachments of the Army on or near their property during the late war; and the report was agreed to.

Mr. Williams also made a report on the petition of Samuel Walker, accompanied by a bill for his relief; which was twice read, and committed.

Mr. Pleasants, from the Committee on Naval Affairs, reported a bill extending the term of half-pay pensions to the widows and children of certain officers, seamen, and marines who died in the public service; which was twice read, and committed.

On motion of Mr. Poindexter, the Clerk of the House of Representatives was directed to furnish each standing committee of the House with a volume of the laws of the United States, having relation to the public lands.

Mr. Campbell submitted the following resolution, which was read, and ordered to lie on the table for one day:

Resolved, That the standing rules of this House be amended, by rescinding rule fifteen, which is in these words:

"After six days from the commencement of a second, or subsequent session, of any Congress, all bills, resolutions, and reports, which originated in this House, and at the close of the next preceding session remained undetermined, shall be resumed and acted on, in the same manner as if an adjournment had not taken place."

On motion of Mr. Butler, of New Hampshire, a committee was appointed to prepare and report to this House, a bill granting a pension to Major General John Stark; and Messrs. Butler, of New Hampshire, Huntington, and Bloomfield, were appointed the said committee.

A Message was received from the President of the United States; which was read, and is as follows:

To the House of Representatives of the United States:

I lay before the House of Representatives a report from the Commissioner of the Public Buildings, made in compliance with a resolution of the Senate of the 28th of January last, requiring a statement of the expenditures upon the public buildings, and an account of their progress to be annually exhibited to Congress.

JAMES MONROE.

November 26, 1818.

The Message and documents were referred to the Committee on the Public Buildings.

Engrossed bills of the following titles, to wit: An act to increase the number of clerks in the Department of War; an act concerning the western district court of Pennsylvania; and an act concerning invalid pensions; were severally read the third time, and passed.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to provide for the removal of the Library of Congress to the north wing of the Capitol;" in which they ask the concurrence of this House.

The said bill was read twice, and committed to a Committee of the whole House to-day.

On motion of Mr. Middleton, the bill reported at the last session supplementary to the act, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States," passed the 2d of March, 1807, was referred to the committee appointed on that part of the President's Message which relates to the unlawful introduction of slaves into the United States.

The House then resolved itself into a Committee of the Whole on the bill from the Senate, entitled "An act to provide for the removal of the Library of Congress to the north wing of the Capitol." The bill was reported without

amendment, and ordered to be read a third time to-day. It was accordingly read the third time, and passed.

The bill for the relief of Mehitable Cole, passed through a Committee of the Whole, and, after some remarks in favor of it by Mr. CLAGETT, the bill was ordered to be engrossed for a third reading.

CLAIM OF BEAUMARCHAIS.

The House then resolved itself into a Committee of the Whole, Mr. SMITH of Maryland in the chair, on the bill for the relief of the heirs and representatives of Caron de Beaumarchais.

[The magnitude of this claim makes it an important one, and the long interval of time which has elapsed since the debt was contracted, has at once tripled the amount of the debt, and involved in some obscurity the question of the justice of the claim. In the report of the committee to whom the subject was referred at the last session, and on which this bill is founded, the members of the committee were unanimous. This report, which is an elaborate and able one, was read through to-day by the Clerk. A report of a committee of a former Congress, adverse to the claim, and equally elaborate, was also read through.]

After the reading of these documents—

Mr. BASSETT made a few remarks on the merits of this claim, impressively urging on the House the justice of giving to the claim a liberal and serious consideration. He stated the important services rendered to the United States by M. Beaumarchais, and the reduced fortunes of his heirs. After reading the warm expression of thanks to that gentleman by the Continental Congress, and stating that his aid had essentially contributed to some of the most important and successful events of the Revolutionary war, Mr. B. expressed his hope that the door would not be closed in the face of his representatives, sueing for a debt justly due by the United States, and the want of which had impoverished them.

Mr. PITKIN said that this claim was of that nature, and of that amount, too, which required a cool consideration of its nature; and that the House should closely examine into its merits for themselves. With regard to this claim, some of the documents unfavorable to it had been destroyed at the time of the invasion of 1814; others were not generally accessible, or not generally understood. As gentlemen could not have had time to look over the papers at the present session, and it was, withal, growing late, he moved that the Committee should rise, that, on meeting again, gentlemen might be better prepared than at present to go into a consideration of the question.

Whereupon the Committee rose, and obtained leave to sit again.

FRIDAY, November 27.

Another member, to wit: from Virginia, WILLIAM LEE BALL, appeared, and took his seat.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill for the relief of Gad Worthington, which was read twice, and committed to a Committee of the Whole.

On motion of Mr. SPENCER, the testimony taken under commissions issued by Richard Bland Lee, Esq., Commissioner of Claims, and all other testimony in relation to the claims for remuneration for property captured and destroyed on the Niagara frontier, in the late war, which were before the Committee of Claims during the last session, was referred to the Committee of Claims.

On motion of Mr. LOWNDES, a committee was appointed to inquire whether it be expedient to make any amendment to the laws which regulate the coins of the United States and foreign coins; and Messrs. SEYBERT, NELSON of Massachusetts, IRVING, and HARRISON, were appointed the said committee.

On motion of Mr. THOMAS M. NELSON, the Committee on Military Affairs were instructed to inquire into the expediency of amending the act passed at the last session of Congress, approved the 14th of April, 1818, entitled "An act regulating the staff of the Army, so as to do away the offices of surgeon general and assistant surgeon general, and to have two surgeons general, corresponding to the present office of assistant surgeon general, with their present pay, emoluments, and duty, who shall make their returns, through the adjutant and inspector general, to the Secretary of War, as they now do through the surgeon general.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a report of the names and places of residence of the several persons placed upon the pension list under the act of the last session, providing for persons engaged in the land and naval service of the United States in the Revolutionary war, made in obedience to a resolution of this House, of the 20th of April last, which was ordered to lie on the table.

On motion of Mr. TAYLOR, the Secretary for the Department of War was instructed, in addition to the report of Revolutionary pensioners, made to this House in pursuance of a resolution of the last session, to designate on the list thereof, the line, corps, or vessel, to which the pensioner belonged, the time of his service, and, if an officer, his rank in the Army or Navy.

Mr. SPENCER called for the consideration of the resolution submitted by him on Thursday, for an inquiry into the conduct of the Bank of the United States.

Mr. LOWNDES suggested to the mover the propriety of deferring the consideration of the resolution a day or two longer, when the House would be in possession of information on the subject which it had not yet received.

Mr. SPENCER not giving way to this suggestion, the question was taken whether the House would now proceed to consider the resolution, and decided in the negative—ayes 62, nays 73.

CLAIM OF BEAUMARCHAIS.

The House then again resolved itself into a Committee of the Whole on the bill for the relief of the heirs of Caron de Beaumarchais.

Mr. Pitkin, of Connecticut, opened the debate, in opposition to the bill, in a speech which occupied in the delivery the whole of the day's sitting. In the outset, he remarked on the importance of the subject in hand; the interest it had excited, and the feeling it had produced in the old Congress, as well as under the present Government, whenever it had presented itself for consideration. During the existence of the war of the Revolution, some of the documents relating to it had miscarried, and some had been stolen in their transmission; others had been since destroyed by fire, or overlooked in the mass of public papers. Hence the claim had been involved in much mystery, requiring close investigation to unravel it. Mr. P. then proceeded to the examination of the subject, as it had been viewed by the Commissioners of the United States at Paris, by the French Government, and by the claimants. In the course of his argument, he read extracts from letters of Arthur Lee, Benjamin Franklin, and Silas Deane; from the American and French diplomatic volumes; from Gordon's history, and from various other sources. From all these documents, and connecting all the facts disclosed by them together, Mr. P. thought the conclusion irresistible, that the supplies furnished by Caron de Beaumarchais had been a gratuitous aid by the Government of France, and not a private transaction of Beaumarchais. The French Government, which had always disclaimed all expectation of repayment of the aid thus afforded, under the critical circumstances in which it was then placed, Mr. P. contended, had availed itself of the cover of a mercantile transaction, and of the agency of Beaumarchais as the ostensible shipper of supplies; that it had done so, the public disavowal of any agency in this matter was no proof to the contrary, being a part of the policy of concealment which dictated the employment of mercantile agency in the first instance. This claim, therefore, Mr. P. considered as wholly unsustained, and founded on an attempt on the part of Beaumarchais to aggrandize himself and family, by taking advantage of the secret agency in which his name had been employed, and that of the Government and its officers wholly concealed, to claim remuneration from the United States for the supplies sent, as if the matter had been a speculation of his own.

After Mr. P. had concluded his remarks, the Committee rose and obtained leave to sit again.

Monday, November 30.

Two other members, to wit: James B. Mason, from Rhode Island, and Joel Abbott, from Georgia, appeared and took their seats.

Mr. Gage presented a petition of John L. Polereczky, a citizen of the United States, and who was an officer in the French forces in the service of the United States in the Revolutionary war, praying that the benefits of the act passed at the last session of Congress, for the relief of certain persons who served in the land and naval forces of the United States in the Revolutionary war, may be extended to him.—Referred.

On motion of Mr. Holmes, the report of the Secretary of the Treasury, made to this House on the 2d of March last, in obedience to a resolution instructing him to report, whether any, and if any, what alterations or modifications are required to be made, in the emoluments of officers of the customs, was referred to the Committee of Ways and Means.

Mr. Smith, of Maryland, from the Committee of Ways and Means, reported a bill in addition to the act of 1799, to regulate the collection of the revenue; [extending the time of taking the oath, to twenty days, in cases of exportation of merchandise entitled to the benefit of drawback;] and a bill for the relief of Denton, Little & Co., and of Harmon Kendricks, of New York; which bills were severally twice read, and committed.

Mr. Smith, from the same committee, made an unfavorable report on the petition of certain coppersmiths and others, of Boston, which was read and concurred in.

On motion of Mr. Herbert, it was

Resolved, That the Clerk of this House be authorized and directed to contract with any person or persons for the printing of two hundred and fifty copies of the code of jurisprudence for the District of Columbia, prepared and reported to Congress at the present session by the Chief Justice of the said District.

Mr. Butler, from the select committee, appointed on that subject, reported a bill for the relief of Major General John Stark, [providing for placing him on the pension list, with a pension of —— dollars per month.]

On motion of Mr. Butler, the blank was filled with the word *sixty*, and thus amended, the bill was ordered to be engrossed for a third reading, *nem. con.*

The Speaker laid before the House a report from the Secretary of War, on sundry petitions for pensions and the increase of pensions, made in compliance with the 3d and 5th sections of the act of 10th April, 1806, which report was referred to the Committee on Pensions.

The engrossed bill granting to Mehitable Cole certain lands therein mentioned, was read the third time, and passed.

Mr. Whitman offered for consideration the following motion:

Resolved, That the Committee on Revolutionary Pensions be instructed to inquire into the propriety of granting pensions to such of the soldiers of the Revolution as served on continental establishment at least one year in the whole, though at different periods of the war, and would have been entitled to the same, by virtue of the act of last session, had they continued in the service uninterruptedly for the term of nine months.

On the question of agreeing to the resolution, it was decided in the negative—ayes 45, noes 69.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An

act to increase the salaries of certain officers of Government," in which they ask the concurrence of this House.

The House again resolved itself into a Committee of the Whole on the report of the select committee on the claim of the representatives of Caron de Beaumarchais.

Mr. BALDWIN, of Pennsylvania, rose in support of the claim; and having spoken in defence of it for nearly an hour—

The Committee rose, reported progress, and obtained leave to sit again.

BANK OF THE UNITED STATES.

The House having agreed now to proceed to the consideration of the resolution moved by Mr. SPENCER, of New York, a few days ago, in the words following:

Resolved, That a committee be appointed to inspect the books, and examine into the proceedings of the Bank of the United States, and to report whether the provisions of its charter have been violated or not, and particularly to report whether the instalments of the capital stock of the said bank have been paid in gold and silver coin, and in the funded debt of the United States, or whether they were, in any instance, and to what amount, paid by the proceeds of the notes of stockholders, discounted for that purpose; and also to report the names of those persons who now own or who have owned any part of the capital stock of the said bank, and the amount of discounts, if any, to such persons respectively, and when made; and also to report whether the said bank, or any of its offices of discount and deposite, have refused to pay the notes of the bank in specie on demand, and have refused to receive, in payment of debts due to them or either of them, the notes of the bank, and whether the bank, or any of its offices of discount, or any of their officers or agents, have sold drafts upon other offices or upon the bank, at an advance, and have received a premium for such drafts; also the amount of the notes issued, payable at Philadelphia, and at each office of discount respectively, and the amount of capital assigned to each office, together with the amount of the public deposites made at the bank and at each office, and an account of the transfers thereof; and the total amount of bills and notes discounted by the bank and its several offices since its organization. That the said committee have leave to meet in the city of Philadelphia, and to remain there as long as may be necessary; that they shall have power to send for persons and papers, and to employ the requisite clerks, the expense of which shall be audited and allowed by the Committee of Accounts, and paid out of the contingent fund of this House.

Mr. MCLANE, of Delaware, said, he had no objection to the object of the proposed inquiry, though he had some objection to the form given to it. He thought it contemplated a wider scope of inquiry than was within the power of Congress. He referred to the act incorporating the bank, and quoted so much of it as reserved to Congress the power to appoint a committee to examine its books, &c., for the purpose of ascertaining whether or not the bank has violated its charter. He drew a distinction between this power and that of appointing a committee to inspect the books and proceedings of the bank, for the purpose of reporting to this House and publishing to all the world all its transactions, of whatever nature. The specification of the objects of inquiry was so little necessary to the main object of the resolution, that it would lose nothing of its effect by striking them all out. The inquiry into the amount of discounts to a particular class of individuals, for example, he considered as exceptionable. The right of lending money is vested in the bank, at its discretion, to whomsoever it shall choose. If it have even exercised that power indiscreetly, it is immaterial to this House, with reference to a violation of its charter, (the object of inquiry,) to whom discounts have been made. If the House went so far as was proposed in this respect, it should go further. It should authorize a report to be made of the names of all those who have applied for discounts at the bank, and been refused; and also an inquiry into the character and solvency of all those persons, in order to make that branch of the inquiry effectual. The necessary powers in this respect, Mr. McL. said, the committee of this House would have, under the charter, without a specification of the objects of inquiry; if the committee had not, under the charter, the powers proposed to be given to it, the specification would not confer them. Since, then, the specification was unnecessary, and the resolution, divested of it, would answer every object the gentleman had in view, Mr. McL. moved to amend the resolution, by striking out all that part of it after the words "violated or not," near the beginning, to the word "organization," near the end of it, inclusive. This would leave the inquiry as broad and comprehensive as the nature of the subject would permit, and would divest the resolve of its objectionable features.

Mr. SPENCER opposed the amendment moved by Mr. MCLANE. As to the powers of the House, the language of the resolution was that of the charter, respecting the power of inquiry reserved to Congress. The gentleman seemed to suppose that a committee of Congress, appointed for the purpose, might report whether the charter was violated or not, but were not at liberty to report the facts on which that opinion was founded. But, Mr. S. said, when a power is given, the means of carrying that power into execution are also given. If the power were given to inquire whether the charter of the bank had been violated or not, it irresistibly followed that the power was also given to report the facts which had led to that conclusion. But the gentleman objected, that such a report would involve the exposure of private accounts. Mr. S. said he thought he had not examined the resolution with his usual attention; if he would read it again, he would find that no private account whatever was proposed to be examined, except the accounts of the stockholders, so far as to the amount of discounts which they may have received. No inquiry was proposed as to the balance of private individuals' accounts; none as to their deposites; none as to the amount of the debts which they may now owe

to the bank, but the aggregate amount of discounts to the individual stockholders since the commencement of the operations of the bank. The resolution does not imply that the stockholders were not justly entitled to the accommodation they have received, nor does it question their solvency; but the particular inquiry objected to is essential, said Mr. S., to enable us to make up our minds whether the bank has acted correctly or not. The object of the resolution, Mr. S. went on to say, did not appear to be precisely understood, perhaps owing to his own neglect not more carefully to explain it. Its object was twofold; to inquire, first, whether there had been a violation of the charter or not; and, secondly, whether improper discounts had not been made to stockholders, &c. The mode of violation of the charter being pointed out in that instrument, needed no more precise definition than that contained in the first clause of the resolve. Then followed, however, in the resolution, other objects of inquiry, regarding the particular instances of alleged misconduct to which the attention of the public has been directed. To accomplish this object another power had been given, to send for persons and papers. It did not follow, because the committee was to report on these particular instances, that the committee was to derive its information from the books of the bank alone. There were other means at their disposal; they might examine papers not belonging to the bank, and persons having personal knowledge of its transactions. An objection had been raised, as he had understood, and to which (though not yet urged in this House) he would advert, that this specification of particular points of inquiry appeared to contain a censure upon the bank, or on the conduct of its officers. It was not so intended, Mr. S. said, nor did he think such an inference could be fairly drawn from the words of the resolve. It embraced some points of inquiry involving no misconduct in their result—that, for example, respecting the refusal of the bank to pay specie for the notes of its branches, &c. There were few who would say that that measute was an evidence of misconduct on the part of the bank, much less that it was a violation of its charter; because such a measure may have been necessary and unavoidable in the present state of the money concerns of the country. The resolution was not intended to convey charges against the bank, but to embrace all the topics respecting which the public mind had been agitated, and to obtain a report thereon from a respectable committee of this House. As to the facts which rendered such an inquiry necessary, it had been suggested that mere general rumor was not a sufficient foundation for this House to act upon. Mr. S. said, he had meant to be understood as having introduced this resolution, not under the influence of general rumor merely, but, as he now stated, he had individual information which left him no doubt of the truth of most of the allegations which he had heard on this subject. With respect to the fact of the payment of the second instalment by discounts to the stockholders, the letter of Mr. Lloyd to a committee of this House, and now on its files, established that fact; and from the circular letters of the cashiers of the bank and its branches, published for information in the public prints, he had evidence of the refusal to pay the notes of the bank or its branches, except where issued. There seemed, therefore, to be sufficient information to authorize an inquiry—sufficient, at least, to induce a belief that there was something to excite the agitation which all knew to exist in the public mind. It had, indeed, appeared to him to be due from him to the House, to state what charges he had heard against the bank, and what were the objects to which he was led to direct the inquiries of the committee. It had appeared to him proper, also, to let the bank and the community know to what objects the inquiry was pointed. He could see no harm from the specific designation of the objects of the inquiry; but, on the contrary, he said, good might be anticipated, for the reasons already stated. With these views he could not assent to the modification proposed, and should feel it to be his duty to vote against it.

Mr. Lowndes, of South Carolina, commenced his remarks in favor of the proposed amendment, by saying that he should not vote for it from any apprehension of defect of power in the House to prosecute the inquiry in the terms proposed. He had no doubt of the power of the House, if the public interest required it, to direct a committee to make such a report. He decidedly objected, however, to the specifications proposed to be stricken out, on the ground that, if retained, the inference would follow, that certain allegations were therein embraced, the truth of which being confirmed by inquiry, the censure of Congress if not the penalty due to a violation of the charter, would follow of course. If a committee should be directed to inquire whether the bank has violated its charter, and, particularly, whether it has paid its instalments by discounts, &c., the impression would be made on the mind of every man that the committee had nothing to do but to ascertain these facts, to prove the charter of the bank to have been violated. It did not comport with justice, nor, Mr. L. thought, with the dignity of the House; in a case, too, where the gentleman himself knew the principles involved to be susceptible of much argument and discussion for and against them, to force the public mind, as it were, to the conclusion that, certain facts being proved, the charter of the bank will be proved to have been violated. Therefore, he was in favor of excluding the specifications: With regard to the objects of them, he had no objection whatever to an inquiry on those and all others that might be suggested. The nation, said he, has a deep interest in the conduct and management of the bank; our duty to the people whom we represent, the national interest as owners of a large portion of the stock, its interest in the revenues being wholly payable in the notes of that bank, will justify us in a constant and vigilant attention to its proceedings. If there had been a doubt whether the conduct of the bank

had been proper or not, Mr. L. said, the House was fully justified in investigating into the facts, and inquiring whether abuses had been committed or not. Such an investigation he considered at present not only interesting to the public, but necessary to the bank. Many imputations had been thrown on the bank, the result of disappointed expectations, where the expectations themselves had been unreasonable; and it was the interest of the bank that a full inquiry should take place. Recurring to the observation of the effect the specifications in the resolution would have on the public mind, Mr. L. said, while he would therefore exclude them, at the same time voting for any inquiry in its broadest shape, he would remind gentlemen of some circumstances connected with the contents of the resolve. The mover of it had himself referred to a report made by a committee of this House appointed to inquire into the subject of the payment of the second instalment on the stock of the bank by discounts—a report made at a time when, if that course had been wrong, it was in the power of Congress to have prevented it. The fact of a general regulation having been adopted for discounting notes for payment of the second instalment, was acknowledged to the committee, who yet reported to this House a recommendation that the committee be discharged from the further consideration of the subject.

Mr. L. said he would not now enter into an investigation of the conduct of the bank on that occasion; his impression at the time had been, that the arrangement was beneficial to the community, by facilitating and expediting the organization of the bank, &c.; but that it was an imprudent one, on the part of the directors of that institution, whose object it should be to adhere to the very line of their duty, as pointed out by the charter. The point, however, to which he desired to call the attention of the House, was, that when the corrective and remedy were in their hands, if the act was wrong, a committee having been instructed to inquire into it, and having reported the fact, the House had not thought proper to interfere at all in the business. Under these circumstances, said he, it would be harsh indeed, at this late hour, availing ourselves of the new lights which experience has afforded us, to censure the bank for having done that to which, at the time, we tacitly consented. A distinction, of course, must be drawn between the second and third instalments, in regard to the mode of payment; the payment of the latter by notes, discounted for that purpose, everybody anticipated. The bank was then in full operation, discounting all good paper offered to it, and could not be expected to pass a law of exclusion in regard to its own stockholders, who had as fair a claim at least as others to accommodation; indeed, there never perhaps had gone a bank into operation in which the same thing had not occurred; it was therefore expected of the Bank of the United States in regard to the third instalment on its stock, and could not be considered as forming a ground of complaint against it. Another specific object of the inquiry was, whether the bank or its branches had sold drafts and received a premium thereon. The gentleman from New York had stated, with great candor, as he understood him, that he did not consider it an imputation on the bank that it had refused to pay specie for its notes at any other branch than that from which they issued; and that he therefore did not mean to contend that the bank ought to have made its paper and that of its branches payable indifferently at the bank or at any and all of its branches. Connected very closely with this subject, Mr. L. said, was the practice of selling drafts on distant banks for a premium. He knew, he said, that much of the disapprobation of the conduct of the bank proceeded from the disappointment of an expectation that it would emit and sustain a currency which should be of equal value throughout the Union; and, it might be of some importance, as many of the members of the present Congress were not members of the last, to advert to circumstances which proved that the expectation referred to was never entertained in this House at the time the bank was incorporated. The Congress which preceded that by which the bank was established, Mr. L. said, had had under its consideration a bill for establishing a bank, one clause of which did provide that the bank and all its branches should be obliged to pay the notes of each other; by which means, if practicable, the paper of all would have been every where of an equal value. That clause, however, was not inserted in the bill which actually passed. If there were no other, this would be sufficient proof, from the records of the House, that it was not expected that a currency that should be everywhere of equal value would be established. But, further: in the act incorporating the bank, there is a provision that the bank shall charge nothing to the Government for difference of exchange. Was this not, Mr. L. asked, positive proof that it was expected that the bank would charge in some cases the difference of exchange? Was it not proof that it was the expectation of the framers of the law that the present state of things would result? He would not enter at all into the general question whether it would or would not be possible for the Bank of the United States to equalize, without great loss, the exchange between different sections of the country, if by their charter they were bound to do so. If it were practicable, it would be even now their interest to do it; but, Mr. L. said, he believed it would be wholly impracticable. The question was not, however, whether it was possible for the United States to effect it, whether it would be beneficial to the country or to the institution, but whether the bank was bound to effect the object. The exclusion of the clause having this object, after it had been included in a like bill before Congress, at the preceding session, and, in addition, the express exception of the Government from all charge for difference of exchange, showed that it was not expected of the bank. If, however, he were to go into the discussion of the practicability of establishing a

circulating medium of equal value in every part of the country, it would appear not only that in the reason of the thing it was not practicable, but experience also would show that in a large empire it is visionary to look for it. Even in England, as gentlemen well knew, when the bank paid in specie, the value of a bank note in different parts of the country was not the same. There was a settled rate of exchange between Edinburg and London, and between all the important towns in Great Britain; and the Bank of England, with every advantage, improved by an hundred years of experience, had never been able to accomplish that object. The inquiry, however, was not whether the object was practicable or possible, but whether the bank was bound to effect it; and he had shown that it was not. Objections of a similar nature might be urged to most of the specifications in the resolve; but it was sufficient to say that, if necessary, the committee, under the general terms of inquiry, would feel themselves at liberty to inquire and report on any of the points in question; that no additional power could be conferred on the committee by descending to particulars; and that to retain the specification might produce an impression that the House had determined certain facts, if proved, to be conclusive against the bank, whilst the House had, in fact, expressed no opinion upon them. There was another objection, of a different kind, to the terms of the resolve as it now stood: that it specified certain objects, to which it in a manner thus limited the proposed inquiry, whilst, in his opinion, there were many facts not referred to, equally if not more important to the bank, and to the public interests, than those which were. Without justifying or censuring the conduct of the bank, without expressing, in a parenthesis, or by inuendo, an opinion unfavorable to it, Mr. L. said he thought it would be proper to institute a committee of inquiry, and leave them, on their own responsibility, to settle the principles on which they should proceed in it, and to report accordingly. He was in favor of leaving the committee wholly unfettered, except by their own opinion of what was required by the public good; and therefore hoped the amendment would be agreed to.

Mr. SPENCER again rose. He took a different view of his own motion from that which had been taken by the gentleman who had preceded him. The first branch of it embraced a distinct substantive object of inquiry, whether the bank has violated its charter. The resolution then recited other objects of inquiry, on which information was desirable, by which the House might be induced to exercise or refrain from exercising its discretion of requesting a removal of the directors on the part of the United States, &c. After denying that the enumeration of objects limited the range of inquiry to the committee, Mr. S. proceeded to notice the observation of Mr. LOWNDES, that he (Mr. S.) had admitted that the bank was not censurable, perhaps, in the present state of the currency, for not paying specie for the notes of its branches, &c. I might have proceeded, said Mr. S., and perhaps ought to have remarked, that it was a proper subject of inquiry, how far the state of the currency referred to has been produced by the bank itself. So far as he had understood, Mr. S. said, at the time the bank was chartered, loud complaints were made against the State banks, that they had issued a large amount of notes without a specie basis, which had of course ceased to circulate out of their immediate vicinity, except at a great rate of depreciation. This institution was established to remedy the evil, and was founded on a basis of specie and of public debt, so solid that it was supposed it would never be distressed for the means of paying its own notes, but would be always able to sustain the currency as well as the credit of the country. But, instead of correcting the evil, the bank had pursued the same course (as he understood it) as the State banks, and made things worse than they were. Instead of gold and silver, and public debt, it had received, in payment of its instalments, the credit of individuals as the basis on which to issue its notes and carry on its operations. How far, therefore, the present state of the currency was attributable to this institution itself, Mr. S. said he was not prepared to answer. He wished for facts to enable him to decide. Whatever, Mr. S. further said, had been the expectation in Congress at the time of passing the bank law respecting the establishment by it of an uniform national currency, the fact was otherwise with the public; and it became proper for him to show on what grounds the public expectation rested. The first document on the subject to which he referred was the Message of President Madison to Congress, of December 5, 1815, in which the establishment of a bank was suggested as the means of restoring the currency of the country from its disordered state; and, next, he referred to the annual report of Mr. Secretary Dallas, about the same period, wherein he proposed the establishment of a National Bank, as the means of establishing an uniform national currency. With these inducements before them, Congress had passed the law, and it was not without reason the public expected, from what had been predicted of it out of Congress, if not on this floor, that the bank would be the means of establishing an uniform national currency. He had, however, been informed by many who were members of Congress, that the only consideration which had induced them to vote for the bill for establishing the bank, was, that it was expected to restore an uniform national currency. Thus much, Mr. S. said, he thought necessary to state, to justify that part of the inquiry which relates to the fact of the bank's having refused to redeem with specie the notes of its branches, &c. Because, if the fact were so, the committee would inquire whether it was owing to causes not within the control of the bank, or to the misconduct of the latter. This inquiry, he said, was properly embraced in the resolution, although it did not go to establish the fact of a violation of the charter of the bank. There were remedies in the power of the Government to correct any

misconduct short of a violation of its charter on the part of the bank: it was in the power of Congress to request the removal of the directors; to direct the deposites of the Government to be withdrawn from the bank, or to declare that the notes of the bank should no longer be received in payment of duties. There was therefore abundant reason for inquiry into any particular misconduct of the bank, though it should not amount to a violation of its charter.

Mr. LOWNDES made a few other remarks in favor of the amendment; among which was this: that he could not conceive what greater power any committee could desire over a bank than a *carte blanche* to examine into its whole proceedings.

The question having been taken on the proposed amendment, was decided in the affirmative—yeas 85, nays 64.

Mr. LOWNDES, then, to make the inquiry as comprehensive as possible, moved to insert, after the words "Bank of the United States," the words "to report thereon."

Mr. SPENCER suggested a different amendment, for directing the committee also to inquire into the instances of misconduct on the part of the directors of the bank, or of any of its offices of discount and deposite.

Mr. LOWNDES said he preferred his own motion, since that of Mr. S. would convey an imputation on the conduct of the directors, when it was only the object of the House to inquire what that conduct had been.

The amendment of Mr. LOWNDES was adopted.

Mr. BARBOUR, of Virginia, moved to strike out so much of the resolution, as amended, as gives leave to the committee to meet in the city of Philadelphia; which, it appeared to him, was not necessary to retain. With respect to an inspection of the books of the bank, if the necessary books could not be brought here, he should suppose the House might safely rely on transcripts made by the officers of the bank, under the inspection of the directors generally, of whom five were appointed by the United States. He would not say that he would refuse to agree to such a proposition, if he was convinced it was absolutely necessary; but, until he was, he thought it would comport better with the usual manner of proceeding in the Congress of the United States, to have a transcript from the books brought here, rather than that the committee should travel to where the books are.

Mr. TERRY, of Connecticut, hoped that the motion would not be agreed to, as it would defeat the object of the resolution. In the first place, the books were not in the keeping of the directors—they have a right to inspect the books, but they are in the keeping of the cashier. The books, he said could not be brought here, because they were wanted every day and every hour. As to making transcripts of the books, that, he said, would indeed be a Herculean task. It would be impossible to make the transcript within a reasonable time. It would, besides, be imposing a hardship on the Bank of the United States, to send its books here, and keep them here the necessary time, so long almost wholly interrupting the business of the bank. He thought the object of the resolve could not be attained so readily in any other way as by an inspection of the books; for which purpose, it appeared to him absolutely necessary that the committee should go to Philadelphia.

Mr. SPENCER considered the part proposed to be stricken out as of the essence of the resolution. It amounted after all, only to a leave to the committee to go to Philadelphia if they should think it necessary. Since an inspection of the books of the bank was the object of the resolve, the question which presented itself was, whether it was better to bring the books here, or go to the books. If they were brought hither, independent of the consequent suspension of the business of the bank, the labor of the committee would be unusually increased by the confusion in which they must be brought, and the difficulty of afterwards arranging them. In regard to transcripts, the great labor of making them out of the question, it seemed hardly fair to call on the gentlemen implicated for the evidence of their own condemnation. How far others would be satisfied, said Mr. S. I know not—but, for myself, I should not be satisfied with any transcript from the books; not that I would impeach the integrity of those who would have to make them, but that it will take so long as to defeat the inquiry altogether. It was due to the bank, as well as to the nation, that the inquiry should be so conducted, as that there should be no pretence for any doubt of the entire correctness of the facts which the committee should report.

Mr. LOWNDES said, if there was to be an inspection of the books of the bank at all, it could only take place where the books were. He wished, for his part, that the investigation should be as close as possible, that no doubt should possibly be left on the subject upon the mind of any one. He had no objection that the committee should go not only to Philadelphia, but that they should afterwards repair to the different places, in succession, where branches were established. He had no objection, therefore, to giving all necessary powers; but he wished to give no more power than was necessary, and should have preferred withholding the leave to go to Philadelphia until the committee, finding it necessary, in the course of their investigation, should ask for it. This, he believed, had been the usual course in every case heretofore in which such powers had been granted. He should, therefore, vote for the amendment, with the determination, if the committee should, in the progress of their inquiry, think it necessary to go to Philadelphia, to vote for granting to them the necessary leave.

Mr. SPENCER demanded the yeas and nays on this motion. Unless the committee had adequate powers to obtain the object in view, the resolution was mere waste paper. What means would they have here of detecting deception, if any were attempted? How could they tell any better than they could now whether the measures

of the bank were correct or not? It seemed, from the very nature of the inquiry, that personal inspection was necessary; and it was the mode of inquiry which the charter itself seemed to have contemplated.

On the question on Mr. BARBOUR's motion, to strike out the leave to repair to Philadelphia, it was determined in the negative, as follows:

YEAS—Messrs. Abbott, Allen of Vermont, Barbour of Virginia, Bayley, Bryan, Butler of New Hampshire, Clagett, Cobb, Crafts, Cushman, Darlington, Desha, Earle, Garnett, Hale, Lowndes, Middleton, Morton, Mumford, Jeremiah Nelson, H. Nelson, Newton, Owen, Pindall, Rice, Richards, Settle, Sherwood, Silsbee, J. S. Smith, Southard, Storrs, Strother, and Whitman—34.

NAYS—Messrs. Adams, Anderson of Pennsylvania, Anderson of Kentucky, Austin, Baldwin, Ball, Bassett, Bateman, Becher, Bellinger, Bennett, Blount, Boden, Boss, Burwell, Butler of Louisiana, Campbell, Claiborne, Colston, Comstock, Cook, Crawford, Cruger, Drake, Edwards, Ellicott, Ervin of South Carolina, Floyd, Gilbert, Hall of North Carolina, Harrison, Hendricks, Herrick, Hogg, Holmes, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lawyer, Lincoln, Linn, Little, McLane of Delaware, W. Maclay, W. P. Maclay, McCoy, Marchand, Mason of Massachusetts, Mercer, Merrill, Robert Moore, Samuel Moore, Moseley, Murray, T. M. Nelson, New, Ogden, Ogle, Orr, Parrott, Patterson, Pegram, Pitkin, Pleasants, Poindexter, Porter, Reed, Rhea, Rich, Robertson, Rogers, Ruggles, Sampson, Savage, Sawyer, Schuyler, Scudder, Seybert, Shaw, Simkins, Slocumb, Bal. Smith, Alex. Smyth, Speed, Spencer, Stewart of North Carolina, Tallmadge, Tarr, Taylor, Terrell, Terry, Tompkins, Townsend, Trimble, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Williams of Connecticut, Williams of New York, Williams of North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania—115.

The question was then taken on the resolution as amended, so as to read as follows:

Resolved, That a committee be appointed to inspect the books and examine into the proceedings of the Bank of the United States, to report thereon, and to report whether the provisions of its charter have been violated or not; that the said committee have leave to meet in the city of Philadelphia, and remain there as long as may be necessary; that they shall have power to send for persons and papers, and to employ the requisite clerks; the expense of which shall be audited and allowed by the Committee of Accounts, and paid out of the contingent fund of this House.

And it was passed in the affirmative.

Messrs. SPENCER, LOWNDES, MCLANE, BRYAN, and TYLER, were appointed the said committee.

TUESDAY, December 1.

Mr. MIDDLETON presented the petition of the Marquis de Vienne, stating, that he served as a Colonel in the service of the United States, in the Revolutionary war; that he was then rich and refused to receive any compensation, but that, having been reduced to poverty by the revolutions in France, he is now compelled to seek a remuneration for his said services, from Congress, and praying to be paid such sum as may be thought a just equivalent therefor; which petition was referred to a select committee; and Mr. MIDDLETON, Mr. HARRISON, and Mr. COLSTON, were appointed the said committee.

Mr. POINDEXTER, from the Committee on the Public Lands, who were instructed to inquire into the expediency of prohibiting the emigration and settlement of the Choctaw tribe of Indians on the lands of the United States, west of the river Mississippi, until they shall have acquired that right by treaty, made a report thereon, which was read; when Mr. P. reported a bill to prohibit the Choctaw tribe of Indians from settling or hunting on the lands of the United States, west of the Mississippi, which was read twice, and committed.

On motion of Mr. SAWYER, the Committee on Millitary Affairs were instructed to inquire whether any, and, if any, what alterations are necessary to be made in the act, entitled "An act to amend the act entitled an act making further provision for military services during the late war, and for other purposes."

On motion of Mr. FOLGER, the Committee of Ways and Means were instructed to inquire into the expediency of granting to William Coffin and others, owners of the brig Bonif, a drawback of the duties on a quantity of whale oil imported from Patagonia and Brazil, in said brig, in the month of June, 1817, and which has since been exported out of the United States.

The bill from the Senate, entitled "An act to increase the salary of certain officers of Government," was read twice, and committed.

MIGRATION OF SLAVES.

Mr. LINN, of New Jersey, offered the following resolution:

"*Resolved*, That the committee appointed on so much of the Message of the President of the United States as relates to the unlawful introduction of slaves into the United States, be instructed to inquire into the expediency of passing a law prohibiting the migration or transportation of slaves or servants of color from any State to any other part of the United States, in cases where, by the laws of such State, such transportation is prohibited; and that they have leave to report by bill or otherwise."

Mr. LINN said, in introducing his resolution, that it related to a subject of much interest in his part of the country, and, as the resolution only proposed an inquiry, he hoped it would not be objected to.

Mr. POINDEXTER, of Mississippi, objected to it. Any man, he said, had a right to remove his property from one State to another, and slaves as well as any other property, if not prohibited from doing so by the State laws. With those laws, whatever they were, the United States, he said had no right to interfere. The idea was a perfectly novel one, that there should be a double set of penal statutes on the same subject—one set by

the States, and one by the United States—and that the military force of the United States should be employed to carry into effect the penal statute of any State. How were the United States to interfere on this subject? What judicial tribunal would they resort to, to effect the object contemplated? Any penal statute they could pass on the subject, Mr. P. said, would be entirely nugatory, as it could not be carried into effect; and he was therefore opposed even to an inquiry into the matter.

Mr. COLSTON, of Virginia, in addition to what had fallen from Mr. POINDEXTER in opposition to the resolution, suggested that it was perfectly within the power of the State sovereignties to execute any law they might enact on this subject, more effectually than they could do by the aid of the authority of the United States.

The question on the passage of the resolve was then taken, and decided in the negative.

GENERAL JOHN STARK.

The bill for granting a pension of sixty dollars per month to Major General John Stark, was read a third time.

On the question, Shall the bill pass?

Mr. W. P. MACLAY asked for information of the committee who reported the bill, as no written report had accompanied it, on what grounds it stood; whether the pension was granted because of indigence on the part of General Stark, or for what other reason?

Mr. COBB, of Georgia, said he must join his voice to that of his friend from Pennsylvania. He knew not, from anything that appeared, what were the claims of General Stark, nor that he stood in need of a pension. Why was he selected, from among the many surviving officers of the Revolution, to receive a pension of this amount? He hoped the reason would be explained—or, though with reluctance, he must vote against the bill.

Mr. HARRISON, of Ohio, said his friend from Georgia could not have been present when this subject was before the House at the last session, or he would not have asked the information which he now desired. He had supposed his friend from Georgia was better acquainted with the history of his country, than not to know the merits and distinguished Revolutionary services of this hoary veteran. At the darkest period of the Revolution, General Stark had rendered the most important services to his country; and those services were not occasional, but were prolonged to the close of the contest. It was now said that this worthy was in indigent circumstances, and debilitated by old age; that, if not soon bestowed, he would not live to enjoy the aid about to be afforded to him. Was it possible, Mr. H. asked, that an American Congress could behold so distinguished a patriot, as he is, sinking into the grave in the want of every necessary of life, or that they would coldly place him among the mass of pensioners under the general act of last session? For his part, he would give out the last dollar in the Treasury for the relief of General Stark. With him, he said, it was not a matter of choice to vote for the bill; it was an imperious duty.

Mr. LIVERMORE said, that as a member of this House, and as a citizen of New Hampshire, he was grateful to the gentleman from Ohio for the manner in which he had expressed himself on this occasion. He would only add that, as to the circumstances of General Stark, they were, to his personal knowledge, very reduced. He was, as to personal exertion for his support, at the age of ninety years, wholly helpless. He might or might not be owner of a small farm; but, if so, it was an unproductive one. He was, and had been for some time, dependent for support on his children, themselves in very moderate circumstances. This was the true situation of General Stark.

Mr. COBB said, if it was true, as suggested by the gentleman from Ohio, that he was not well versed in the Revolutionary history, should he want information on that head, he should know where to apply; for the gentleman himself was a living chronicle of the occurrences of that day. He did not, he said, doubt the merits of General Stark; but he had yet no evidence that the pension ought to be granted. The House had been told he was very old and infirm. But, if the House were to grant pensions to the old and infirm, where would they draw the line at which they would stop? Are we to be told, said he, that it is to Revolutionary officers only that pensions are to be granted? Some twenty or forty years hence, may not the same argument, by the aid of this precedent, be applied to General Jackson, General Brown, General Scott, or any other general who distinguished himself during the late war? He was free to say, for himself, that he thought the pension list had already been swelled to an amount which absolutely jeopardized the Treasury, or soon would, at the rate at which it still increased. General Stark had become poor, whether by his misfortune or his misconduct, he had not heard; but, if he had been so long supported without the aid of Government, he had no doubt he could be for the remainder of his life. He had yet heard no reason to induce him to vote for this pension.

Mr. LIVERMORE said, if the gentleman meant to insinuate that General Stark had been brought to poverty by intemperance, or by fault of any kind, he was wholly mistaken; the fact was not so. General Stark had worn himself out in the service of his country, in his youth, and had since supported himself as well as he could. He was in service before the Revolution, and during that trial he did the nation great service and himself great honor. At an early period of the Revolution, when every patriot was called a traitor, Stark was in the foremost rank. He was in the field at Bennington, and animated the courage of others by his conduct and example. All the inhabitants of New Hampshire, and of the Green Mountains, flocked where Stark was; where he fought, they fought and bled; had he died, they would have died with him.

Mr. Butler, of New Hampshire, gave some further information respecting General Stark. He was, he said, the only surviving general officer of the Revolution, now declining in old age, extremely poor, and long supported by his sons, who were not very well able to do it. This, Mr. B. said, might be the last opportunity Congress could have of contributing to the relief of his wants. As a precedent had been demanded, Mr. B. quoted the pension granted at the last session to General St. Clair as directly in point. General Stark, he added, had served during the whole French war, and no man had afterwards done more than him to assert and establish the independence of his country.

Mr. Cobb explained, that he did not mean to suggest that General Stark was intemperate, but merely to state his ignorance of the fact, whether his present poverty had been owing to his fault or misfortune.

The question on the passage of the bill was decided in the affirmative, without division.

CLAIM OF BEAUMARCHAIS.

The remainder of the day's sitting was spent in Committee of the Whole, on the claim of the heirs of Beaumarchais.

Mr. Baldwin concluded his speech in support of the justice of this claim, and the expediency of the Government's paying it.

Mr. Colston spoke for about half an hour against the claim.

When the Committee rose, reported progress, and obtained leave to sit again.

Wednesday, December 2.

Another member, to wit: from Pennsylvania, Joseph Heister, appeared and took his seat.

A new member, to wit: from North Carolina, William Davidson, elected to supply the vacancy occasioned by the resignation of Daniel M. Forney, also appeared, was qualified, and took his seat.

Mr. Smith, of Maryland, from the Committee of Ways and Means, to whom was referred an inquiry into the expediency of repealing the duty on imported salt, made a report adverse to the expediency of the abolition of the duty, which was committed to a Committee of the Whole.

Mr. Johnson, of Kentucky, from the Committee on Military Affairs, reported a bill authorizing the establishment of a national armory on the western waters; and the bill for the relief of Joseph Wheaton; which were severally twice read and committed.

The Speaker laid before the House a communication from the Secretary of the Treasury, transmitting an estimate of the appropriations proposed for the service of the year 1819; which was referred to the Committee of Ways and Means.

The Speaker also laid before the House a letter addressed to him by Edward De Krafft, printer for Congress, remonstrating against the alleged violation of his contract with the Clerk to do all the printing ordered by the House, by the resolution of the 30th ultimo, directing the printing by contract of the code of laws prepared for the District, and claiming said printing as matter of right; which letter was read and ordered to be laid on the table.

Mr. Harrison, of Ohio, offered the following resolution:

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of continuing the act passed at the last session, entitled "An act to suspend for a limited time, the sale or forfeiture of lands for failure in completing the payments thereon;" and also to inquire what further relief it may be proper to give to the persons who are indebted to the United States for the purchase of lands.

In support of the inquiry, Mr. H. briefly referred to the difficulty which at present existed in Ohio, in making payments for land in the kind of money required by the Treasury Department, which, from the suspension of specie payments by the banks of Ohio, was now very limited, the notes of all such banks being refused, and the consequent necessity of extending the indulgence mentioned in his resolution. The motion was agreed to.

Mr. Bryan, of North Carolina, asked and obtained permission of the House to be excused from serving on the committee appointed to inquire into the conduct of the Bank of the United States. Mr. B. stated, that, in asking this indulgence, he was not actuated by a desire to shrink from the important duty assigned him, but that he was a stockholder of the institution, and, as such, conceived that delicacy forbad his being one of those appointed to make the investigation ordered by the House—an investigation, upon the result of which the future character and prospects of the institution would mainly depend. [Mr. Burwell was appointed in Mr. Bryan's place.]

On motion by Mr. Tallmadge, the Committee on Naval Affairs were directed to inquire into the expediency of increasing the amount of the security to be hereafter required from Navy Agents, and also of requiring security to a greater amount from those now in office.

On motion of Mr. Simkins, the Committee on Post Offices and Post Roads were instructed to inquire into the expediency of increasing the compensation of such postmasters as are on the main post route from Washington City, by Augusta, in Georgia, to New Orleans, where there are cross mails, and whose compensations do not exceed a certain sum.

Mr. S. justified the proposed inquiry by adverting to the unremitting and onerous duties required of certain postmasters, on the main southern post route, and the small and inadequate compensation at present afforded by their emoluments.

A message from the Senate informed the House that the Senate have passed the resolution "authorizing the transmission of certain documents free of postage;" with an amendment, in which they ask the concurrence of this House.

The amendment was read, and concurred in.

The House took up and proceeded to consider the report of the Committee on Pensions and Revolutionary Claims, made at the last session, on the petition of William Lawrence: Whereupon, the petition was referred to the Secretary of War.

CLAIM OF BEAUMARCHAIS.

The House then again resolved itself into a Committee of the Whole, on the bill for the relief of the heirs of Caron de Beaumarchais.

Mr. HOPKINSON occupied the floor in a speech of about an hour, in opposition to the claim of the petitioners; and

Mr. ERVIN, of South Carolina, followed at some length in support of the claim; when the committee rose, on the motion of Mr. HOLMES, and obtained leave to sit again.

THURSDAY, December 3.

Another member to wit: from Pennsylvania, LEVI PAWLING, appeared, and took his seat.

On motion of Mr. WILLIAMS, of North Carolina:

Ordered, That all petitions presented to the House and committed at the last session, from the consideration of which, without having decided on them, for the want of time, the several committees to which they were referred were discharged, be considered as again referred to the said committees, respectively, on the suggestion of any member to the Clerk of the House.

Mr. COBB presented a petition of the Senate and House of Representatives of the State of Georgia, on behalf of Lachlan McIntosh, junior, William Donnis, Stephen Heard, John Donaldson, Joseph Martin, John Sevier, and Thomas Carr, commissioners appointed by the State of Georgia, in virtue of a resolution of the General Assembly of that State, of the 20th of February, 1784, for surveying the lands lying on the Big Bend of Tennessee river, or their heirs or representatives, praying that the lands to which the commissioners aforesaid were entitled for their services in making said survey, and promised by the said resolution, may now be granted to such of the said commissioners as are living, and to the heirs or representatives of such as are deceased; which memorial was referred to a select committee; and Messrs. CLAIBORNE, COBB, HOGG, SETTLE, and CRAWFORD, were appointed the said committee.

Ordered, That the report made by a select committee at the last session, (10th of February, 1818,) on the petitions of General Andrew Jackson, Thomas Carr, and George W. Sevier, and others, and the bill for the relief of the said Thomas Carr, and others, together with the petitions aforesaid, be referred to the committee last appointed.

On motion of Mr. POINDEXTER, the Secretary of the Treasury was directed to lay before this House a statement of the sales of the public lands in the Alabama Territory, at public and private sale, specifying the date of such sales, and the period at which the last payment will become due; and also the aggregate amount of money paid to the receiver of public moneys at Huntsville, in the said Territory; and the description of bank paper, if any, which is receivable there in payment of the public lands.

On motion of Mr. TRIMBLE, the Committee on the Public Lands were instructed to inquire whether any, and, if any, what provision ought to be made by law to authorize the emanation of patents to soldiers on furlough at the close of the war, and to whom discharges were not issued in consequence of their not being ordered to join their respective regiments.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

I transmit to the House of Representatives copies of such documents referred to in the Message of the 17th ultimo, as have been prepared since that period. They present a full view of the operations of our troops employed in the Seminole war, who entered Florida.

The residue of the documents, which are very voluminous, will be transmitted as soon as they can be prepared.

JAMES MONROE.

DECEMBER 2, 1818.

The Message was read, and, together with the documents, ordered to lie on the table.

CLAIM OF BEAUMARCHAIS.

The House again resolved itself into a Committee of the Whole on the report of the select committee favorable to the claim of the heirs of Caron de Beaumarchais.

Mr. SPENCER spoke at large in support of the report of the committee.

Mr. STORRS followed on the opposite side of the question.

Mr. BALDWIN again addressed the committee in support of the claim, and Mr. PITKIN in opposition to it.

When the Committee rose, reported progress, and obtained leave to sit again.

FRIDAY, December 4.

Another member, to wit: from Massachusetts, TIMOTHY FULLER, appeared, and took his seat.

Mr. JOHN MCLEAN appeared, produced his credentials, was qualified, and took his seat as the Representative of the State of Illinois in this House.

Mr. ALLEN, of Massachusetts, presented a petition of John Clarke, an officer in the Revolutionary Army, praying compensation for his services in the capacity aforesaid, as, also, for property lost in the public service.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill making a partial appropriation for the military service of the United States for the year 1819, and to make good a deficit in the appropriation for holding treaties with the Indians; which was read twice, and committed to a Committee of the Whole.

Mr. ROBERTSON, from the Committee on Private Land Claims, made a report on the petition

of Philip C. S. Barbour, accompanied by a bill for his relief; also, a general report on sundry petitions, for confirmation of certain land claims derived from the French and Spanish Governments, accompanied by a bill "for the final adjustment of certain land claims in the State of Louisiana and Territory of Missouri;" which were twice read, the first committed, and the second laid on the table.

On motion of Mr. POINDEXTER, the Committee on Military Affairs were instructed to inquire into the expediency of authorizing the proper accounting officers of the Treasury to settle and adjust the accounts of John Smith, and the legal representatives of Ambrose D. Smith, and for supplies furnished to the Army of the United States, during the late war with Great Britain, on principles of equity and justice.

CLAIM OF BEAUMARCHAIS.

The House again resolved itself into a Committee of the Whole, on the bill reported by the select committee for the relief of the heirs of Caron de Beaumarchais.

Mr. TALLMADGE resumed the debate on this subject, and spoke about an hour in opposition to the claim and the bill. He was followed by Mr. BASSETT, in a speech of about the same length, in support of the claim, and in defence of the report of the committee thereon.

Mr. BALDWIN added some remarks on the same side, and in reply to gentlemen who had opposed the claim; after which, the Committee rose, and reported the bill without amendment to the House; when the question was taken whether the bill should be engrossed and read a third time, and decided in the negative, as follows:

YEAS—Messrs. Anderson of Kentucky, Baldwin, Ball, Bassett, Bellinger, Butler of Louisiana, Cobb, Cruger, Ervin of South Carolina, Garnett, Harrison, Holmes, Hostetter, Irving of New York, Johnson of Virginia, McLean of Illinois, W. Maclay, W. P. Maclay, Middleton, Samuel Moore, Murray, T. M. Nelson, Ogle, Owen, Poindexter, Robertson, Ballard Smith, Spencer, Tyler, Walker of Kentucky, and Wilson of Pennsylvania—31.

NAYS—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Austin, Barbour of Virginia, Barber of Ohio, Bateman, Bayley, Beecher, Bennett, Blount, Boden, Boss, Bryan, Burwell, Butler of New Hampshire, Campbell, Clagett, Claiborne, Colston, Comstock, Cook, Crafts, Cushman, Darlington, Davidson, Desha, Drake, Earle, Edwards, Ellicott, Folger, Gage, Gilbert, Hale, Hall of North Carolina, Hasbrouck, Hendricks, Herbert, Herrick, Heister, Hogg, Hopkinson, Hunter, Huntington, Jones, Kirtland, Lawyer, Lincoln, Linn, Little, Livermore, Lowndes, McCoy, Marchand, Mason of Massachusetts, Mercer, Merrill, Robert Moore, Morton, Moseley, Mumford, Jeremiah Nelson, H. Nelson, Newton, Ogden, Orr, Palmer, Patterson, Pawling, Pegram, Peter, Pindall, Pitkin, Pleasants, Porter, Rhea, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Sawyer, Schuyler, Scudder, Settle, Seybert, Sherwood, Silsbee, Simkins, Slocumb, S. Smith, Alexander Smith, J. S. Smith, Southard, Speed, Stewart of North Carolina, Storrs, Strother, Tallmadge, Tarr, Taylor, Terrell, Terry, Tompkins, Townsend, Trimble, Tucker of South Carolina, Upham, Walker of North Carolina, Wallace, Wendover, Westerlo, Whiteside, Whitman, Wilkin, Williams of Connecticut, Williams of New York, Williams of North Carolina, and Wilson of Massachusetts—123.

And so the said bill was rejected. The House adjourned to Monday.

MONDAY, December 7.

Two other members, to wit: from Maryland, SAMUEL RINGGOLD, and from Ohio, PETER HITCHCOCK, appeared, and took their seats.

The SPEAKER presented a petition of the Legislative Council and House of Representatives of the Alabama Territory, accompanied with a census of the inhabitants of said Territory; praying that the said Territory may be admitted into the Union as a State; which petition was referred to a select committee; and Messrs. POINDEXTER, CLAIBORNE, COBB, ORR, and BUTLER of New Hampshire, were appointed the said committee.

The SPEAKER also presented another petition from the Legislative Council and House of Representatives of the Alabama Territory, praying for certain alterations in the judicial system of the said Territory; which petition was ordered to lie on the table.

Mr. MCLEAN, of Illinois, presented a petition of the General Assembly of the State of Illinois, stating that previous to the survey of the public lands in the district of Shawneetown, several persons settled on public lands, which, since the survey, have been discovered to be the section No. 16, reserved for the use of schools; and praying that other lands may be assigned for the use of schools in such cases.

Mr. MCLEAN presented another petition of the General Assembly of the State of Illinois, praying for a donation of four sections of land for the purpose of establishing thereon the seat of the government of the said State, for twenty years.—Referred to the Committee on the Public Lands.

Mr. TAYLOR, from the Committee of Elections, made the following report:

The Committee of Elections have examined the certificate of election of John McLean, who is returned a Representative of the State of Illinois, and find the same sufficient to entitle him to a seat in this House.

JOHN W. TAYLOR, *Chairman.*

DECEMBER 7, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the application of Jacob Dox, for compensation for his services as a commissioner on behalf of the United States in taking evidence on the Niagara frontier, in relation to claims against the United States, which report was read; when Mr. W. reported a bill for the relief of said Jacob Dox, which was read twice, and committed.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill con-

cerning widows and orphans; which was read twice, and committed.

Mr. JOHNSON submitted to the House a letter addressed to him as Chairman of the Committee on Military Affairs, from the Secretary of War, upon the subject of the establishment of an additional armory, which was referred to the Committee of the Whole, to which is committed the bill authorizing the establishment of a national armory.

On motion of Mr. HARRISON, the Judiciary Committee were instructed to inquire into the expediency of providing by law, that the sessions of the circuit and district courts of the United States, for the district of Ohio, be held alternately in the city of Cincinnati, and at such other place as now is, or may hereafter be, appointed by law, for holding the same.

On motion of Mr. LIVERMORE, it was

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing an act passed March 3, 1814, entitled "An act to establish the districts of Mumphreymagog, of Oswegatchie, and of the White Mountains."

Mr. L. observed, in explanation, that these districts were established during the embargo, and continued to be necessary during the war which followed; but that now, in time of peace, they were entirely useless, and as they involved an expense of about $1,200, without being necessary, it was expedient they should be discontinued.

On motion of Mr. POINDEXTER, the Committee on Private Land Claims were instructed to inquire into the expediency of authorizing the register of the land office and receiver of public moneys, west of Pearl river, in the State of Mississippi, to receive additional evidence in the claim to land of the legal representatives of Alexander Montgomery, deceased, founded on a warrant of survey, from the Spanish Government, granted to John Montgomery, and reported to the Secretary of the Treasury, according to law.

On motion of Mr. STORRS, twenty-five hundred additional copies of the Message of the President of the United States, in relation to the Seminole war, communicated to this House on the 3d instant, and the documents accompanying the same, were ordered to be printed for the use of the members of this House.

On motion of Mr. PLEASANTS, the President of the United States was requested to cause to be laid before the House of Representatives, the proceedings which have been had under the act, entitled, "An act for the gradual increase of the Navy of the United States;" specifying the number of ships which have been put on the stocks, and of what class, and the quantity, and kind of materials which have been procured in compliance with the provisions of said act; and also the sums of money which have been paid out of the fund created by said act, and for what objects; and likewise the contracts which have been entered into in execution of the said act, on which moneys may not yet have been advanced.

On motion of Mr. FLOYD, the Committee on the Public Lands were instructed to inquire into the expediency of granting to each State a tract of land, not exceeding one hundred thousand acres, for the endowment of an university in each State.

The SPEAKER laid before the House a letter from John Gardiner, enclosing a map of the Alabama Territory, and of military bounty lands in Missouri, and stating that if Congress thinks proper to give to each soldier a map with his bounty land, he is willing to relinquish his impression on reasonable terms; which letter was referred to the Committee on Public Lands.

The House then resolved itself into a Committee of the Whole, on the bill making a partial appropriation for the Military Establishment, &c.; which was reported to the House without amendment, and ordered to be engrossed for a third reading.

The House resolved itself into a Committee of the Whole on the bill for the relief of William Barton; on the bill for the relief of William King; and on the bill for the relief of the heirs of Adolphus Burghart, deceased; which were reported without amendment, and ordered to be engrossed, and severally read a third time to-morrow.

PETITION OF JOHN HAILE.

The House then resolved itself into a Committee of the Whole, on the report of the Committee of Claims on the petition of John Haile.

The petitioner in this case states that, in the month of December, 1814, the enemy entered the town of Tappahannock, and, in consequence of his house being used and occupied as a custom-house, in which the public records were kept, set fire to and destroyed the same, with its contents. The petitioner further states, that, although the house was his own property, it was evident the enemy destroyed it in consequence of its being used as a public office, and he therefore prays Congress to grant him remuneration. The Committee report, as their opinion, that the petitioner cannot, under the law of April, 1816, or under any other law with which they are acquainted, be entitled to relief.

The report was opposed by Mr. GARNETT, on the ground that this property, being in the occupation of the Government, stood on the same footing as property occupied in the military service of the United States, and for that reason destroyed. This position he sustained at some length. Mr. WILLIAMS, of North Carolina, defended the report, contending that, as the property was placed in the situation in which it stood, by the act of the individual, (who received from the Government a good salary for his services,) and not at the requisition of the Government, he had no manner of claim on the Government for relief.

The report was agreed to by the Committee, and, being reported to the House, was there con-

curred in. So the prayer of the petitioner was rejected.

SALES OF PUBLIC LANDS.

Mr. Simkins offered the following resolution:

Resolved, That the Secretary of the Treasury be requested to lay before this House a statement of the sales, public and private, of public lands northwest of the Ohio, *and above the mouth of Kentucky river*; the respective years in which such sales have taken place, the credits given on such sales, the sums which have been paid thereon, those which are now due, and the periods at which they became so; whether any instalments are yet to fall due, and to what amount; also what descriptions of paper have been received, and what are now receivable in payment for said lands.

On the suggestion of Mr. Hendricks, the motion was modified by striking out the words in italic, so as to make the scope of it embrace all the country northwest of the Ohio.

Some discussion then took place on the expediency of adopting the resolution; in which Mr. Strother objected to it, on the ground that much of it was anticipated by information heretofore communicated, or required by the House; that it embraced an extent of information which was unnecessary, and to afford which, would demand of the Treasury Department a labor perfectly herculean, &c.

Mr. Harrison, under an idea that much of the information called for was already communicated in the annual reports from the Treasury, and unwilling to order such a laborious and extensive mass of information precipitately, moved that the resolution lie on the table and be printed; which being acquiesced in by Mr. Simpkins, whose object was not to give unnecessary trouble, but only to obtain information not already communicated;

The resolution was laid on the table.

SURVIVING REVOLUTIONARY OFFICERS.

Mr. Johnson, of Kentucky, from the committee appointed on the petition of William Jackson, solicitor for the surviving officers of the Revolutionary army, and to which were referred sundry petitions of said officers, and of inhabitants of the United States on their behalf, made a detailed report upon said petitions; which was read, and committed to a Committee of the Whole. The report is as follows:

That, on the 21st of October, 1780, by resolution of Congress, it was provided that the officers who should continue in service to the end of the war, should be entitled to half pay during life, to commence from the time of reduction. This stipulation emanated from a previous resolution of Congress, which promised seven years' half pay to the same class of officers, excepting those who might hold any office of profit under the United States, or any of the States.

By another resolution of Congress, in January, 1781, the stipulation was so extended as to embrace the hospital department and medical staff. In the beginning of the year 1783 a memorial was presented to Congress, from a committee of the officers of the Army under the immediate command of General Washington, proposing a relinquishment of the half pay for life, on condition that an equivalent should be provided, either by the payment of a gross sum or by a full compensation for a limited time. This proposition, which originated with officers of the army, grew out of a conviction that the half pay for life was regarded by their fellow-citizens as savoring too much of the spirit of a privileged order, which rendered the measure unpopular with many of the community; and the proposition, on the part of the officers, to relinquish the payment for life, was, and ever will be, viewed as an act of the most distinguished patriotism, in perfect accordance with that entire devotion to the country, which is so strikingly manifested in all their sufferings, sacrifices, and services.

Congress, well apprized of the prevailing objection to the allowance for life, which had been adopted only from necessity, readily embraced the occasion of removing a measure objectionable in its principle, by a commutation of five years' full pay in lieu of the half pay for life, in a resolution of March 22d, 1783, which provided that such officers as were then in service, and should continue therein to the end of the war, should be entitled to receive the amount of five years' full pay in money, or securities on interest, at six per cent. per annum, as Congress should find most convenient, instead of the half pay promised for life by the resolution of October 21st, 1780; the said securities to be such as should be given to other creditors of the United States, provided it should be at the option of the lines of the respective States, and not of officers individually of those lines, to refuse or accept the same. The commutation was acceded to by the officers generally, in the manner pointed out; and at the reduction of the Army they received commutation certificates for the amount prescribed. The memorialists state a variety of facts, and present many considerations, to prove that, by the commutation, great injustice has been done to the officers originally entitled to half pay for life, and their object is to induce the Government to resume the original contract of half pay for life upon certain terms therein expressed; and the memorial concludes with a specific prayer, that an act may be passed directing the accounting officers of the Treasury to adjust the claim of each surviving officer of the Revolutionary Army of the United States, who by the resolves of Congress was entitled to half pay for life, calculating the amount of the principal of the arrearages from the time of his reduction, and deducting therefrom five years' full pay; and the balance of arrearages being thus ascertained, to issue a certificate, bearing an interest of six per centum per annum, to the officer for the amount of said balance; and the officer to be thenceforth entitled to receive half pay, in half yearly payments, for and during the term of his natural life. The committee have endeavored to investigate the subject with all the candor and attention which its merits require; and in any point of view difficulties of no ordinary magnitude presented themselves.

When contemplating the eminent services and generous sacrifices of that illustrious band, the committee could not withhold a favorable report to the full extent of the prayer of the petitioners, could they be governed alone by feeling. The resources of the nation would never repay the debt of gratitude which is due to the patriots and sages of the Revolution, whose counsels and achievements so essentially contributed to the establishment of that freedom and independence

from which so many blessings flow. Was the prayer of the petitioners asked as a gratuity only, new difficulties would arise: other classes of citizens, equally meritorious and much more numerous, whose sacrifices were not less extensive, would have equal claims, and merit equal attention. The whole Revolutionary struggle was marked with public sacrifices and public devotion; every class of citizens endured with cheerfulness the privations and losses to which those trying times subjected them, and in the happiness and independence of the country which followed every member of the community found its best reward; and however desirable it may be that every sacrifice, in time of great public calamity, may receive a pecuniary requital, the American Revolution demonstrates its impracticability, and necessity requires that the munificence of Government should have some limitation. Well aware of this view of the subject, the claim of the memorialists is predicated upon contract and legal obligation. In the light of justice, therefore, the committee have also considered this subject; and it is with feelings of extreme regret they find themselves compelled, in duty, to differ in opinion with the memorialists in the prayer of the petition.

The resolution of Congress, under which the claim for the half pay was commuted, was proposed by the officers, and the commutation voluntarily accepted by them in the manner specified. The memorialists also urge their claim upon the supposition that the commutation was not an equivalent for the original stipulation, that more than five years' full pay was then equitably due. The committee, on this point, are of opinion, that a just estimate was made by the parties when the commutation was agreed upon, under all the circumstances of the case, and ought not to be revised at this day. But, if it were necessary to look for relief, by reviewing the comparative amount, it will be found that the interest of five years' full pay, at six per cent. per annum, is equal to three-fifths of the whole amount of half pay for life: for example, take the advance to a captain, of five years' full pay, at forty dollars per month, $2,400, the annual interest on which would make the sum of $144 at six per centum, and the whole amount of half pay would make the sum of $240 per annum.

The advance of five years' full pay will also be found equal to the present worth of half pay for more than fifteen years. The committee cannot, therefore, discover such a great inadequacy in the amount stipulated. The resolution of March, 1783, provided that the five years' full pay should be in money, or securities on interest at six per cent. per annum, as Congress should find most convenient; the said securities being such as should be given to the other creditors of the United States.

Congress found it most convenient to pay in securities on interest, and for this purpose gave certificates conformable to the stipulation; the only evidence of debt in their power, and the same as were given to other creditors of the United States; the faith of the nation was pledged for the payment of these certificates, and the pledge was subsequently redeemed by the payment of the nominal amount, with interest, in gold or silver, or equivalents, in the hands of the officer or his assignee. If the officers could not command the money in hand for these certificates, neither could they have done so at that day for their half pay, had there been no commutation: gold and silver were not in the reach of Government at that period. This is suggested only to show that the mode of payment alone was changed, and that the commutation was granted as a fair equivalent.

Upon the view taken by the memorialists, the committee could not see any justice in confining the prayer of the petitioner to those only who still survive. To provide for those, upon the principle of justice and legal obligation, and suffer the dead to be forgotten, would be but a partial remuneration; the heirs of the deceased would have equal claims upon the Government as the officer who survives. Again, the memorialists ask a resumption of the original contract, to which the same objections may be urged as in the year 1783. If then deemed objectionable, because not in accordance with the genius of our institutions, nor congenial with the sentiments of the American people, it may be equally so at this day. Upon the most extensive view which the committee have taken of this subject, they have found difficulties still thickening, and, to answer the prayer of the petition to its extent, would, in the opinion of the committee, go to establish a principle fraught with much evil. Conscious, at the same time, of the merits and worth of these distinguished heroes, whose devotion and deeds have given such glory and such happiness to our country; conscious of their patriotism and valor, which have imposed lasting obligations upon the grateful remembrance of the nation, the committee could not reconcile to their feelings or duty an entire rejection of the memorial; and they have looked for a combination of the principles of equity and of gratitude, on which might be rewarded, in some little degree, the labor and sufferings of the memorialists, without involving future difficulties, in the establishment of a dangerous precedent; this principle has been found in the depreciation of the commutation certificate, and the losses sustained by the untimely sale of these certificates. It is a well attested fact, that most of those certificates were sold at an amount of not more than from one-fifth to one-tenth of their nominal value. Gold and silver not being in the power of the Government, the pressing and immediate want of the holders rendered it necessary for them to dispose of their certificates at any price; and, upon this view of the subject, the committee recommend the following resolution:

Resolved, That each officer of the Revolutionary army who was entitled to half pay for life under the several resolves of Congress upon that subject, and afterwards, in commutation thereof, received the amount of five years' full pay, in certificates or securities of the United States, shall now be paid, by the United States, the nominal amount of such certificates or securities, without interest, deducting therefrom one-eighth part of the said amount.

MEMORIAL AND STATEMENT.

To the honorable the Senate and the honorable House of Representatives of the United States in Congress assembled, the memorial of the subscriber, Solicitor on behalf of the surviving Officers of the Revolutionary Army of the United States, most respectfully represents:

That his constituents, the surviving officers of the Revolutionary army, in renewing their application to your honorable Houses, for an equitable settlement of the half pay, as stipulated by the resolves of Congress, are not more impelled by the afflicting necessity, to which the faithful devotion of their youth to the military

service of their country has reduced them in the decline of life, than by a sense of duty to themselves, as men of honor, to demonstrate and establish, by incontrovertible proof, the truth and justice of the claim which they have preferred; and relying on the equity of the national councils, under such information, they have instructed your memorialist to state the following facts, with the evidence by which they are supported:

By the resolves of Congress, of August 11th, 1779, October 21st, 1780, and January 17th, 1781, it was stipulated that half pay for life should be allowed to the officers of the Revolutionary army, whose terms of service are specified in the said resolves.

The proofs of this stipulation are recorded in the acts of the Government, under the several dates above recited—and the repetition of the promise, so often made, not only declared the gratitude of the Government to the officers, for services already rendered, but manifested its anxiety for the continuance of those services, which it thus solemnly stipulated to reward.

The contract, on the part of the officers, was faithfully performed, at the sacrifice of every personal consideration, and the entire relinquishment of private pursuits.

The proof of this fact is recorded in the independence and sovereignty of the United States—and is but too sadly attested by the necessity which urges the present appeal to the justice of Government.

On the part of Government, no variance from the terms of the contract was disclosed until the 22d of March, 1783, (the preliminary articles of peace being then signed,) when a prejudice against the half pay having been excited in some sections of our country, the senior officers of the army suggested the idea of a commutation, which, although generally objected to by the junior officers, was, under the influence of age and rank, adopted by the lines composing the main army; and the resolve of Congress, proposing a commutation of five years' full pay, in lieu of the half pay for life, which had been so repeatedly stipulated, and which had unquestionably held an influence in deciding the younger portion of the officers to an abstracted pursuit of military duty, was passed.

Independently, however, of the objections offered by the junior officers of the main army, to the commutation of the half pay, there is a fact of decisive importance, as regards a large portion of the officers, in relation to that change of the compensation.

The officers of the lines of Georgia, South Carolina, North Carolina, and some corps of Virginia, had no voice whatever, either by lines or as individuals, in the question of commutation. They had been made prisoners of war before and at the capitulation of Charleston, on the 15th of May, 1780, and were not afterwards reorganized.

Your memorialist was at that time a captain of the first regiment of South Carolina, and aid-de-camp to Major General Lincoln, who then commanded in the Southern Department; and your memorialist, being afterwards appointed Assistant Secretary of War, is enabled to assure your honorable Houses that this statement is strictly correct. He is not, however, instructed to request any distinction; and he believes that the generous spirits of those lines, who survive to unite with their brother officers in the present application, do not desire to be separated from their faithful comrades in honor and misfortune; but, confiding on the justice of the claim, await with them that equitable decision, which the just and magnanimous spirit of the National Councils shall award.

In addition to facts so conclusive as those already adduced in favor of the claim, your memorialist begs leave, with the most respectful deference, to state to your honorable House that, in commuting the half pay for life, an error of the most injurious nature to the officers was (no doubt inadvertantly) committed—such an error, indeed, as, without impeaching the integrity of the Government, need only to be mentioned, even at this distant period, to procure immediate redress to the injured party.

The average age of the officers of the Revolutionary army, at the close of the war, in 1783, could not, by just computation, be reckoned beyond thirty-five years, which on an estimate of the expectation of life, collected from the most approved writers on annuities, would have entitled the officers to an average commutation of ten years and six months' full pay, instead of five years; and would have allowed to the younger officers, who disagreed to the commutation, an average of twelve years' full pay.

From these data your memorialist concludes that if the commutation of five years' full pay had been paid to his constituents in gold or silver, they would at this time, under the error here stated, have had a clear and equitable claim for the additional sum of five years and six months' principal of the full pay, with its accumulation of thirty-five years' interest, amounting to a sum far beyond the moderate proposition, which they now submit to your honorable Houses, of resuming the original contract without charging any interest on the arrearages of the half-pay, or making any deduction for the loss which they sustain in allowing the full nominal amount of the commutation certificate to be refunded, instead of the one-eighth or one tenth part which they received, on a sale forced for want of bread, twelve years after it was charged to them as gold or silver—no provision having been made by the Government in that time to redeem the principal or to pay any part of the interest.

Were it necessary to adduce any additional proofs in support of the claim, your memorialist apprehends that complete confirmation of all the facts and opinions herein stated will be found in the memorial of the citizens of the United States, which he is charged to present to your honorable Houses in behalf of his constituents, the surviving officers of the Revolutionary army. In that minute and interesting representation their services are not only gratefully recognised and appreciated, and the justice of their claim completely admitted, but a pledge is given by many thousands of the most respectable citizens that they will cheerfully contribute their proportion of assessment to the just and grateful purpose of fulfilling this national engagement.

As this liberal interposition in behalf of the surviving officers of the Revolutionary army, by the citizens of the United States, to many of whom public trusts of great importance are confided, is of high authority, and not only establishes the justice of the claim, but gives a pledge to make provision for its discharge, your memorialist, under the sanction, and in the words of their solicitation, on behalf of his constituents, most respectfully and most earnestly entreats that an act may be passed directing the accounting officers of the Treasury to adjust the claims of each surviving officer of the Revolutionary army of the United States, who, by the resolves of Congress, were

entitled to half pay for life—calculating the amount of the principal of the arrearages from the time of his reduction, and deducting therefrom five years' full pay—and the balance of arrearages being thus ascertained, to issue a certificate, bearing interest of six per cent. per annum, to the officer for the amount of said balance; and the officer to be thenceforth entitled to receive half pay, in half yearly payments, for and during the term of his natural life.

As the relief to be received by the surviving officers of the Revolutionary army, whose average age now approaches seventy years, will be greatly increased by the promptitude with which it is accorded, your memorialist also entreats that the attention of your honorable Houses may be directed to this interesting consideration. And your memorialist will ever pray.

W. JACKSON,
Solicitor on behalf of the Officers of the Revolutionary Army of the U. S.

Statement of the Half Pay for Life, as stipulated by the Resolves of Congress.

In Congress August 11, 1779.

"*Resolved*, That the half pay provided by the resolution of the 15th May, 1778, be extended to continue for life, and that the holding of a civil office under the United States, or either of them, shall be no bar to prevent any officer from receiving the same."

In Congress, October 21, 1780.

"*Resolved*, That the Commander-in-Chief, and commanding officer in the Southern department, direct the officers of each State to meet and agree upon the officers for the regiments to be raised by their respective States, from those who incline to continue in service; and where it cannot be done by agreement, to be determined by seniority; and make return of those who are to remain, which is to be transmitted to Congress, together with the names of the officers reduced, who are to be allowed half pay for life.

"*Resolved*, That the officers who shall continue in the service to the end of the war, shall also be entitled to half pay during life, to commence from the time of their reduction."

In Congress, January 17, 1781.

"*Resolved*, That all officers in the hospital department, and medical staff, hereinafter mentioned, who shall continue in service to the end of the war, or be reduced before that time as supernumeraries, shall be entitled to, and receive, during life, in lieu of half pay, the following allowance," &c.

By the preceding resolves of Congress, so often repeated, it is incontestably proved to have been the intention of Government to make a provision for the officers during life, to the full amount of their half pay, respectively—and the subjoined resolve, which proposed the commutation, expressly states that it should be for *an equivalent.*

In Congress, March 22, 1783.

"On the report of a committee, consisting of Mr. Hamilton, Mr. Dyer, and Mr. Bedford, to whom was referred a motion of Mr. Dyer, together with the memorial of the officers of the Army, and the report of the committee thereon; Congress came to the following resolutions:

"Whereas, the officers of the several lines under the immediate command of his Excellency General Washington, did, by their late memorial, transmitted by their committee, represent to Congress, that the half pay granted by sundry resolutions, was regarded in an unfavorable light by the citizens of some of these States, who would prefer a compensation for a limited term of years, or by a sum in gross, to an establishment for life; and did, on that account, solicit a commutation of their half pay for an equivalent, in one of the two modes abovementioned, in order to remove all subject of dissatisfaction from the minds of their fellow-citizens. And whereas Congress are desirous as well of gratifying the reasonable expectations of the officers of the Army, as of removing all objections which may exist in any part of the United States to the principle of the half pay establishment, for which the faith of the United States has been pledged; persuaded that those objections can only arise from the nature of the compensation, not from any indisposition to compensate those whose services, sacrifices, and sufferings, have so just a title to the approbation and rewards of their country: Therefore,

"*Resolved*, That such officers as are now in service, and shall continue therein to the end of the war, shall be entitled to receive the amount of five years full pay, in money, or securities on interest, at six per cent. per annum, as Congress shall find most convenient, instead of the half pay promised for life, by the resolution of the 21st day of October, 1780; the said securities to be such as shall be given to the other creditors of the United States, provided it be at the option of the lines of the respective States, and not of officers individually in those lines, to refuse or accept the same; and provided, also, that their election shall be signified to Congress through the Commander-in-Chief, from the lines under his immediate command, within two months, and through the commanding officer of the southern army, from those under his command, within six months from the date of this resolution.

"That the same commutation shall extend to the corps not belonging to the lines of particular States, and who are entitled to half pay for life, as aforesaid; the acceptance or refusal to be determined by corps, and to be signified in the same manner and within the same time as abovementioned.

"That all officers belonging to the hospital department, who are entitled to half pay by the resolution of the 27th day of January, 1781, may collectively agree to accept or refuse the aforesaid commutation, signifying the same through the Commander-in-Chief, within six months from this time.

"That such officers as have retired at different periods, entitled to half pay for life, may collectively, in each State of which they are inhabitants, accept or refuse the same—their assent or refusal to be signified by agents, authorized for that purpose, within six months from this period; that with respect to such retiring officers, the commutation, if accepted by them, shall be in lieu of whatever may be now due to them, since the time of their retiring from service, as well as of what might hereafter become due; and that, so soon as their acceptance shall be signified, the superintendent of finance be, and he is hereby, directed to take measures for the settlement of their accounts accordingly, and to issue to them certificates bearing interest at six per cent. That all officers entitled to half pay for life, not included in the preceding resolution, may also collectively agree to accept or refuse the aforesaid commutation, signifying the same within six months from this time."

Such were the resolutions of Congress, which stipulated that half pay for life should be allowed to the officers of the Revolutionary Army of the United States; and such the resolve which proposed to commute the half pay for life, for a gross sum in money or securities, which should, in the express words of the resolve, be equivalent to the half pay for life—that is to say, by estimating the expectation of life, according to the average age of the officers, which could not, by correct computation, be reckoned beyond thirty-five years. It remains, therefore, by a just and accurate calculation of the half pay for life, in all its relations and dependencies, to demonstrate that the commutation, by the erroneous estimate of five years, instead of ten years and six months full pay, has been productive of immense loss to the officers, and of correspondent gain and advantage to the public, on principles which no policy could require, and no reasoning can justify, as appears by the following

Statement of the half pay and commutation in their relation to each other.

At the close of the war for independence, in 1783, there were about 2,000 officers entitled, by the resolves of Congress, to half pay for life, which, calculated at the average rate of captains' half pay, amounted, at $240 per annum, to $480,000.

The commutation of which, on the expectation of life at thirty-five years, which was the average age of the officers of the Revolutionary Army of the United States, at the close of the war in 1783, ought, according to the annexed statements of Dr. Price and Mr. Morgan, and the opinions of all the most approved writers on annuities, to have been estimated at the rate of ten years and six months full pay, and would have amounted to - $10,080,000

But on the estimate of five years, the rate at which the resolve of Congress, instead of an equivalent, fixed the commutation, either by arbitrary decision or erroneous calculation, which, on every principle, ought to be corrected, the commutation only amounted to - 4,800,000

Occasioning an aggregate loss to the officers of - - - - - - $5,280,000

And to each officer an average loss in principal of - - - - - $2,840

And a loss in interest, at six per cent., for thirty-five years, of - - - 5,544

Making a total loss to each officer of - $8,184

And an advantage to the public, against the resolve of Congress that the commutation ought to be an equivlent for the half pay, and against every equitable principle, amounting to - - - $5,280,000

And thirty-five years interest thereon, at six per cent. - - - - - - 11,088,000

Total advantage to the public, by not making the commutation a just equivalent, according to the resolve of Congress of March 22, 1783 - - - $16,368,000

Say sixteen millions three hundred and sixty-eight thousand dollars gain to the public and loss to the officers, against the plainest principles of justice, on the calculation of simple interest, and according to the payment of interest on the public debt, quarterly, and by compound interest, amounting to forty-two millions two hundred and ninety thousand nine hundred and twelve dollars.

And for which enormous sum the surviving officers, by their proposition to resume the original contract of half pay for life, relinquishing all arrearages of interest, and allowing the full nominal amount of the commutation certificate, (of which they only received one-eighth or one-tenth part,) to be refunded; and, estimating the survivors at two hundred, they would only receive in sureties, as the principal of arrearages, $1,200,000.

With half pay per annum to 200 officers, whose average age amounts to seventy years, $48,000.

Whereas, at compound interest, calculated annually, the loss to the officers, by only allowing five years instead of ten years and six months full pay, which was the just equivalent of commutation for the half pay, and to which the average age of thirty-five years was fully entitled, is $40,582,496 23.

Being to each officer an average loss of $20,291.

For which they propose to receive an aggregate of $1,200,000.

Leaving to the public, in thirty-five years, a clear gain on their hard-earned annuity, of $39,382,496 23.

Exclusive of $48,000, the amount of half pay to 200 officers, whose average age is seventy years; or, deducting even the capital of that annuity, a clear gain to the public of $38,582,496 22.

Such, at the close of an eight years' war, in which the independence and sovereignty of the United States were established, was the cruel result to faithful public servants, whose abstracted devotion to the cause of their country, in her military service, had left them no other means of support than the stipulated reward of "those services, sacrifices, and sufferings," which, in the words of the resolve of Congress of March 22d, 1783, "had so just a title to the approbation and rewards of their country." Or, in the still more emphatic language of their illustrious leader, the immortal Washington, when addressing the Governors of the several States, on the subject of the half pay and commutation, he states in his letter, dated

"HEADQUARTERS, NEWBURG,
"*June* 18, 1783.

"I may be allowed to say, it was the price of their blood and of your independence; it is, therefore, more than a common debt—it is a debt of honor—it can never be considered as a pension or gratuity, nor cancelled until it is fairly discharged.

(Signed) "G. WASHINGTON."

The facts set forth in the preceding acts of Congress confirm and establish, beyond the shadow of a doubt, not only the justice, but the moderation, of the claim now presented by the surviving officers of the Revolutionary army, inasmuch as they prove—

1st. That half pay for life was solemnly and repeatedly stipulated to be paid to the officers, whose terms of service are specified in the aforesaid acts of Congress.

2dly. That, when it was resolved that the half pay for life should be commuted for a gross sum, it was expressly provided by the said acts of Congress that it should be for an *equivalent*.

And as the true intent and meaning of every contract are best collected, ascertained, and adjudged by the terms in which it is drawn, it is fortunate for the surviving officers of the Revolutionary army that the

essential term "equivalent," used in their memorial to Congress, is not only recognised, but recited in the resolve which proposes a commutation of the half pay for life; and it therefore only remains to decide, on the best authorities, what is the correct meaning of the word "equivalent."

Dr. Johnson says that "equivalent," used as an adjective, means "equal in value," and, as a noun substantive, it means "a thing of the same weight, dignity, or value." And he makes the following quotations, viz:

"The slave without a ransom shall be sent,
It rests with you to make the *equivalent.*"—*Dryden.*

"They fancy a regular obedience to one law will be a full *equivalent* for their breach of another."—*Rogers.*

Having thus arrived at the true meaning of the word "equivalent," which neither party can disclaim, as it has been expressly used by both, we proceed to inquire whether the "commutation," as fixed by Congress, was a full equivalent for the half pay for life, as stipulated by the same honorable body; and, to simplify the inquiry as much as possible, we shall continue to consider the half pay of captain as the average rate.

By the resolve of Congress of October 21, 1780, the half pay allowed to a captain for life, was $240 per annum.

By the resolve of March 22, 1783, the commutation was fixed at five years' full pay, which gave to a captain $2,400.

But by the depreciation of the certificate to ten for one, as stated in the report of a committee of the House of Representatives, in February, 1810, at which rate it was sold for want of bread, twelve years after it was issued, and it only yielded $240, or exactly one year's half pay. Was this a full equivalent? Is there one man who will say it was anything more than one-tenth part of what had been stipulated, even at the rate of five years' full pay; and when estimated by the just calculation of ten years and six months' full pay, the fair commutation to which, on the expectation of life at the average rate of thirty-five years, the officer was fully entitled? Is there an individual in the community who will say that it amounted even to the one-twentieth part of the sum which, as a just equivalent, ought to have been paid to the annuitant?

In both of these statements it is clearly shown that the error and defalcation were exclusively on the part of the public, as appears by the following facts:

1. No provision was made for many years after the date of the commutation certificate, (which had been fixed by Congress at one-half of what ought to have been its amount, say five instead of ten,) to redeem the principal, or to pay any part of the interest; it was utterly unproductive to the starving veteran, to whom twelve years before it had been paid as gold and silver, and, forced by want of bread, he sold it at a depreciation of ten for one!

2d. Admitting that this depreciated voucher was to be considered in the hand of the officer at its nominal value, equal to gold or silver, still its full nominal value, estimated in specie, is proved by the best authorities to have been only equal to one-half of what should have been paid as the just equivalent of the half pay for life, at the average age of thirty-five years.

The principles of justice are immutable; at all times and in all places they are equivalent; and as the facts set forth in the preceding statement cannot be controverted, and as the conclusions drawn from them are produced by figures which cannot err, it follows inevitably that the claim which is now preferred to Congress for an equitable settlement of the half pay, is not only strictly just, but extremely moderate; and it is impossible that the enlightened Government of an independent and prosperous people should not cheerfully and promptly comply with the prayer of the petitioners, who have every claim to national justice and gratitude; and the more especially as less than the thousandth part, in value, of the land that was won by their toil and blood, would discharge the debt.

Table of the expectation of life, from Dr. Price's Treatises on Annuities, volume 2, page 51.

Expectation of life at years.	By table 9.	By table 15.	By table 16.
20	28 9	29 3	29 6
25	26 1	26 6	26 7
30	23 6	24 1	24 1
*35	21 5	21 6	21 6
40	19 6	19 5	19 3
45	17 8	17 6	17 4
50	16 0	15 9	15 5
55	14 2	13 9	13 6
60	12 4	11 7	11 7
65	10 5	9 7	9 8
70	8 8	8 0	7 9

Extract from table No. 1, of the Pennsylvania Company on Lives and granting Annuities; showing the expectation of life in several places, and proving that Dr. Price's estimate is the lowest.

Age. Years.	Northamp. in England.	Breslau, in Silesia.	Philad. Penn.	London, acc'g to Price.
35	25 68	24 93	23 40	21 76

Having thus demonstrated, by the clearest proofs, that, according to the usage of our own and of other nations, in estimating the value of annuities, the commutation of the half pay for life, as fixed by Congress, at the rate of five years, instead of ten years and six months full pay, was not, if it had been paid in gold or silver, one-half of the "equivalent" which the condition precedent in the resolve of Congress required; it only remains to show, that even the legal right is impaired or affected by any technical objection that may be raised to the present claim for an equitable settlement—as the plea of "contract" is completely rebutted by the non-fulfilment of the "equivalent" which the condition precedent, forming the very basis of the resolve of Congress which proposed the commutation had stipulated—nor can even the allegation of "acceptance" be suggested, as all personal option was taken

* To avoid the possibility of underrating the age of the officers of the Revolutionary army, at the close of the war in the year 1783, the average of thirty-five years has been assumed, although it is the opinion of those who have the most distinct knowledge and recollection of the officers, that thirty-two years was nearer the average age. The Commander-in-Chief, General Washington, who had served in the war of 1765, was only fifty-one years old in 1783, and his age may be considered as the full average of that of the General officers. The average age of the field officers did not exceed forty years, and that of the captains and subalterns, who formed the great mass of the officers, was under twenty-eight years.

from the officer by the said resolve, which expressly and exclusively referred the acceptance of the commutation to "lines and corps," thereby destroying the vested right of the individual to the half pay for life, against his consent, and without rendering the stipulated equivalent!

As a brief summary of the preceding statement, the following observations, faithfully deduced, are again most respectfully submitted to the consideration of the members of the National Legislature.

The claim of the surviving officers of the Revolutionary Army of the United States, for an equitable settlement of the half pay for life, as stipulated by the resolves of Congress, originates, as is declared by the resolve of March 22d, 1783, in "the services, sacrifices, and sufferings of those who have so just a title to the approbation and reward of their country." In the heartfelt expression of the great Father of his Country, "it was the price of their blood, and of your independence; it is more than a common debt—it is a debt of honor—it can never be considered as a pension or gratuity, nor cancelled until it is fairly discharged." According to incontrovertible facts, and the consequences which follow, by arithmetical deduction, it rests on the immutable principles of justice; is sanctioned by correct conclusions, both in equity and law; and is advocated by the universal voice of the very people who are to furnish the means of its discharge.

As no reasoning can invalidate these incontrovertible truths, no additional arguments can be required to enforce them. A claim thus supported, and for which the faith of the United States has been pledged, is with confidence and safety referred to the wisdom and integrity of the National Senators and Representatives.

W. J.

FOREIGN MERCHANT SEAMEN.

The House then resolved itself into a Committee of the Whole on the bill to authorize the apprehension of foreign seamen deserting from merchant vessels in the ports of the United States. The bill having been read through—

Mr. SMITH, of Maryland, briefly explained the object of the bill. He stated the nature of contracts made by seamen with captains for voyages; which, being violated by the desertion of seamen in the port of destination, or at any time before the termination of the voyage, sometimes broke up the whole voyage, and ruined those concerned in it. He further stated that in all other countries there were regulations for enforcing the observance of these contracts, of which we, in common with others, enjoyed the benefit. These regulations the present bill proposed to reciprocate, by establishing similar regulations on our part.

Mr. NEWTON, as chairman of the committee who reported the bill, further explained its object. To obtain information on the subject, he said, a letter was at the last session addressed to the Secretary of State, to inquire whether the captains of American vessels had in foreign ports the same privileges granted them, to enable them to recover their seamen, which were proposed to be allowed by this bill to foreigners in our ports. To this letter an answer had been received, which Mr. N. read to the House, and which had satisfied the Committee, as he presumed it would the House, of the propriety of passing the bill.*

On motion of Mr. WHITMAN, an amendment was made to the details of the bill, the effect of which was to extend the power of carrying the law into execution, to all civil magistrates.

The question being then about to be put on the Committee's rising and reporting the bill—

Mr. CLAY (Speaker) said he was not prepared to say that this bill ought to be reported to the House. If the principle of it was correct, the details were exceptionable. The principle was, that if a seaman, arriving in the ports of the United States, quits the service of the master of the vessel with whom he has contracted, without permission, he should be surrendered without trial to the captain. The pretext for establishing this principle was, that other States extend to us the privilege now proposed to be granted to them. Mr. C. said he was by no means satisfied of the propriety of this exception of seamen from the rules applying to all other citizens of foreign countries. He was not satisfied that a seaman, having contracted to perform a voyage, should, under no possible circumstances, be excused from the performance of that contract. Yet, according to this bill, without inquiry into the facts, without examination into the treatment the seaman may have received on the voyage, the seaman was to be bound hand and foot, and delivered over to the captain whose service he had perhaps been compelled by tyranny or abuse to quit. I care not, said Mr. C. what is done in *other* countries on the subject; their regulations in this respect form in my mind no justification of the provisions of this bill. The details of the bill, he said, were moreover objectionable. The delicate class of cases arising out of our naturaliza-

* The letter is as follows:

DEPARTMENT OF STATE, *Jan.* 3, 1818.

SIR: In answer to the inquiries in your letter of the 25th ultimo, with reference to the subject of the resolution enclosed in it, I have the honor to state, that in all the maritime States of Europe, with which I have been personally conversant, there are magistrates invested with authority to arrest seamen, deserters from foreign merchant vessels in their ports, and to restore them to the masters of the vessels to which they belong, conformably to their contracts in the shipping papers. The process in such cases is, as by their nature it must be, to prove efficacious, immediate, and summary; and the masters of American vessels have the benefit of it, in common with others. In the city of London, the authority is vested in the Lord Mayor; and, at other places in Great Britain, in the ordinary police magistrates. I do not recollect having ever known an instance in which masters of American vessels were denied the benefit of such processes, unless in cases when, by the laws of the country, the deserting seaman was, on other accounts, liable to be detained. The practice is, so far as I have known, the same in every part of the European continent.

I am, with great respect, sir, your very humble and obedient servant,

JOHN QUINCY ADAMS.

THOMAS NEWTON, ESQ., *Chairman, &c.*

tion laws would be seriously affected by its provisions. Suppose a person who, naturalized according to our laws, would *prima facie* be considered by ninety-nine out of a hundred as a foreigner, to be demanded by a foreign captain as a deserter—he would, on his affirmation, be given up, and thus an American citizen would be subjected to this odious provision. Gentlemen might say, they did not mean to carry the principle so far; but, Mr. C. said, such an interpretation might be given by the magistrate before whom the seaman was brought. He never could consent, that, in every case of a seaman leaving his ship, or of any other description of persons, because a contract has been alleged to be violated, without inquiry into the ground of complaint, however just it might be, the alleged offender should be surrendered. If the bill was adverted to, it would be found that two facts only were necessary to authorize the surrender: first, that the party should have made a contract, and, secondly, that he should have quitted the service of the master within the limits of the United States. Were gentlemen prepared to say, that in no possible case a seaman might be justified in quitting the merchant service? If there was a possibility of such justification, Mr. C. said, they ought not to give their assent to this bill. He knew, he said, that commerce and navigation, to a certain extent, make slaves; but that slavery should not be made unnecessarily severe. If in every instance we are to follow foreign examples in our statutes and usage, to what lengths may we not go? Impressment of seamen for national ships, said he, is a foreign practice: we may be called upon, on the principles of imitation, to sanction that practice. But, said Mr. C., if our Navy could be maintained only by impressment, dear as I consider that Navy to the interest and to the glory of the country, I would see it annihilated before I would sanction such a practice. Gentlemen, therefore, he said, would not get his assent to the bill by telling him what was done in foreign countries. Over our country a particular genius of liberty presided: we must take care not to banish it by following, step by step, in the wake of other nations, and justifying ourselves for what we do only by exhibiting a precedent in what they have done before us. Mr. C. had other objections to the bill. If there were cases in which it was found necessary to reciprocate provisions with foreign Powers for the security of navigation, and such cases there might be, let them be settled by treaty, by reciprocal stipulation. If they extend in their ports but bare civility to us, let us do the same to them. On what foundation was the House invited to pass a bill involving so many delicate considerations, and objectionable provisions? Why, on the ground of a letter—and, without any disrespect to the author of it, a very loose letter, from the Secretary of State. Mr. C. here read some passages of the letter. The honorable Secretary, he said, had not told the House how far his personal acquaintance with foreign countries extended, nor what was the nature of the provisions in that country, analogous to those of this bill; whether in every possible instance a surrender is to take place; whether in all cases the seaman is inextricably yielded up to the captain claiming him. Mr. C. said he wished, before he could act on this subject, to see the laws of foreign countries, and not on such a vague indefinite account of them to botttom such severe provisions. We have just learnt, too, said he, that, with regard to that Power with which we have had the greatest difficulty respecting seamen, an arrangement had been made, such as to remove all causes of complaint against her. I should like to see that arrangement, and examine its provisions, before acting on this subject. He hoped, he said, the honorable chairman of the Committee of Commerce and Manufactures would not hurry this bill to a decision. Let us first know, said he, the provisions of the foreign States with which the honorable Secretary has been personally conversant. Let us, above all, recollect, whatever foreign nations do, that here alone liberty flourishes, and personal rights are fully enjoyed; and that whatever we do should have reference to this peculiarly happy condition of our country, and be conformable to it.

Mr. NEWTON said he had not the least objection that time should be given to the Speaker, and to all the House, to obtain any information they might desire on this subject. But, he said, he did not view the provisions of the bill in the light which the gentleman had viewed them. The bill was a transcript of the act which passed as long ago as the year 1790, for securing to masters the services of American seamen engaging with them. Thus, it appeared, that it was no new principle the bill proposed to introduce into legislation, but as old as since January 20, 1790. Mr. N. said, he knew that the practice of impressment existed in some foreign countries. No one had a greater abhorrence of it than he; and the Speaker would perceive the bill proposed to confer no power to take up deserters from the British or any other navy, and restore them to their ships. It embraced the case of seamen deserting merchant vessels only, in violation and disregard of a voluntary contract. The captain, however, must also fulfil his part of the contract, and the magistrate before whom the seaman is brought may, if he choose, require proof of the fact, and decide upon the case according to his own discretion. Contenting himself at the present time with having made these suggestions, and desiring the subject should be well understood, and the information upon it be as full as possible, he had no objection that the bill should lie on the table.

Mr. WHITMAN defended the bill. The same provisions which it contains, he said, had been in operation in regard to our own seamen for twenty-eight years past, and are yet in force. In every seaport of the United States persons have been apprehended who have been alleged to have violated their contracts, committed to prison, and there detained until the vessel to which they belonged was bound to sea, and no inconvenience had ever been felt from the execution of the law.

With regard to their being delivered to the captain claiming them, without a hearing, the Speaker was mistaken in that particular. The act required examination before decision, and applied the same rules to this description of contract which prevailed in regard to all civil contracts. The gentleman's nice scruples on the subject would apply to any case in which individuals had by contract a right to the personal service of any other individuals.

Mr. W. said he should suppose the gentleman would be as tender of the liberties of our native seamen as of foreign seamen resorting to our ports; and it appeared that similar provisions had existed for near thirty years in regard to American seamen, without exciting any apprehension in regard to our liberties, and without endangering the rights of a single individual. And are we now, said he, to be frightened by bugbears, if the Speaker will excuse the remark, which could alarm only the most timid imagination? With respect to the reported treaty, Mr. W. said that the treaty could have no bearing on this question. He never knew a treaty to contain provisions for compelling seamen in the merchant service to return on board their vessels after deserting them. Heretofore, it had been supposed that the act of 1790, which was rather obscurely worded, did apply to foreign captains and foreign seamen as well as to those of the United States; and the magistrates throughout the country had so executed it. But, of late, the question had been examined, and the act had received a different construction. It had, therefore, become necessary to supply an obvious defect in the law; in doing which, Mr. W. said, he could not see the danger to the natural rights of man, or the liberties of the citizen or foreigners, which the Speaker appeared to apprehend. With respect to naturalized foreigners, there could be no difficulty: the seaman would only have to produce to the magistrate the evidence of his naturalization, and the magistrate could not do otherwise than instantly liberate him. Apprehensions of abuse of power were, he said, no argument against necessary grants of it; and the argument from possible abuse would apply equally well to any other powers possessed by our magistrates as to this. When it was considered that, in all foreign ports, we enjoyed the right proposed by the bill to be allowed to foreigners in our ports, it was a sort of comity due to others to adopt this measure. Was it, he asked, to be considered a reprehensible principle, because foreign Governments had adopted it, when we ourselves have for many years acted on it? Mr. W. could not see any reason why the subject should be deferred. The bill, he said, did not affect British sailors only, but the sailors of every nation. Therefore nothing which is in the expected treaty, or is not in it, could obviate the necessity of a general provision, which, if not necessary as to British seamen, would be necessary as to all other foreign seamen visiting our seaports. There never, however, had been any negotiation between nations, that he knew of, in regard to provisions such as those of this bill; and how there could be anything in the reported British Treaty about the subject, he could not conceive.

Mr. CLAY said he was far from being convinced by the gentleman's argument of the expediency of the provision embraced in the bill. He was exceedingly sorry, he said, to have incurred the reprehension of the honorable gentleman from Massachusetts; and congratulated that gentleman on the philosophical coolness with which he was able to survey what Mr. C. considered an assault meditated on the personal liberty of the citizen. That he could not so calmly contemplate it, might be owing possibly to the difference of their native climate, different modes of thinking, or difference of disposition. The gentleman, Mr. C. said, had not made out anything like a case. What was the existing law, to which this bill was likened? It was applicable to our own citizens, to be executed within the territory of the United States, and both parties amenable to the law. But there was a vast difference between this, and a provision for surrendering a person, being a foreigner, to the operation not of our own laws, but of laws we know nothing of. We have laws for the apprehension and punishment of deserters from our Army; and it has been a favorite object with the British Government to have a treaty stipulation for the reciprocal apprehension and restoration of deserters of that description: but that we have always constantly and properly refused. The gentleman might reason with the same propriety from our own provision in that case to the expediency of a provision for apprehending foreign deserters from an army or navy; and the gentleman might say, with equal force in that as in the present case, that there was no injury to natural liberty, nor any inconvenience, to be apprehended from it. There was, Mr. C. said, an essential difference between the cases: in the one, said he, the law applies to the captain as well as to the seamen—in the other, we should interpose our power against the seaman, and give him up to the tyranny of the captain, or of laws of which we are ignorant. Such a proposition he could not agree to at all, but, if at all, not in this shape: it should be by treaty stipulation; that we might know what we get for what we granted—on which point, he repeated, the information before the House was too vague. But, (said Mr. C.,) now do attend to the gentleman from Massachusetts. He follows the seaman from the time he makes the contract, until he is brought before the magistrate on a charge of having violated it, and asks if there be any hardship in that? No: but what question is the magistrate to ask him? Have you made a contract? he will ask. If so, he is bound to surrender him without the cause of his leaving the ship being inquired into. No matter whether the contract was obtained from the seaman by force, fraud, or duresse, the magistrate is to restore him to the captain claiming him. Mr. C. said he would admit to the gentleman, that in a case of clear obligation to act as a seaman, during a given voyage, being made out, and no better reason than a caprice of the seaman for vi-

dlating it, he ought to be made to fulfil it. But the objection to the provision of this bill was, that it did not leave the seaman at liberty to show the ground on which he had deserted. No principle of comity, to which the gentleman had appealed with so much triumph, would induce him to give his vote for it. That inherent love of liberty which directs my course, (and which I trust, and am quite sure, the gentleman from Massachusetts inherits as well as myself,) forbids me to do so. If such a provision actually exists in regard to our own seamen, I regret it; in their case, however, it may be necessary and politic, but cannot be so in the case of foreigners, for reasons already assigned. In regard to the effect of such a provision on the rights of naturalized citizens, let me advert to a case, said Mr. C., which might have occurred at a period of excitement which existed some years back, and in the particular part of the country from which the gentleman himself comes. Let me suppose a certain magistrate, holding certain opinions very popular in that day in the same quarter, to have the case presented to him, of a seaman deserting the British merchant service. I am a citizen, says the sailor; and here is my certificate of naturalization. What would the magistrate do? Would he not tell you what has been urged again and again, even on the floor of this House, that the duty of *allegiance* is inviolate and perpetual; that it is contracted by birth, and cannot be shaken off? And would he not determine the seaman to be a Briton, his certificate notwithstanding? Mr. C. said he was not for submitting questions of this importance to the million of civil magistrates in the United States; for, by the amendment which had taken place, every justice of the peace was authorized to adjudicate the question. As to the case of indented servants, which had been referred to as analogous, he doubted whether, in any State in the Union, if a servant were to make out a case of a breach of contract on the part of a master, he would be compelled without examination to return to his service. If any magistrate were to so decide, in the State in which he lived at least, the servant would have a clear remedy by writ of habeas corpus. Mr. C. protested, however, against the application of principles, arbitrary and rigorous, to all cases, which are fit only for extreme ones: and against the argument that, because in one case an arbitrary principle might be applicable, it must be equally so in all cases. In conclusion, Mr. C. said, he wanted information: he did not know that any information would obviate his objections to the bill; but, at all events, he was clear that it ought not to pass without more distinct information as to the practice of foreign Powers. He therefore moved that the Committee rise, and ask leave to sit again.

Mr. WHITMAN added a few more observations. The foreign seaman, he said, had precisely the same remedy as our own in cases of violation of contract on the part of the captain, and the same laws and courts to resort to for redress. The provisions of this bill were to prevent individuals from taking justice into their own hands, in cases so important as that of service due on board merchant ships. The seaman should not be at liberty to say, I will serve no longer, and thus dissolve his contract. Contracts, once entered into, should be fairly fulfilled. If it were supposed that all powers confided to magistrates must be abused, there might be some ground for the objections to the bill, but otherwise there was none.

The Committee then rose, reported progress, and obtained leave to sit again.

TUESDAY, December 8.

Another member, to wit: from Massachusetts, ELIJAH H. MILLS, appeared and took his seat.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, made a report upon the subject of the duties on wines and books; which was read, when Mr. S. reported a bill to reduce the duties on certain wines, and to declare free of duty books printed in foreign languages; which was read twice and committed to a Committee of the Whole.

The Committee of Ways and Means were discharged from the further consideration of the report of the Secretary of the Treasury, upon alterations or modifications required in the acts fixing the emoluments of certain officers of the customs, and it was referred to the Committee of Commerce and Manufactures.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill for the relief of Frederick Brown; which was read twice and ordered to be engrossed and read a third time to-morrow.

The SPEAKER laid before the House a report from the Secretary of War, of a system providing for the abolition of the existing Indian trading establishments of the United States, and providing for the opening of the trade with the Indians, to individuals, under suitable regulations, "made in obedience to a resolution of this House of the 4th of April last;" which was referred to the Committee on Indian Affairs.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, containing a plan for the final adjustment and settlement of claims to land in the State of Louisiana and Territory of Missouri, accompanied with the draught of a bill, providing for that purpose, prepared in obedience to a resolution of this House, of the 16th of April last; which was read, and committed to a Committee of the Whole to-morrow.

Ordered, That the bill reported on the 4th instant for the final adjustment of certain claims to land in the State of Louisiana and Territory of Missouri, be committed to the Committee of the Whole last appointed.

A message from the Senate informed the House that the Senate have passed a resolution that a committee of the two Houses be appointed to consider and report whether any, and if any, what further provisions, by law, are necessary to insure despatch, accuracy, and neatness, in the printing done by order of the two Houses respec-

tively; in which they ask the concurrence of this House.

The resolution was read twice, and, after being amended, on the motion of Mr. HARRISON, by inserting therein before the word "accuracy" the word "economy," it was read the third time and passed.

The House took up and proceeded to consider the bill reported at the last session, (10th February, 1818,) supplementary to the several acts for the adjustment of land claims in the State of Louisiana and Territory of Missouri; whereupon it was ordered that the said bill be also committed to the Committee of the Whole House last appointed.

The engrossed bill making a partial appropriation for the support of the Military Establishment for the year 1819; the engrossed bill for the relief of William King; the engrossed bill for the relief of William Barton; and the engrossed bill for the relief of the heirs of Adolphus Burghardt, were severally read the third time, and passed.

The House then, on motion of Mr. HARRISON, resolved itself into a Committee of the Whole on the bill concerning invalids, [conferring on the Secretary of War the power of placing invalids of the Revolution on the pension roll, in the same manner that he is now authorized to place on the pension list invalids of subsequent wars.]

The bill was explained by Mr. JOHNSON, of Kentucky, on whose motion it received some amendments, rendered necessary by acts passed since the bill was framed at the last session, and was afterwards reported to the House, by whom the amendments were concurred in, and the bill ordered to be engrossed for a third reading.

The bill for the relief of William B. Lewis passed through a Committee of the Whole, and was ordered to be engrossed for a third reading.

SEMINOLE WAR.

Mr. HOLMES, Chairman of the Committee on Foreign Relations, rose to submit to the House a difficulty which embarrassed the proceedings of the committee of which he was chairman. In the investigation of some of the subjects referred to that committee, it found those subjects so intimately connected with some confided to another committee, that it was difficult to proceed, without infringing on matters not referred to its consideration. He alluded to the subject of the Seminole war. That war involved our relations with a foreign Power, which were committed to the Committee of Foreign Relations; but an important incident in that war, the execution of Arbuthnot and Ambrister, was confided to the Military Committee; and, in proceeding on one subject, they could not well avoid the other. The Committee of Foreign Relations did not, therefore, know well how to proceed, unless they had the whole matter before them; and, in offering the following motion, it was not done without an understanding to that effect with the Committee on Military Affairs. Mr. H. then submitted the following:

Resolved, That the Committee on Military Affairs be discharged from the further consideration of so much of the President's Message as relates to the execution of Arbuthnot and Ambrister, and the conduct of the war with the Seminole Indians; and that the same be referred to the Committee of Foreign Relations.

Mr. JOHNSON, of Kentucky, said he had not been apprized till this morning, of the difficulty which existed on this subject. He cheerfully acquiesced in the motion, and it had been the intention of the Committee on Military Affairs to ask to be discharged from the subject referred to in the resolution. The Military Committee would still have abundant business to occupy them, in the military affairs of the country.

Mr. T. M. NELSON objected to this course, as he thought the examination of the Seminole war, and particularly of the execution of Arbuthnot and Ambrister, belonged properly and exclusively to the Military Committee; and he was, therefore, averse to taking the subject from their hands.

Mr. POINDEXTER moved to amend the resolution by changing the word "execution" for the word "trial," as it was the word in the original reference of the subject to the Military Committee.

Mr. HARRISON suggested whether it would not be better to retain both words.

Mr. POINDEXTER stated that his object was only to preserve consistency in the proceeding, by retaining in this resolution the words used by the President in his Message on the subject, and in the original reference of it. The President had said nothing about the *execution* of these men, and of course the resolution proposed to refer to a committee a subject of the President's Message, which was not mentioned in the Message, &c.

The amendment was agreed to—ayes 66, noes 44.

Mr. HARRISON then moved to add the word "execution," that the reference might embrace both the trial and execution.

Mr. HOPKINSON thought this would be improper; for, although he was nearly indifferent about the question, it was certainly improper to refer to a committee, as a part of the President's Message, what the Message did not contain, and the Message was entirely silent about the execution of the individuals named.

The amendment proposed by Mr. HARRISON was agreed to.

Mr. W. P. MACLAY suggested whether the object of the resolution might not be got at better by simply referring those documents to the Committee on Foreign Relations, so far as they were connected with foreign affairs. The trial of those men seemed to him a subject peculiarly proper for the investigation of the Military Committee, and ought not to be withdrawn from it, &c.

Mr. BARBOUR, as a member of the Committee of Foreign Relations, stated what had been done in the committee, in relation to this subject. They had found that, in investigating our relations with one of the Powers of Europe, the Seminole war necessarily constituted an important

link in the inquiry, but that this subject was referred to another committee. It was then proper to ascertain the sense of the House how they should proceed. The committee wished neither to infringe on the duties of any other committee, nor to shrink from their own. As to what had been said on the amendment, he observed, incidentally, that if the committee went into an investigation of the trial, it would be proper to pursue it to the fruits of that trial. As to the question of reference, he should be satisfied in whatever way it was decided, &c.

Mr. JOHNSON, of Kentucky, had readily consented to this transfer of the subject, because he thought the military question was not so important as the political question. The military inquiry could result in nothing but a report of facts, not in any specific recommendation. The President had the power to act when an officer errs, even to striking him off the roll of the Army. He asked if circumstances, seeing that the President had refrained from any exercise of his power in this case, had not shown that the conduct of the officer was thus far sustained by the Executive? If so, the committee could not interfere between them. The political inquiry was of a different character. That was to ascertain how far the nation has acted with justice and in good faith towards a foreign Power; and in what or where it had failed in its duties to that Power. If, however, the House thought proper to refer the military question, or any other, to the Military Committee, he would promise for them that they would discharge their duty faithfully.

Mr. HARRISON supported the view taken by Mr. MACLAY. It would certainly be highly improper to take from the Military Committee this subject altogether—a subject which was so strictly military, one already referred to it, and one which greatly agitated this House. It would, he admitted, be proper to let so much of it as belonged to foreign affairs be referred to the committee, and leave the remainder where it was.

Mr. COBB thought all this proceeding premature, because the documents had not been read in the House, and were not yet laid before it, since ordered to be printed. Relying, however, on the correctness of the copies which had appeared in the newspapers, he thought it a proper subject of inquiry for the Committee of Foreign Relations how those individuals, subjects of a foreign nation, of Great Britain, came to be condemned to death by an American officer. In looking into this subject there would be found some very interesting questions, intimately connected with our foreign relations. He found, for one, that these trials established an entirely new principle in the law of nations. He found it announced by the Commanding General, on that occasion, as "an established principle of the laws of nations, 'that any individual of a nation making war 'against the citizens of any other nation, they 'being at peace, forfeits his allegiance, and be-'comes an outlaw and a pirate." This, Mr. C. said, was a new principle to him, though it might be found in some work on public law, from which he had not learned what the law of nations was. He then moved to amend the resolution by adding the following:

"With instructions to inquire whether in said trials the Constitution and laws of the United States, or the law of nations, have been violated."

This motion was agreed to.

Mr. COBB, then, with the view of obviating the objections to the resolution, and accommodate it to the general wish, moved some further amendments; but

Mr. BARBOUR conceiving the subject one in which it was important to decide rightly, thought it had better lie on the table one day, and moved that disposition of it.

After some conversation on the postponement, in which Mr. HOLMES opposed it, the motion prevailed, and the resolution was laid on the table.

WEDNESDAY, December 9.

Another member, to wit, from South Carolina, WILSON NESBITT, appeared and took his seat.

The SPEAKER presented a remonstrance of sundry inhabitants of the State of Illinois, in opposition to the petition of the General Assembly of that State, for a donation of four sections of land to be laid off as a town for the seat of their government for twenty years.—Referred to the Committee on Public Lands.

On motion of Mr. POINDEXTER, the memorial of the convention of the State of Mississippi, presented on the 17th of December, 1817, praying for an extension of the limits of that State, was referred to the committee appointed on the 7th instant, on the memorial of the Legislature of the Territory of Alabama for a State government.

On motion of Mr. COBB, the petition of the Legislature of the Territory of Alabama, presented on the 7th instant, respecting the Judiciary Establishment of said Territory, was referred to the Committee on the Judiciary.

Mr. POINDEXTER, from the Committee on Public Lands, made a report unfavorable to the proposition of John Gardiner, to supply the soldiers with maps of their bounty lands at a reasonable price; which was read and concurred in.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a report of the Director of the Mint, giving the result of sundry assays of foreign coins; which was read, and ordered to lie on the table.

Engrossed bills of the following titles, to wit: An act for the relief of Frederick Brown; An act respecting invalids; An act for the relief of William B. Lewis; were severally read the third time, and passed.

SEMINOLE WAR.

The House proceeded to the consideration of the resolution yesterday moved by Mr. HOLMES, as amended on motion of Mr. COBB, in the following words:

Resolved, That the Committee on Military Affairs be discharged from the further consideration of so much

of the President's Message as relates to the trial of Arbuthnot and Ambrister, and the conduct of the war with the Seminole Indians; and that the same be referred to the Committee of Foreign Relations, with instructions to inquire whether, in said trials, the Constitution and laws of the United States, or the law of nations, have been violated.

Mr. POINDEXTER moved to postpone the further consideration of the resolution until Monday; alleging, as a reason for the motion, that the documents were not in possession of the members, not being yet printed for the use of the House: the publication of them in a newspaper was not a proper ground for the House to act on. Were the resolution for a reference merely of the subject to this or that committee, as originally proposed, he should have felt, he said, perfectly indifferent respecting it. But, since the amendment by way of instruction to the committee, an emphasis had been given to the motion, and a bearing by implication, which made it necessary to act on it cautiously, and with a full understanding of the subject. He was not prepared to pronounce an opinion, even by way of specific instruction to a committee, until the documents on which that opinion must be founded were officially in his possession. If, however, the subject was not postponed, he should move additional instructions, rendered necessary by the amendment.

Mr. COBB said, as an inducement to the House not to postpone the consideration of the resolve, that, on examining further into the subject, he had discovered that the amendment agreed to on his suggestion did not go far enough, and that further amendment had become necessary. With this view he had prepared some other amendments, which he would move if the subject was now taken up. Mr. C. added that he saw no reason for waiting for documents. The proposed inquiry related to subjects referred to in the President's Message, and it was the usual and common course to refer the various subjects of the Message to committees before the documents accompanying it were printed.

Mr. FLOYD moved to postpone the resolution indefinitely, under the impression that the inquiry referred to in it was already before the proper committees. If the Constitution or law of nations had been violated by any of the officers of the Government, as had been suggested, he thought that would be a proper subject to be referred to a committee specially raised to investigate it.

Mr. HOLMES said that the Committee of Foreign Relations had thought the matter properly within the pale of their duty; but, having seen that it was specially referred to another committee, he had thought it proper to endeavor to obtain the sense of the House whether the subject ought to be examined by the Committee of Foreign Relations or not. The truth is, said Mr. H., we have had a war without the limits of the United States, which has been carried on somewhat within the territories of a nation at peace with us. The conduct of the commanding General was a subject into which it might be proper for the House to examine. So far as respected his military conduct, that part of the subject belonged to the Military Committee. So as to the Seminole war—whatever regarded that war, with reference to its military conduct, and to the relations of the officer and the army to the country, belonged to the Military Committee. But, so far as related to the cases of Arbuthnot and Ambrister, these men were foreigners; they were said to have claimed to be British subjects, and it was thought by some that they owed a temporary allegiance to Spain. In this case, then, the investigation appeared to belong to the Foreign Relation Committee, as having a direct connexion with their duties. The Committee only wished that the House should decide whether they were or were not to examine the subject. If the House negatived the resolve, the Committee of Foreign Relations would consider it as the wish of the House that they should not examine the subject.

Mr. SIMKINS spoke in favor of postponement: the motion and amendment he thought, were founded on documents which had, indeed, appeared in the newspapers, but were not in possession of the House; which many gentlemen might not even have seen, and could not be prepared to act upon. Before he gave a vote for a resolve containing an instruction bearing against an officer of very high character, he wished to examine the grounds of the proceeding.

Mr. DESHA was in favor of postponement, as the subject was of a complicated character, and ought to be distributed, perhaps, among several committees. Whatever related to alleged violations of the Constitution, or the laws of war, it appeared to him, belonged properly to the Judiciary Committee.

Mr. COBB restated his intention, if permitted, to propose to divide the subject among different committees.

Mr. RHEA said that the question presented itself now in a shape involving considerations of far more importance than at first view it seemed to do. As he wished to know the extent of the views and objects of the gentleman from Georgia on the subject, he hoped the gentleman who moved the postponement would withdraw the motion, to give Mr. COBB an opportunity of offering his amendments.

Mr. POINDEXTER declined withdrawing his motion, and repeated his reasons for having made it. As it now stood, the very inquiry contained in the resolve implied censure on the commander of the Southern division of the army, and required a full investigation before it was decided on.

Mr. HOLMES, finding the debate obliquely entering into the merits of the Seminole war, &c., proposed to withdraw the original proposition he offered yesterday.

This, however, he could not effect, because the proposition had been amended, and therefore could not be withdrawn.

Mr. WALKER said that the resolution, as amended, involved a delicate question. If it did not im-

plicate the correctness of the commanding General in the Seminole war, it certainly did insinuate that his conduct had been improper. As to what had taken place on the Spanish territory, Mr. W. thought this House had no right to inquire into it, unless representations were made through the proper authority on the subject by Spain. It would be time enough for Congress to act on that question, when it was properly presented to them. What he asked, would be the feelings of General Jackson and his brave officers and fellow soldiers, on hearing of the question being agitated here? He never had believed but their conduct had been correct, and according both to law and constitution; and that they had been the salvation of the frontier of the country which the honorable gentleman from Georgia particularly represented. He believed that, like all good men, the more their conduct was investigated, the more it would be approved—that the more they were tried, the brighter they would shine.

Mr. BALDWIN said, he thought it advisable, as the proposition had been the subject of so much difference of opinion, and was likely to promote unreasonable debate, that the motion for indefinite postponement should prevail.

Mr. JOHNSON, of Kentucky, said, if the motion for postponement did not prevail, he proposed to move such a reference to the several committees as would be satisfactory to all. He particularly wished, since so much had already been said on the subject, that the motion should not be postponed, but an opportunity might be given to the proper committees to investigate it.

The SPEAKER intimated his impression that the whole discussion had been premature, and that the original proposition, being one of mere reference, did not authorize the range which had been taken in debate. Gentlemen on all hands appeared disposed, he thought, to anticipate the debate which would more properly take place at a different stage of the business, after the committees should make their reports.

Mr. COBB said that his views on the subject of the latitude of debate were the same as the Speaker's; but as a motion for indefinite postponement, which went to the principle of the question, was now made, he thought himself called upon to state why he could not assent to it, and why he wished the inquiry to proceed as proposed. The subjects embraced by the resolution, he said, were two: the Seminole war, and the trials of Arbuthnot and Ambrister. Did this Seminole war or these trials of Arbuthnot and Ambrister concern our foreign relations? Were they likely to involve us in any disputes with foreign Powers, or to affect the relations of this with any other Government? If so, the subject belonged properly to the Committee of Foreign Relations. His own opinion was, Mr. C. said, that these matters had an intimate connexion with our foreign relations. It was somewhat doubtful, he continued, whether the whole of this war had not been waged on unconstitutional principles. He knew very well, he said, that it had heretofore been urged in this House, and was a received opinion, that, under a law now in existence, the President could employ the military force of the United States for the purpose of repelling invasion by the Indians. But he had never understood that this power extended beyond the limits of the territory of the United States. It was yet a question, whether, under the plea or pretext of an invasion from without the limits of the United States, our army could be ordered without the limits of the United States to prosecute a war even with the Indian tribes. But, if this power did actually exist, it followed that the President of the United States could declare a war without the assent of Congress, unless the conclusion was drawn that it was not war to send a detachment of our army to carry on operations beyond our own limits. It is either war, said Mr. C., or it is not war. If it is, Congress, under the Constitution, alone has authority to make it. If it be not war, said he, and we must give it some other name, let it be called a man-killing expedition which the President has a right to direct whenever he pleases. It presented a question on which it was high time some principle should be established, if no such rule had existed heretofore. Mr. C. acknowledged that at the last session this question might have been brought forward. That it was not, however, was no reason why the House should now act equally erroneously. It was time to settle the question whether the President could make or carry on war against any nation, savage or civilized, without the authority of Congress. But another important question was embraced by the resolution on the table which it was now proposed to postpone. The President, he said, had informed the House that a war had been carried on by our troops on the Spanish territory, in the course of which St. Marks and Pensacola had been occupied. In the same Message in which this fact was announced, the President had told Congress that the commanding General had been led to the occupation of those posts by facts which came to his knowledge whilst on the theatre of action. Mr. C. said he wished to know what these facts were; and, inasmuch as this could not but be a proceeding affecting our relations with a foreign Power, it appeared to him properly to belong to the Committee of Foreign Relations to inquire into it. Mr. C. said he knew the reason which the newspapers had given for this proceeding. It was, that Spain, being a neutral Power, had failed to control the Indian hostility to us from within her limits. But the subject for inquiry was, who was responsible for this proceeding against the Spanish possessions? Who was to answer to the world for it? Was it not the nation at large? Was it contended that this burden could at pleasure be shifted from the shoulders of the nation to those of an individual? If not, it became necessary to inquire whether the measure had been authorized by the Constitution and laws of the United States. Has the President of the United States, said Mr. C., directed the Spanish posts to be taken? If not, had any subordinate officer a right to take them? He was free to say

that the President was right in saying that he had no authority to direct the taking or retaining them; and he was equally free to say that he who did direct it had violated the Constitution of the United States. The pretext of the violation of her neutrality by Spain, Mr. C. said, was no excuse for the act. If she had violated her neutrality, it was the business of the nation, and not of any particular officer of the army or Government who chose to take it into his hands. These suggestions he threw out to show the propriety of this subject being referred to the Committee of Foreign Relations. He had discovered, he said, from the Message of the President, that he disclaimed the power of occupying the Spanish posts. But, Mr. C. said, if the doctrine were once tolerated, that, under the cloak, if he might so express it, of prosecuting a war against an Indian tribe, a military officer may, without the authority of Congress, proceed to hostilities against a foreign nation, because they took part with the Indians, it was established that there was a mode of making war with a foreign nation without Congress declaring it. With any man of consideration, it must be a matter of some consequence that a war could be waged without the consent of the representatives of the nation. We see at once, said Mr. C., that that part of the Constitution is nugatory, and does not protect the nation from being involved in war without its consent.

The SPEAKER here interposed. He had hoped, he said, at least after the gentleman's concurrence in opinion with the Chair, that he would not have gone into a discussion on this collateral question, to which no bounds could be assigned.

Mr. COBB waived any further remarks for the present.

Mr. EDWARDS agreed in opinion with the Chair respecting the latitude of debate, and was willing to await a disclosure of all the facts before he made up a final decision on the subject of investigation. But, said he, are we to be deterred from inquiry because, as has been intimated, the inquiry will involve the censure of a high officer of the Army? I protest, and always shall, against doctrines of that sort. Let it censure him or not, no matter who is the officer, I shall vote for inquiry into any public matter, from which I shall not be deterred by the elevation of character, or station of the officer whose character is to be inquired into. For one, Mr. E. said, he saw no reason for rejecting or postponing the resolution.

Mr. TAYLOR said, he had been unfortunately called out when the resolution was yesterday introduced; but, when he heard of it, it was with surprise—surprise, not that the subject was not in itself important, but because it was already referred in the most ample manner. Whatever was in the Message touching our foreign concerns, had, at the opening of the session, been referred to the Committee of Foreign Relations; and it was their business, he thought, to have acted on it, without coming to this House for instructions. It was not very long, he said, that he had been a member of this House; but, short as was the time, an injurious practice had been since then introduced. At that time, it was the custom for committees to examine and report on the subjects referred to them; but now, at the suggestion of any gentleman, instructions were given to committees on subjects already referred to them, and which, without any instructions, it would be their business to bring before the House. Mr. T. went on to say, that things were already in precisely the same state before the committees that they would be were the resolve to pass. He thought the introduction of the resolution particularly unfortunate, too, as it was calculated to excite a discussion on a subject, vastly important in all its bearings, not fully before the House. He hoped the resolution would be indefinitely postponed. The Foreign Committee had their duty assigned them; let them discharge it. The Military Committee had also theirs, which they would no doubt discharge; and, in the end, he hoped Congress would not fail to do theirs.

Mr. HOPKINSON, as a member of the Committee of Foreign Relations, hoped the motion might be indefinitely postponed, that the House might afterwards dispose of the subject as they chose. As a member of the committee which had unfortunately fallen under the reprehension of the gentleman from New York, for what it had done and what it had omitted, Mr. H. said he took upon himself his share of it, with all the submission due to the censorial power vested in that honorable gentleman.

Mr. FLOYD rose merely to say, that, in moving the postponement, it was far from him to desire to avoid investigation, or to screen any officer, however high, if any such should be implicated in it. He only wished, when the House came to a discussion of this subject, that it should be with the aid of all the lights of which it was susceptible.

The question was then taken on indefinite postponement of the resolution, and decided in the affirmative by a large majority.

PENSIONS TO WIDOWS, &c.

The House resumed the consideration of the bill allowing half-pay pensions of five years to the widows and orphans of those soldiers enlisted for twelve months, for eighteen months, and of the militia who died within four months after their return home, of sickness contracted while in service.

On the question of ordering the bill to be engrossed for a third reading, a debate of considerable length took place; in which Messrs. BARBOUR, HARRISON, T. M. NELSON, of Virginia, JOHNSON, of Kentucky, and COMSTOCK, very earnestly advocated the bill, supporting it chiefly on the ground that it was required not only by humanity, but by equal justice, as the objects to be relieved by the bill were as much entitled to relief as the widows and orphans of those who died after their return home, of wounds received in service; that the expense was inconsiderable compared with the object, particularly as much

larger sums were lavished on objects of comparative insignificance.

The bill was as earnestly opposed by Messrs. SMITH, of Maryland, TAYLOR, TERRELL, SIMKINS, and LIVERMORE, on different grounds; but principally for the reasons that the Government had already gone far enough—much farther than any other Government—in relieving the individual distresses consequent on the war; that, admitting the provision to be proper at all, it would be opening the door too wide to extend it to cases of death within four months after the return of the soldier to his home; that the expense would be enormous; that feelings of humanity ought to have some limit in public expenditures, and that such feelings, if always obeyed, would find the whole Treasury insufficient; that it was time to draw some line of limitation, &c.

Mr. HARRISON said that he should be among the last men who would attempt to introduce into this country that system of sinecures and pensions which had produced so much misery in the other hemisphere of the world, dividing almost the whole population of Europe into two very unequal divisions—the one extremely rich, the other miserably poor. There could, however, he said, be no danger of this as long as our free Constitution remains. As long as the money of the people is appropriated by the real Representatives of the people, it will be given only for an equivalent public service, or for some suffering in that service claiming the public beneficence. An examination of one of the pension lists of a modern European Government would present a very different aspect from that on your table. Not moderate allowances for real services, but enormous grants for nominal duties, or for services to a Government whose interests are in direct hostility to the interest of the nation. It is not even the constant and unnecessary wars in which these Governments are engaged that have rendered their subjects miserable, but the wild profusion and extravagance of their corrupt Courts. It is this which, in the language of our great countryman, "obliges the European laborer to go supperless to bed, and moisten his bread with the sweat of his brow."

There are two kinds of suffering, said Mr. H., in the public service, which are recognised by our laws as giving a claim to the public bounty. The one in the case of wounds, or disability incurred in the Army or Navy of the United States. The other, an indirect suffering, as in the case of widows or children, who had lost their husbands or parents in that way. The claims of the first are not questioned. It is admitted by all, that the man who has lost a leg or an arm in serving the nation, as it lessens his ability to maintain himself, should be provided for during the continuance of his disability. But what appears to me, said Mr. H., to be a singular inconsistency; to the woman who has lost her husband who supported her, the child its parent, on whose exertions alone it depended for maintenance and education, our laws allow a limited assistance, leaving the sufferers often in a worse situation than it found them.

I consider this difference, said Mr. H., at war with the dictates of justice, of sound policy, and the first republican principles. Permit me, Mr. Speaker, said Mr. H., to ask what was the motive for the enactment of the law of 1816 in relation to pensions? Was it to establish the great national principle of indemnity to the sufferers as far as indemnity could be given? Or was it intended as a mere temporary relief, as we would throw a dollar to the beggar in the street? If the first was the motive, the law was entirely inadequate to its object. If the second was the motive, it was, in his opinion, unworthy of the nation.

Equality, in the contributions for the public service, is one of the first principles of our Government.

The public burdens are to fall equally upon all in proportion to their means. No individual, and no family are to furnish more than their just share, either of money or of personal service, without an equivalent.

And yet here are 1,800 families who have contributed more than their proportion; some of them their all for the public service. You cannot, indeed, restore the husband to the widow, the parent to the child—but you can supply their places to a considerable degree, and, I think that it is your duty to do it.

The principle for which I contend, said Mr. H., may be more easily calculated by applying it to a small community. Let us suppose, then, that one hundred families were settled upon an island in the Pacific ocean, at such a distance from every civilized State as to make it necessary to form one of themselves—their situation would make it purely republican. All possessing equal right, and all bound to defend their little community against every aggression. The savages of a neighboring island attempt to dispossess them; a battle ensues, in which our little community is victorious, with the loss of five of their number killed and five wounded. The situation in which they would find themselves, is one for which they had not provided. The wounded men would say to the others, as we have been rendered unequal to the maintenance of our families by wounds received for the benefit of all, it is just that we should receive assistance from you to cultivate our farms. The claim would be readily admitted. As would, in the first instance, the claims of the widows and orphans of those who had fallen—but, at the end of five years, before the children of the widows had reached that age when they could labor for themselves and their mothers, they are told that they can receive no further aid while the wounded men are provided for for life. If this principle is admitted in our Government, our militia laws are most unjust and oppressive. They require the same personal service to be rendered by all, the rich and the poor. But the rich married man is allowed to furnish a substitute—the poor married man, unable to hire one, is obliged

when called upon to serve in person. As the poor, then, fight all your battles, which is, perhaps, unavoidable, it is just and right the consequences of their service should fall as lightly as possible on their families. In the late war, it was to their valor and patriotism that you were indebted for the preservation of Baltimore, Norfolk, and New Orleans, and your Northern and Western frontiers. It is possible that when the great emporiums of your commerce were attacked, some wealthy men might have been found in the ranks with their poor fellow-citizens. At Baltimore, for instance, there might have been a merchant, possessed of a fortune of half a million of dollars, placed by the side of a mechanic whose family depended for support on the daily labor of his hands. The former might say to the latter, "let us remember that we fight for our country, our families, and our property, let us rather die than suffer our city to be taken." The latter might have answered—as an American citizen I shall always be willing to defend my country with my life—and, I was just thinking how cheerfully I would meet the enemy, if my situation were like yours. If you fall, you leave your family in affluence—if the lot should be mine, I leave a beloved wife and children to the charity of an unfeeling world. Our laws are unequal and unjust; they require the same personal service of us both, when one day's labor is of more importance to my family than twenty of yours would be to your family—that I would disregard if our laws had provided that in the event of my fall, the wealth which I have sacrificed myself to defend should be taxed to support my orphan children.

Pass but this law, sir, said Mr. H., and you take from an American citizen, called on to serve his country in the field, every motive which would prevent him from doing his duty. An American army would be a band of heroes. The tenderest feelings of our nature are not inconsistent with the most heroic bravery. There are moments when the powerful influence of domestic attachment will find its way to the bosom of the warrior, but, unmingled with any distressing reflections as to the fortune of his family, it will only prove an incentive to the performance of his duty.

Permit me, sir, said Mr. H., to give another example to show the injustice and inequality of the existing laws in relation to pensions. It is a case as nearly similar as possible to that which was stated a few days ago by my friend from Virginia, (Mr. Barbour,) and if he will give me leave, I will again introduce to the House one of the widows whose case he so eloquently supported. I will take the one who has received the five years' pension, and contrast the situation of herself and family with that of a neighboring lady, whose husband had lost a leg in the late war. Both husbands had performed the same services, in the same corps, and with the same rank; one lost his life, and the other his leg. To the latter you give a pension for life—to the former a pension for five years. Is there any equality or justice in this? Is it not setting a higher value upon the leg of one man than the life of another? It may be said that in the one case it is given to the individual who suffered, in the other, to his family. Sir, said Mr. H., is not the wife and the children identified with the husband and parent? The misfortune of the one is the misfortune of the other, and there should be no difference in the relief you offer them.

The principle for which I contend (said Mr. H.) is not a new one; it is sanctioned by the practice of one, at least, of the great republics of antiquity and by the opinions of some of the wisest and best men that ever lived. In the elegant work of the Abbe Barthelemy, entitled the travels of Anacharsis, (an authentic history with a fictitious title, as every one knows,) the author brings his supposed traveller to Athens at the period of one of the great national festivals. The ceremonies were concluded by the advance of a herald followed by a number of young men completely armed; these, said he, (addressing the assembled Athenians and pointing to the youths,) these are the sons of those patriots who have fallen in the service of their country; they have been educated at the public expense until they have reached the age of manhood, and are now to be dismissed to their families clothed and armed at the expense of the State. Such was the law of Athens, promulgated by Solon, and continued without interruption for upwards of one hundred and fifty years, until she was first corrupted by the gold of Philip, and her liberties finally overturned in the fatal battle of Cheronea. It is mentioned by Pericles in his oration over the Athenians who fell in the first campaign of the Peloponnesian war. Referring to this law, he concludes his speech in these remarkable words: "For when virtue is best rewarded, then will patriotism most prevail." Nor is this great statesman (said Mr. H.) the only evidence I can adduce to show the good effects produced by this law to the Athenians. [Here Mr. H. read an extract from Stanley's life of Solon, showing the approbation given to this law by Aristides, Plato, and the ancient historian Laertius, and then continued.] I consider these authorities, said he, as decisive of the good effects produced by this law in the republic of Athens—a Government more nearly assimilated to our own, as it regards the principles upon which it was founded, than any other ancient or modern. After the experience of a century, the ablest statesmen and most virtuous men declared it to be one of the most powerful causes which produced that ardent patriotism and heroic valor which distinguished the period that has been emphatically denominated their age of glory.

The eulogium of Aristides upon the Athenians proves, to my satisfaction at least, that the passage of the bill before the House will not produce those ruinous consequences to the Treasury which some gentlemen seem to apprehend. Himself, the incorruptible statesman who presided over the finances of his nation; the honest man who suffered exile rather than flatter the follies

of his countrymen, affords the best evidence that it produced no pecuniary embarrassment to a State whose whole territory can scarcely be discovered upon a general map of Europe. Amidst all the calamities which war often brings upon a nation, the Athenians adhered to this law as the sheet anchor of their hopes. During the time it was in force their city was three times taken and twice razed to the ground. At the time that Pericles was speaking, the whole of their continental territory was in possession of their enemies, and ravaged with fire and sword. A pestilence also prevailed within the city with a malignity to which there is no parallel on record—an event which gave to a member of this House (Mr. HOPKINSON) an opportunity for an historical allusion, in one of the most splendid specimens of forensic eloquence which this country has ever witnessed.

Sir, said Mr. H., I consider that a great part of the money which may be taken from the Treasury by the passage of this bill will be as usefully employed for the benefit of the nation as it could well be. The pious and patriotic mothers to whom it will be given will employ it in the education of their sons, and they will never cease to remind them of the obligations they owe to their country. "Emulate the patriotism of your father," will be the reiterated lesson from childhood to manhood. To have such lessons taught to every youth in the country, I, said Mr. H., should be willing to give the yearly balances which may remain in the Treasury for fifty years to come. There is something in the female character admirably calculated to gain an ascendency over the minds of those violent but generous youths, who are formed by nature to act a splendid part upon the theatre of the world; and who, when a proper direction is given to their passions, become the friends and benefactors of mankind. They listen with more attention to the mild admonitions of the mother, than the rougher mandates of an imperious father. It is very remarkable that the great votaries of liberty, both ancient and modern, have received the impulse from this source. The Gracchi, Brutus and Cassius of Rome, Agis and Cleomenes of Sparta, our own Washington, and perhaps Kosciusko, are a few out of the many instances that could be adduced.

I consider, said Mr. H., the law of 1816 not only inconsistent with other laws, but with itself. It directs that when the widow shall be married, and the children arrive at sixteen years of age, the pension shall cease; but it does not make a continued provision for those who have not arrived at the age of sixteen; and many of the widows and orphans are left in a worse situation than it found them. What, for instance, can a woman with four or five young children have been able to save out of forty-eight dollars per annum? It has enabled her to procure a few comforts only, of which she will more sensibly feel the want, when the means of procuring them are withdrawn, than if she had never enjoyed them. It is not my intention, nor would it be my wish, said Mr. H., to make the allowance perpetual, but to limit it to those who had sons to the period of their reaching the age of sixteen.

From the length, said Mr. H., to which some gentlemen are desirous of carrying their system of economy, I apprehend that an idea is entertained that the wealth of the Treasury is the strength of the nation. But, however true the principle may be when applied to monarchies, I deny its correctness when applied to a republic. The strength of a republic consists in the correct principles of its citizens. Money is therefore never misapplied when it is used to disseminate correct principles among the people. Guard your Treasury, says the gentleman from South Carolina. Guard it, say I, also, against every unjust claim, and every expenditure inconsistent with the nature of our Government. But open it, wide as the gates of your temples, to every just claim, and for every expenditure which has for its object the interest or honor of the nation.

The gentleman from South Carolina has said that this is a popular measure. It is so, sir, said Mr. H. The money of the people could not be expended more to their satisfaction than by the passage of this bill. Go to the American ploughman, and speak to him of Montgomery and Mercer, of Pike and of Covington, and you will touch a chord that vibrates to his soul. Ask him if he is willing that their families should be supported from the Treasury, and he will answer, that, although poor, he is just and honest; although not a lettered man, he knows the source of the happiness he enjoys; of the immense distance, as to rights, which separates him from the ploughman of Europe—a distance as great as the wide ocean which rolls between them.

Mr. Speaker, said Mr. H., the persons who are to be benefited by the passage of this bill, do not come before you upon equal ground with the horde of claimants upon whose cases you daily decide. They are allowed to solicit for themselves—they visit the members at their lodgings, and urge their pretensions even in the streets. The veteran of the Revolution, when soliciting your justice, is permitted to exhibit, upon this floor, his war-worn countenance, and his locks, bleached under the helmet: and even the maimed soldier or seaman hobbles upon his crutches to the door of your hall, to excite your pity—to ask your benevolence. But the persons whose feeble advocate I am upon this occasion, are obliged, from the delicacy of their sex, or the tenderness of their age, to confine their sorrows or their sufferings within the walls of their own cottages. But, suppose it were otherwise; suppose the many hundred widows and orphans, the relicts of the late war, were to be brought before us; with what different feelings should we vote upon this occasion. The thing cannot be—but I beg gentlemen to give some scope to their imaginations, and persuade themselves that they really see it. Here a venerable matron, followed by a large family of children; there, another, in the full bloom of beauty, a widow through choice, and under a sacred vow that the hero who had once filled her arms should never be supplied by ano-

ther; the lovely boy she holds by the hand was an orphan before he saw the light; and more and more unfortunate than Astyanax, had never been pressed in his father's arms, and dedicated to his country. What man, said Mr. H., could resist this appeal, accompanied by the reflection that their misfortune had secured his own happiness, and the safety of the nation?

It has been urged, Mr. Speaker, said Mr. H., as a reason against the passage of this bill, that the Government had done all that could be expected, having complied with all the engagements they had made, and that those who fell had done no more than their duty. I regretted extremely, said Mr. H., to hear an argument of this kind, and was sorry to find that the events of the late war were so illy understood, or so badly remembered. Is it intended, said Mr. H., to assert that the Government can owe no obligation to its citizens, but what is contained in a written law? This is a dangerous doctrine to promulgate; your citizens may imbibe it—and wretched, indeed, must that republic be, where the obligation from the citizen to the country, and from the country to the citizen, is to be determined by a written law. But I trust, said Mr. H., that there is a sentiment of duty towards his country, in every American bosom, which no legislature can impose, which no law can define. It was, sir, said Mr. H., under the influence of this sentiment that thousands of your fellow-citizens acted in the late war. What but this drew the veteran Shelby from the comforts to which his age and services entitled him; from the dignified station of Governor of a most respectable State, to encounter the hardships of a northern campaign, and that, too, under the command of an officer greatly his inferior in military talents and experience? The whole Western population acted upon this principle, as they did, I am persuaded, in other parts of the Union. By this principle you not only got men to the field, but, when in the field, they did more than any law, written or unwritten, obliged them to perform. The custom of war, which is the military law, authorizes an officer badly wounded to retire. Had the gallant Spencer measured his duty by this law, he might still have lived a blessing to his numerous family. He was badly wounded in the head and thigh, but he refused to leave his post, until a third ball pierced his heart. Where was the law which obliged the gallant Captain Ritchie to vow never to leave his artillery alive? He remained by the side of his piece, bleeding to death, when, by retiring, he might have lived.

When your citizens thus, sir, disregarded the obligations of law, in fighting your battles, will you tell their widows and orphans, who apply to you for relief, that you have nothing to give, having complied with all the engagements you made?

Mr. Speaker, said Mr. H., let the gentleman who votes against this bill, return, after having done so, to the bosom of his own family, and when he finds himself surrounded by every earthly blessing; when he sees happiness beaming from the eyes of a beloved consort, produced by his presence and his safety, let him think, if he can, upon those wives who have no husbands to return to them; upon those children who have no parents to bless them—and when, sir, he performs the pleasing task of instructing his children, particularly the darling boy whom, in imagination, he may destine to replace him here; when he would teach them a lesson of patriotism, drawn from the events of the late war, and describes the heroism of Pike, and the devotion of Covington; when he has made the impression he wished, and sees their little bosoms heave with emotion, their eyes kindle with the patriotic fire, let him change the subject, and teach them a lesson of republican economy, and tell them, that, notwithstanding their strong claim upon his gratitude, and the gratitude of the country, he had yet courage, under the influence of a mere Treasury calculation, to consign the orphans of these men to poverty and wretchedness. Let gentlemen do this if they can. I cannot, I will not, I dare not.

The question on engrossing the bill and ordering it to a third reading, was at length decided in the affirmative—yeas 87, nays 68, as follows:

YEAS—Messrs. Anderson of Pennsylvania, Anderson of Kentucky, Austin, Baldwin, Barbour of Virginia, Barber of Ohio, Beecher, Bellinger, Blount, Boden, Boss, Bryan, Claiborne, Comstock, Cook, Davidson, Earle, Edwards, Floyd, Folger, Garnett, Harrison, Hendricks, Herbert, Herrick, Heister, Hitchcock, Hogg, Holmes, Hostetter, Irving of New York, Johnson of Kentucky, Jones, Lawyer, Little, McLean of Illinois, W. Maclay, Mason of Massachusetts, Mercer, Merrill, Robert Moore, Samuel Moore, Mumford, Murray, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogden, Ogle, Parrott, Patterson, Pawling, Pegram, Peter, Pindall, Pleasants, Poindexter, Quarles, Rhea, Ringgold, Robertson, Rogers, Ruggles, Sampson, Savage, Schuyler, Sherwood, Silsbee, B. Smith, A. Smyth, J. S. Smith, Storrs, Strother, Terry, Trimble, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Westerlo, Whiteside, Whitman, Wilkin, and Williams of New York.

NAYS—Messrs. Abbot, Adams, Allen of Massachusetts, Bassett, Bateman, Bayley, Bennett, Butler of New Hampshire, Campbell, Clagett, Cobb, Colston, Crafts, Crawford, Cushman, Darlington, Desha, Drake, Ellicott, Gage, Gilbert, Hale, Hall of North Carolina, Hasbrouck, Hubbard, Johnson of Virginia, Kirtland, Linn, Livermore, W. P. Maclay, McCoy, Marchand, Mason of Rhode Island, Middleton, Mills, Morton, Moseley, J. Nelson, Orr, Pitkin, Rice, Rich, Richards, Sawyer, Scudder, Settle, Simkins, Slocumb, S. Smith, Southard, Speed, Stewart of North Carolina, Tallmadge, Tarr, Taylor, Terrell, Tompkins, Townsend, Upham, Williams of Connecticut, Williams of North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania.

The bill was ordered to be read a third time to-morrow.

The House then, on motion, adjourned until to-morrow.

THURSDAY, December 10.

The SPEAKER laid before the House a report of the acting Secretary of the Navy, transmitting documents in relation to the Navy Pension Fund, received since the report of the 21st ultimo, which was referred to the Committee on Naval Affairs.

On motion of Mr. SCOTT, the Committee on the Public Lands were instructed to inquire into the expediency of extending the provisions of the fifth section of the act of Congress, of the 12th of April, 1814, entitled "An act for the final adjustment of land titles in the State of Louisiana, and Territory of Missouri," to the inhabitants of that portion of Howard county, in the Missouri Territory, lying north of the Missouri river, and west of the county of St. Charles.

On motion of Mr. CAMPBELL, a select committee was appointed to report a bill for taking the fourth census or enumeration of the inhabitants of the United States; and Messrs. CAMPBELL, PINDALL, and FULLER, were appointed the said committee.

On motion of Mr. BALDWIN, the Committee on the Judiciary were instructed to inquire into the expediency of providing by law, for an additional compensation to the marshal and district attorneys, of the western district of Pennsylvania, the northern district of New York, and the clerk of the district court for the eastern district of Pennsylvania.

Mr. ROBERT MOORE presented the following resolution, which was read and rejected:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of granting a bounty in lands, to the soldiers who enlisted twelve months previous to the late war, and who served out the periods of their enlistments, and procured their honorable discharges, and to the heirs and legal representatives of those having so enlisted, who were killed in battle, or died in the service of their country.

On motion of Mr. STORRS, the President of the United States was requested to lay before this House copies of any correspondence between the Governor of the State of Georgia, and Major General Andrew Jackson, relative to the arrest, or other proceedings against Captain Obed Wright, which may have been transmitted to any of the Executive Departments of the United States.

On motion of Mr. J. S. SMITH, the Secretary of the Treasury was instructed to lay before this House a statement of the progress that has been made under an act of Congress, of the 3d of March, 1817, entitled "An act to set apart, and dispose of certain public lands, for the encouragement of the cultivation of the vine and olive;" whether four townships of six miles square each, had been laid off, and reserved for the purpose aforesaid; and whether any agent or agents, acting for the French emigrants, have contracted for said lands, and on what terms; and whether such agent, or agents, are now residing on said land; together with the number of French emigrants that have made settlements on said reservation, and the progress that has been made in the culture of the vine and olive.

On motion of Mr. RICH, the Committee of Claims were instructed to inquire into the expediency of making compensation to Aaron Balamy, of Vergennes, in Vermont, for his vessel, captured by the enemy on Lake Champlain, in the Summer of 1813, while taking on board a cargo of flour for the United States; and that the testimony taken in the case, under a commission from the late Commissioner of Claims, be referred to the said committee.

On motion of Mr. ERVIN, of South Carolina, the Judiciary Committee were instructed to inquire if any, and what, amendments are necessary in the "copy right laws," in relation to suits brought in the courts of the United States, between citizens of the same State.

The House took up and proceeded to consider the resolution submitted on the 7th instant, by Mr. SIMKINS; which was amended and agreed to, as follows:

Resolved, That the Secretary of the Treasury be requested to lay before this House a statement of the sales, public and private, of public lands northwest of the river Ohio, the purchase money of which has not been fully paid; the respective years in which such sales have taken place; the credits given on such sales; the sums which have been paid thereon; those which are now due, and the periods at which they became so; whether any instalments are yet to fall due, and to what amount. Also, what description of paper has been received, and what is now receivable in payment for said lands.

A message from the Senate informed the House that the Senate have passed "a resolution directing a survey of certain parts of the coast of North Carolina;" in which they ask the concurrence of this House.

The bill for the relief of Thomas Hall Jervey, was in part considered in Committee of the Whole; but, without concluding the subject, the Committee rose and obtained leave to sit again.

The report of the Committee of Claims, unfavorable to the petition of Captain John Cowan, passed through a Committee of the Whole, in which, after much debate, the report was reversed; and being reported to the House, the Committee of Claims were instructed to bring in a bill for his relief.

Ordered, That Messrs. PITKIN, ROGERS, and LITTLE, be the committee on the part of the House, in pursuance of the resolution for the appointment of a joint committee, to consider and report if any further provisions are necessary, to insure economy, despatch, accuracy, and neatness, in the printing, ordered by the two Houses of Congress, respectively.

PENSIONS TO WIDOWS, &c.

An engrossed bill, entitled "An act concerning widows of the militia," was read the third time, and being on its passage—Mr. DESHA moved to recommit the bill to a Committee of the Whole.

And the question being taken thereon, it was determined in the negative—yeas 67, nays 77, as follows:

Yeas—Messrs. Abbot, Adams, Allen of Massachusetts, Bassett, Bateman, Bayley, Bennett, Butler of New Hampshire, Butler of Louisiana, Campbell, Clagett, Cobb, Crafts, Crawford, Cushman, Darlington, Desha, Ellicott, Gage, Gilbert, Hasbrouck, Hopkinson, Hubbard, Huntington, Johnson of Virginia, Kirkland, Lawyer, Linn, Little, Livermore, W. P. Maclay, McCoy, Marchand, Samuel Moore, Morton, Moseley, Jer. Nelson, Palmer, Pitkin, Porter, Rice, Rich, Richards, Ringgold, Sawyer, Scudder, Settle, Seybert, Simkins, Slocumb, S. Smith, J. S. Smith, Southard, Speed, Stewart of North Carolina, Strother, Tallmadge, Tarr, Taylor, Terrell, Tompkins, Townsend, Upham, Williams of Connecticut, Williams of North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania.

Nays—Messrs. Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Beecher, Bellinger, Blount, Boden, Boss, Claiborne, Comstock, Cook, Cruger, Davidson, Earle, Edwards, Ervin of South Carolina, Floyd, Folger, Garnett, Hall of North Carolina, Harrison, Hendricks, Herbert, Herrick, Heister, Hitchcock, Hogg, Holmes, Hostetter, Irving of New York, Jones, McLean of Illinois, W. Maclay, Mason of Massachusetts, Mercer, Merrill, Robert Moore, Mumford, Murray, H. Nelson, New, Newton, Ogden, Ogle, Owen, Patterson, Pawling, Pegram, Peter, Pindall, Pleasants, Poindexter, Quarles, Rhea, Robertson, Ruggles, Sampson, Savage, Schuyler, Shaw, Sherwood, Silsbee, Ballard Smith, Alexander Smyth, Storrs, Terry, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Westerlo, Whiteside, Wilkin, and Williams of New York.

The question was then taken, Shall this bill pass? and passed in the affirmative.

CADETS AT WEST POINT.

The House resolved itself into a Committee of the Whole on the bill, reported at the last session, "for the admission of cadets into the Military Academy;" [directing that in all applications for the admission of cadets into the Military Academy at West Point, a preference shall be given to the sons of officers and soldiers who were killed in battle, or who died in the military service of the United States in the late war; and that a further preference shall be given to those least able to educate themselves, and best qualified for the military profession.]

Mr. Smith, of Maryland, moved to amend the bill by striking out the last clause, directing "a further preference to be given to those least able to educate themselves, and best qualified for the military profession," remarking that he saw no reason for the preference, and until he heard something convincing in favor of the discrimination, he should remain of opinion that it ought to be stricken from the bill.

Mr. Strother addressed the Committee at considerable length, in opposition to the object of the bill, urging chiefly that it was sanctioning a preference of a particular profession, and thus creating a privileged order in the community; that it was virtually declaring an unnecessary jealousy of the discretion now vested in the War Department, implying an opinion that it was not exercised properly; and would, moreover, preclude it from selecting the most fit and most worthy; and was perverting the true object of the institution, which was established for the general benefit, &c.

Messrs. Harrison and Johnson, of Kentucky, replied to the objections of Messrs. Smith and Strother; stating that the bill had been reported in pursuance of a resolution adopted on the motion of a late distinguished member of this House, (Mr. Robertson, of Louisiana;) that the provisions of the bill appeared to be required by the original purpose of the institution; that, instead of creating an aristocracy, it would tend to counteract any such thing, as the objects to be selected were from that class of the community whose pecuniary circumstances repressed any tendency towards undue influence.

The question on Mr. Smith's motion was decided in the negative.

Mr. Taylor observed that, notwithstanding what had been said in defence of this bill, its effect was certainly to create a privileged order in the country; that, although the selection proposed might be expedient and laudable to a certain extent, there was no doubt that the department now vested with the selection would keep in view, as far as was proper, the principle proposed; but it would in his opinion be highly improper for Congress by a formal act to sanction such a distinction. In lieu, therefore, of the provisions at present proposed by the bill, he moved the following, as a substitute: "That cadets shall hereafter be 'admitted into the Military Academy at West 'Point, from the respective States and Territories, 'and from the District of Columbia, in propor-'tion to the militia returns thereof."

Mr. Harrison again protested against the assertion that this bill fostered a particular order of men. It might as well be said that the charitable appropriations for Sunday schools established a privileged order. It was no such thing. The bill proposed a benefit to be bestowed chiefly on the poor descendants of those who had served their country.

Mr. Taylor replied, that if there were Sunday schools to be paid for out of the public treasury, as this Academy was paid for, he should object, as he did now to its expenditure for a particular class: he should wish, in such a case, the benefit to be general, as he did in this.

Mr. Southard combatted the idea that this bill went to establish any aristocracy; it would have the contrary effect, by giving to the poor their portion of the benefits of an institution now confined chiefly to the rich, who sent their sons there to be educated free of expense, &c.

Mr. Harrison reiterated his objections to the amendment, and observed, in addition to what he had submitted already, that the design of this bill was really to get rid of a practical aristocracy, instead of creating one; for it was a fact, he believed, that no son of a soldier (by the term he meant not also to include officers) had ever yet been educated at the Military Academy. Mr. H. then stated that if Mr. Taylor's amendment should prevail, he would move to add the following: "And that in all cases the preference be

'given to those whose parents are least able to 'educate them;" and intimated that he should then move an additional section requiring cadets to remain at the Academy until the age of twenty-five years.

Mr. CLAY prefaced the motion he rose to make, by observing, in reply to the opponents of the bill, that it was a new thing to hear of an aristocracy of the poor: he should not be sorry to see something like such an aristocracy, but he did not think the bill would be productive of that or any other valuable effect. Believing that the selection might be very well left with the Secretary of War, in whom it was now vested, and not being able to perceive that any good would grow out of this bill, if passed, he moved that the Committee rise, report progress, and then let the House get rid of the whole subject.

This motion prevailed, and, the bill being reported to the House, the Committee was refused leave to sit again; and the bill was laid upon the table.

FRIDAY, December 11.

A message from the Senate informed the House that the Senate have passed the bill entitled "An act to authorize the settlement of the accounts of James Wilde;" in which they ask the concurrence of this House.

Mr. WILLIAMS made a favorable report on the petition of Colonel Isaac Clark, accompanied by a bill for the relief of Colonel Clark, and the officers and soldiers under his command at the time of making an inroad into the country of the enemy during the late war; which was twice read, and committed.

Mr. POINDEXTER made a report, recommending the rejection of the prayer of the petition of the General Assembly of the State of Illinois, respecting the settlers on certain public lands in the district of Shawneetown; which was concurred in.

Mr. P. also reported a bill explanatory of the act "for the final adjustment of land titles in the State of Louisiana and Territory of Missouri;" which was twice read, and committed.

Mr. MIDDLETON made a favorable report on the petition of Marquis de Vienne, accompanied by a bill making provision for the claim; which was twice read, and committed.

On motion of Mr. WILLIAMS, of Connecticut, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of providing by law for the payment of pensions, when the pensioner, by reason of insanity or other cause, is legally incapable of performing the acts necessary to entitle him to receive the same.

On motion of Mr. NEWTON, the Committee of Commerce and Manufactures were instructed to inquire whether any, and if any, what alterations or modifications are required in the several acts of Congress establishing ports of entry and delivery.

On motion of Mr. BARBER, the Committee on Public Lands were instructed to inquire into the expediency of procuring the field notes and plats of the reserved sections within the Ohio company's purchase.

On motion of Mr. HERRICK, the Committee on Public Lands were instructed to inquire whether the act entitled "An act for changing the compensation of receivers and registers of the land offices," approved on the 20th of April, 1818, requires any amendment; and, if so, what amendment is necessary to be made to the said act.

On motion of Mr. SIMKINS, the Committee on the subject of Revolutionary Pensions were instructed to inquire how far it may be expedient to amend the law, passed during the first session of the fifteenth Congress, granting pensions to Revolutionary officers and soldiers, so as to prevent frauds in the reception of pensions by pretended agents of, and in the names of, pensioners, who shall have died, after having, once or oftener, received their pensions.

The bill for authorizing the settlement of the accounts of James Wilde, and the resolve for a survey of the coast of North Carolina, &c., received from the Senate, were twice read, and committed.

The report of the Committee of Pensions unfavorable to the petition of John Porter, underwent some discussion in Committee of the Whole, in which Messrs. BARBOUR, RHEA, and SMITH, of Maryland, engaged; and being reported to the House, was concurred in without opposition.

The report of the Committee of Claims on the memorial of A. W. Hamilton, being called up, on motion of Mr. H. NELSON, the Committee of the Whole were discharged from the further consideration of it, and leave was given to the memorialist to withdraw his papers.

REDUCTION OF THE ARMY.

Mr. WILLIAMS, of North Carolina, after recalling the recollection of the House to the fact, that, at the session before the last, he had proposed a resolution for the reduction of the Army, announced his intention to renew that proposition. He yet thought the measure necessary. In all free countries, that standing armies are dangerous to liberty, was a truth generally admitted, and, in this country particularly, solemnly recognised. In this belief, he said, he had grown up; in this belief he had lived. His opinion as to the expediency of reducing our present military force remained unaltered by the events which had elapsed since he before suggested it; he might say, it had been confirmed. He had not thought proper at the last session to introduce this resolution. He had waited in the hope that some gentleman better qualified to sustain it would make the motion; in that hope he had so far waited at the present session. No one having undertaken what he now conceived his duty, he moved—

"That the Committee on Military Affairs be instructed to inquire into the expediency of reducing the Army of the United States."

Mr. W. not wishing to hurry the motion, it was, at his request, ordered to lie on the table.

The bill authorizing the distribution of a sum of money among the representatives of the late Commodore Edward Preble, &c., passed through a Committee of the Whole. [The object of this bill was explained by Mr. Pleasants. It is to allow the usual proportion of prize money for the brig Syren, captured for a breach of blockade by our squadron off Tripoli in 1804, and taken at that time into the service of the United States; but subsequently sold at a reduced price.] The bill was, without opposition, ordered to be engrossed for a third reading; and the House adjourned to Monday.

Monday, December 14.

Another member, to wit: from Delaware, Willard Hall, appeared, and took his seat.

Mr. Storrs presented a petition of sundry inhabitants of the State of New York, (the Governor of the State, and the mayor and common council of the city,) on behalf of the surviving officers of the Revolutionary army; which was referred to the Committee of the Whole, to which is committed the report of the select committee on the petition of William Jackson, solicitor for said officers.

Mr. Williams, of North Carolina, from the Committee of Claims, made an unfavorable report on the petition of Bowie and Kurtz, and others, which was read and committed to a Committee of the Whole, to-morrow.

Mr. Williams also reported a bill for the relief of Captain John Cowan and the company under his command, in the years 1814 and 1815, which was read twice, and committed to a Committee of the Whole.

Mr. Rhea made a report on the petition of Samuel Gibbs, which was read; when Mr. R. reported a bill for the relief of the said Samuel Gibbs, which was read twice, and committed to a Committee of the Whole.

Mr. Robertson, from the Committee on Private Land Claims, made a report on the petition of John Rice Jones, which was read; when Mr. R. reported a bill for the relief of John Rice Jones, which was read twice, and committed to a Committee of the Whole.

Mr. Robertson also made a report on the petition of the heirs of Alexander Montgomery; and on the resolution instructing them to inquire into the expediency of authorizing additional evidence in support of the claim to land, of the said heirs, derived from the Spanish Government, through John Montgomery, to be received by the register and receiver of the land office east of Pearl river, which report was read; when Mr. R. reported a bill for the relief of the legal representatives of Alexander Montgomery, deceased, which was read twice, and committed to the Committee of the Whole to which is committed the bill for the relief of the legal representatives of John Baker, and the legal representatives of Peter Trouillet.

Mr. Claiborne, from the committee appointed on the petition of the General Assembly of the State of Georgia, and to whom was also referred the report of a select committee, made at the last session on the petitions of Thomas Carr, Andrew Jackson, and George W. Sevier, made report thereon, which was read; when Mr. C. reported a bill for the benefit of Thomas Carr, and others, which was read twice, and committed to a Committee of the Whole.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: An act to increase the compensation of the surveyor of the port of Patuxet, in Rhode Island; and An act for the relief of Matthew Barrow; in which they ask the concurrence of this House.

A Message was received from the President of the United States, as follows:

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives, of the 10th instant, I transmit a report of the Secretary of War, with copies of the correspondence between the Governor of Georgia and Major General Andrew Jackson, on the subject of the arrest of Captain Obed Wright.

JAMES MONROE.

December 12, 1818.

The said Message was read, and, together with the correspondence, referred to the Committee on Military Affairs.

The Committee of the Whole, to which is committed the bill of the last session, establishing trading-houses with the Indian tribes, and for the organization and encouragement of schools for their instruction and civilization, were discharged, and the said bill was referred to the Committee on Indian Affairs.

The bill from the Senate, entitled "An act to increase the compensation of the surveyor of the port of Patuxet, in Rhode Island," was read twice, and referred to the Committee of Commerce and Manufactures.

The bill from the Senate, entitled "An act for the relief of Matthew Barrow," was read twice, and referred to the Committee of Claims.

An engrossed bill, entitled "An act authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig Syren," was read the third time, and passed.

The Speaker laid before the House a letter from the Secretary of the Treasury, transmitting information of the progress that has been made under the act of Congress, of the 3d of March, 1817, entitled "An act to set apart and dispose of certain public lands, for the encouragement and cultivation of the vine and olive," rendered in obedience to a resolution of the House of the 10th instant; which was read, and ordered to lie on the table.

FLORIDA AFFAIRS.

Mr. Hopkinson submitted a motion, requesting the President to lay before the House, if he should not deem it improper to do so, copies of any instructions which have been given to the Minister of the United States at Madrid, relative to the

late proceedings of the army of the United States in Florida.

This proposition was objected to by Mr. POINDEXTER, as proposing an unusual course, and one not properly within the province of this House, but rather of the Senate—the treaty-making power. To obviate this objection the word "correspondence" was substituted, by consent of Mr. HOPKINSON, who considered the objection rather one of form than substance, for the word "instructions;" and the resolution was otherwise conformed to this amendment.

Having been so amended, on a suggestion of Mr. RICH, of the propriety of waiting to see whether the information desired would not be comprised in the communication on the subject of our relations with Spain, promised in the President's Message at the commencement of the session, and after some conversation on that point—

The motion of Mr. HOPKINSON was ordered to lie on the table.

EXTENSION OF MILITIA PENSIONS.

The bill to extend, for a further term of five years, the pensions granted to the widows and orphans of those militia who died or fell in battle during the late war, being the order of the day, passed through a Committee of the Whole, and, its objects being briefly explained by Mr. HARRISON, was reported to the House; when a spirited debate arose on it, which occupied the whole of this day's sitting.

Mr. SIMKINS, of South Carolina, opened the debate. The bill he characterized as one of magnitude in principle, and worthy of serious consideration, also, as drawing largely on the national purse. He was opposed to the bill on the ground that, in granting five years' pension as an alleviation, for the time, of sudden and inextricable distress, the Government had gone far enough; and that, if poverty was a proper subject for the munificence of Congress, no limit could be assigned at which its liberality would pause. The same reasons assigned now for the passage of this bill, would be equally valid five years hence, and during the lives of those who were the objects of its bounty. He particularly objected to the pension system, carried to this extreme, as leading a class of people to look to the Government for support, rather than exerting that industry which would sustain them in plenty and add to the national wealth. As to the obligation of gratitude, Mr. S. argued, it had been fully complied with. No nation on the globe had been more liberal to those who had suffered in the service of their country than this, and he was not for going further. This it was probable might be a popular measure, but when the increase of taxation, which such expenses would probably make necessary, was felt by the people, he doubted whether it would preserve its popularity. Of a liberal expenditure for such objects, he was the advocate; but the expenditure might be too liberal, and had in his opinion been sufficiently so.

Mr. T. M. NELSON, of Virginia, remarked, in favor of the bill, that the amount of expenditure it would occasion was yearly diminishing by the deaths and marriages of the widows, and the arrival at maturity of the orphans. As to the unpopularity of the measure, he would venture to say, that there could not be expended by the Government any part of its revenue which would afford such general satisfaction as that which provides for the helpless and destitute widows and orphans who were reduced to distress by the loss of their supporters and protectors during the late war.

Mr. HARRISON, of Ohio, was in favor of the bill. In regard to pension systems, he denied that there could be any analogy between that of this Government and of the Governments of Europe; the one being of moderate extent, and for actual services, the other of enormous extent, and bestowed on the principle of favoritism merely. Here, he said, were one thousand four hundred individuals concerned, as appeared by the pension list, who had contributed their all to the service of the country—the parent who supported and educated the child; the husband on whom the wife depended for protection and subsistence. The principle, he said, for which he contended—that the family of those who die in the public service should be provided for by the public—had been recognised by the best men and the oldest governments, and by those particularly to which ours bore the greatest resemblance; which he illustrated by a reference to Anacharsis's Travels, and to the authors quoted in that work. He went into an argument, enforced by cases which he stated, to show that it would be unjust to refuse to the widows and orphans of those who died in service the same compensation as was allowed to those who survived, but had been wounded: in the one case the pension was for life, and, on the same principle, ought to be so in the other. He referred to the gallant exploits of our Captain Ritchie, Colonel Wood, and other departed heroes, during the late war, to show the devotion to duty and to the country, which animated the American soldier; and hence argued that it was no more than just that the families of such men should be sheltered from want after they had fallen. In regard to the popularity of this law, if that argument were to have weight, he would vouch for its finding favor with the people. Go to any farmer—to any ploughman in your country—tell him of Montgomery and of Mercer, of Pike and of Covington, and you touch a chord to which his heart responds. Though poor, he is generous; though unlettered, he knows the history of his country sufficiently to appreciate their services. He knows the nature and value of his rights as an American citizen, and he entertains a just gratitude for the services of those who established and defended them. With such men, Mr. H. said, this measure could not but be popular. After drawing a contrast between the felicity of a happy and prosperous family, and the misery of one bereft of its only support and protector, Mr. H. expressed his anxious hope that the

House would do whatever was in its power to relieve such distress by the passage of this bill.

Mr. Rich, of Vermont, proposed to amend the bill. That some provision ought to be made for those who suffer in the service of their country, would be certainly agreed by all; but that there ought to be some limit to this provision, he presumed would equally be agreed; though, with respect to what that limitation should be, there might be expected to be some difference of opinion. He should not vote for the bill in any shape; but desired, if it should pass, to make it as little objectionable as possible to him. He therefore moved an amendment, the object of which was to destroy the distinction in the amount of pension between the officers and privates; the reasonableness of which, however just during the service of them, respectively, he could not see as it affected their families.

After some observations of Mr. Harrison against, and Mr. Rich in favor of the amendment, it was negatived by a small majority.

The question recurring on the passage of the bill—

Mr. Pitkin, of Connecticut, spoke in opposition to it. The reasons assigned for this renewal of the pensions for five years, he said, were very different from those which were urged in favor of the original grant of five years' pension. It was then said that the regulars had bounty land, which went to their families after their decease, whilst the militia had none, though some of them had done equal service with the regulars. The pension had therefore been granted to place them on an equal footing. The bill now before the House, however, was founded on a new principle, of importance sufficient to induce the House to pause before they sanctioned it. He did not see how the same measure could be refused to the widows and orphans of regulars who had fallen in battle, nor where Congress were to stop. There must be some limits to this expenditure on the pension bill; which limits, he thought, would exclude the provisions of this bill.

Mr. Johnson, of Kentucky, warmly advocated the bill, which he thought bottomed on the true principles of our Government, and sustained by justice, without reference to the duties of charity and gratitude. Geographical considerations, he agreed, ought to have some weight in favor of this bill, when it was considered how great was the extent of our country, and how small the portion of it exposed to an enemy; the burden of the sufferings in such defence ought to be equalized in some degree by a contribution from the common purse for the relief of those who suffered most severely. We have lately, said he, voted upwards of two millions of money annually, it is computed, (and I thank God for it,) for the relief of the surviving officers and soldiers of the Revolutionary war; and that money is disbursed in the Eastern States principally, the West having been at that time a wilderness. And would gentlemen from the Eastern States refuse this small distribution of pension money among those who had wept tears of blood and of sorrow over the victories of the late war? The whole amount, he stated, of these pensions was not more than $100,000 annually; and where was it to go? To the patrician? To the wealthy favorite of fortune? To him who basked in the sunshine of ease and safety, whilst the brawny arm of the inhabitant of the West wielded his rifle and his bayonet in his defence? No; it was to go to objects which must command regard—to objects of charity, and who must so remain, &c. He hoped, therefore, the bill would receive the favor of the House.

Mr. Simkins again addressed the House in support of the ground he had before taken. If, he said, the House were to give the reins to these feelings, they might in a single day exhaust the treasury of the nation. There is not one among us, said he, though we may not, like the gentlemen from Ohio and Kentucky, personally have mingled in the scenes, who does not feel his bosom dilate with sentiments of gratitude towards the gallant defenders of their country. But, was this a reason why there should be no limit to the pension list, or why pensions for life should be granted to these persons?—for the same argument would apply to pensions for life as had been applied to the proposition for extending these pensions for five years longer. A regard to the state of the Treasury, and to the policy of the country, was as necessary as the feeling of gratitude. With respect to the popularity of this measure, Mr. S. said, he knew not the sentiments of his constituents respecting it. It was probable it would be popular. But he considered himself, as a member of this House, not a representative of a particular district, but of the whole nation; and he should act, in that capacity, as the public good appeared to him to require. He replied to several arguments in favor of the bill, and insisted more strongly on the argument that its tendency would be, as far as it extended, to weaken the spirit of industry and enterprise. The history of England, he said, afforded a commentary on such policy; by the operation of her poor laws and pension system, she had slided into an expense so great, that even the air they breathed, and the light of heaven, were become subject to taxation. He trusted, he said in conclusion, that he should always feel as grateful as any member for services rendered to the public, but on this occasion his object was to restrain the zeal of gentlemen to what he considered the sober rules of reason.

Mr. Pitkin made a few remarks in support of the ground he had before taken.

Mr. W. P. Maclay, of Pennsylvania, moved to lay the bill on the table, with a view to a further examination of collateral provisions of other laws. Negatived, by a majority of one or two votes only.

Mr. Harrison spoke at considerable length in support of his view of this question; and summed up his opinions in the broad position, that the children of those who die in the public service, ought to be educated at the public expense until they were eighteen years of age, and their widows to be shielded from absolute want, at least until

in a situation to procure their own maintenance. He assigned various reasons in support of the bill, besides the assertion of the general principle.

Mr. RICH moved another amendment, to this effect: that no pension to the family of officers should exceed the rate of ten dollars per month. This, he said, was one hundred and fifty per cent. more than the allowance to privates, and was precisely the proportion, between officers of every grade and soldiers, established by the Revolutionary pension act of the last session.

This motion was negatived, 71 to 47.

Mr. OGLE, of Pennsylvania, made some remarks in opposition to the bill, principally for the purpose of denying the similitude between this class of cases and that of the surviving Revolutionary officers and soldiers. The motives which had brought them into the field were different, and the rewards of the Government to them ought to be different. The soldiers of the Revolution fought for liberty; those of the late war for fame and fortune. He also adverted to the distinction between the regulars and militia, which was made by the system proposed in this bill, and which he considered unjust.

The question was then taken on ordering the bill to be engrossed for a third reading, and decided in the affirmative—yeas 79, nays 78, as follows:

YEAS—Messrs. Anderson of Kentucky, Baldwin, Barber of Ohio, Beecher, Bellinger, Bloomfield, Blount, Boden, Butler of Louisiana, Colston, Comstock, Cook, Cruger, Davidson, Earle, Ervin of South Carolina, Floyd, Fuller, Gage, Gilbert, Harrison, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Holmes, Hostetter, Hubbard, Irving of New York, Johnson of Kentucky, Jones, Lincoln, Little, McLean of Illinois, W. Maclay, Middleton, Robert Moore, Samuel Moore, Mumford, Murray, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogden, Ogle, Parrott, Patterson, Pawling, Pindall, Pleasants, Poindexter, Porter, Quarles, Rhea, Ringgold, Robertson, Sampson, Schuyler, Sergeant, Settle, Seybert, Silsbee, B. Smith, Alex. Smyth, Southard, Storrs, Trimble, Tucker of S. Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Whitman, and Wilkin.

NAYS—Messrs. Abbot, Adams, Austin, Ball, Barbour of Virginia, Bassett, Bateman, Bayley, Bennett, Boss, Bryan, Butler of New Hampshire, Campbell, Claggett, Claiborne, Cobb, Crafts, Crawford, Cushman, Darlington, Desha, Drake, Edwards, Ellicott, Garnett, Hale, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hogg, Hopkinson, Hunter, Johnson of Virginia, Kinsey, Lawyer, Linn, Livermore, W. P. Maclay, McCoy, Marchand, Mason of Massachusetts, Merrill, Mills, Morton, Moseley, Jeremiah Nelson, Orr, Owen, Pegram, Pitkin, Rice, Rich, Richards, Ruggles, Savage, Scudder, Sherwood, Simkins, Slocumb, J. S. Smith, Speed, Stewart of North Carolina, Strother, Tallmadge, Tarr, Taylor, Terrell, Terry, Tompkins, Townsend, Tucker of Virginia, Upham, Westerlo, Williams of Connecticut, Williams of N. York, Williams of North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania.

The bill was then ordered to be read a third time to-morrow.

TUESDAY, December 15.

Mr. BLOUNT, presented a petition of sundry inhabitants of East Tennessee, praying for an appropriation of the sum of four hundred dollars, out of the public Treasury, to be applied in removing the obstructions in the Muscle Shoals, in the river Tennessee.—Referred to the Committee on Roads and Canals.

Mr. HUGH NELSON, from the Committee on the Judiciary, who were instructed on the 7th inst. to inquire into the expediency of holding the courts of the United States, within the State of Ohio, alternately at Cincinnati, and such other place, as may be hereafter designated by law, made a report against the proposition; which was read and ordered to lie on the table.

Mr. ROBERT MOORE, from the committee appointed on the first instant, on the petition of John B. C. Lucas and Clement B. Penrose, made a report thereon, which was read: when, Mr. M. reported bill for the relief of John B. C. Lucas and Clement B. Penrose; which was read twice, and committed to the Committee of the Whole, to which is committed the bill for the relief of Kenzie and Forsyth.

Mr. COLSTON offered for consideration the following resolution, prefacing it with the remark, that, as the subject of the Seminole war was one which considerably agitated the public mind, and on which every member of the House, and the whole community, were desirous of all the light which could be thrown on it, he should make no apology for this motion:

Resolved, That the President of the United States be requested to lay before this House any correspondence which may have taken place between this Government and that of Great Britain, relative to the trial and execution of Arbuthnot and Ambrister.

On motion of Mr. RICH, who thought such a motion premature until the information promised in the President's Message should have been laid before the House, the resolution was ordered to lie on the table.

On motion of Mr. NEWTON, the Committee on Commerce and Manufactures were directed to inquire into the expediency of erecting a light-house on Windmill Point, at the mouth of the Rappahannock river; and also, of placing a floating light on Willoughby's Shoals, between Lynhaven Bay and Hampton Roads.

On motion of Mr. POINDEXTER, the Committee on the Public Lands were instructed to inquire into the expediency of granting the several islands, in the Tennessee river, lying within the limits of the Alabama Territory, for the improvement of the navigation of said river.

On motion of Mr. HITCHCOCK, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of establishing a port of entry, at the mouth of Grand river, in the county of Geauga and State of Ohio.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the House of Representatives of the United States:

I lay before the House of Representatives copies of

the remainder of the documents, referred to in the message of the 17th of last month.

JAMES MONROE.

DECEMBER 15, 1818.

The Message was read, and, with the documents, ordered to lie on the table.

MILITARY PEACE ESTABLISHMENT.

The SPEAKER laid before the House a report of the Secretary of War, made in obedience to a resolution of the 17th of April last, directing him to report whether any, and, if any, what reduction may be made in the Military Peace Establishment of the United States, with safety to the public service, and whether any, and, if any, what change ought to be made in the ration, and in the mode of issuing it; and also, a system for the establishment of a Commissariat for the Army; which report was referred to the Committee on Military Affairs. The report is as follows:

DEPARTMENT OF WAR, *Dec.* 11, 1818.

In compliance with a resolution of the House of Representatives, passed the 17th April last, directing "the Secretary of War to report, at an early period of the next session of Congress, whether any, and, if any, what reduction may be made in the Military Peace Establishment of the United States, with safety to the public service; and whether any, and, if any, what change ought to be made in the ration established by law, and in the mode of issuing the same; and also to report a system for the establishment of a Commissariat for the Army," I have the honor to submit the following report:

In order to form a correct opinion on a subject involving so many particulars, as the expense of our Military Establishment, it will be necessary to consider it under distinct and proper heads: To ascertain, then, "whether any, and, if any, what reductions may be made in the expenses of our Military Establishment," I propose to consider its number, organization, pay and emoluments, and administration. To the one or the other of these heads all of its expenses may be traced; and, if they are greater than what they ought to be, we must search for the cause in the improper extent of the establishment; the excessive number of officers in proportion to the men; the extravagance of the pay or emoluments, or the want of proper responsibility and economy in its administration.

Pursuing the subject in the order in which it has been stated, the first question which offers itself for consideration, is, whether our Military Establishment can be reduced "with safety to the public service," or can its expenditures be, with propriety, reduced, by reducing the Army itself. It is obvious that, viewed in the abstract, few questions present so wide a field for observation, or are so well calculated to produce a great diversity of sentiment as the one now proposed. Considered as an original question, it would involve in its discussion the political institutions of the country, its geographical position and character, the number and distance of our posts, and our relations with the Indian tribes, and the principal European Powers. It is conceived, however, that a satisfactory view of it may be taken, without discussing topics so extensive and indefinite.

The Military Establishments of 1802 and 1808, have been admitted, almost universally, to be sufficiently small. The latter, it is true, received an enlargement from the uncertain state of our foreign relations at that time; but the former was established at a period of profound quiet, (the commencement of Mr. Jefferson's Administration,) and was professedly reduced, with a view to economy, to the smallest number then supposed to be consistent with the public safety. Assuming these as a standard, and comparing the present establishment (taking into the comparison the increase of our country) with them, a satisfactory opinion may be formed on a subject, which otherwise might admit so great a diversity of opinion.

Our Military Peace Establishment is limited, by the act of 1815, passed at the termination of the late war, to ten thousand men. The corps of engineers and ordnance, by that and a subsequent act, were retained as they then existed; and the President was directed to constitute the establishment of such portions of artillery, infantry, and riflemen, as he might judge proper. The general order of the 17th May, 1815, fixes the artillery at 3,200, the light artillery at 660, the infantry at 5,440, and the rifles at 660 privates and matrosses. Document A exhibits a statement of the Military Establishment, including the general staff, as at present organized; and B exhibits a similar view of those of 1802 and 1808; by a reference to which it will appear, that our Military Establishments, at the respective periods, taken in the order of their dates, present an aggregate of 3,323, 9,996, and 12,656. It is obvious that the establishment of 1808, compared with the then wealth and population of the country, the number and extent of military posts, is larger in proportion than the present; but the unsettled state of our relations with France and England, at that period, renders the comparison not *entirely* just. Passing that of 1808, let us compare the establishment of 1802 with the present. To form a correct comparison, it will be necessary to compare the capacity and necessity of the country then with those of the present time. Since that period our population has nearly doubled, and our wealth more than doubled. We have added Louisiana to our possessions, and with it a great extent of frontier, both maritime and inland. With the extension of our frontier, and the increase of our commercial cities, our military posts and fortifications have been greatly multiplied. Document marked C exhibits the number and positions of posts in the year 1802, and document D those of the present time; by a reference to which, it will be seen that, at the former period, we had but twenty-seven posts, the most remote of which was, to the north, at Mackinaw, and to the south, at Fort Stoddert, on Mobile river; but now we have seventy-three, which occupy a line of frontier proportionally extended. On the Lakes, the Mississippi, Missouri, Arkansas, and Red river, our posts are now, or will be shortly, extended, for the protection of our trade, and the preservation of the peace of the frontiers, to Green Bay, the mouths of the St. Peters, and the Yellow Stone river, Bellepoint, and Nachitoches. Document marked E exhibits a statement of the extent of the line of our frontier, inland and maritime, with the distance of some of the more remote posts from the seat of Government, drawn up by Major Long, of the topographical engineers, from the most approved maps.

If, then, the Military Establishment of 1802 be assumed to be as small as was then consistent with the safety of the country, our present establishment,

when we take into comparison the prodigious increase of wealth, population, extent of territory, number and distance of military posts, cannot be pronounced extravagant; but, on the contrary, after a fair and full comparison, that of the former period must, in proportion to the necessities and capacity of the country, be admitted to be quite as large as the present; and on the assumption that the establishment of 1802 was as small as the public safety would then admit, a reduction of the expense of our present establishment cannot be made, with safety to the public service, by reducing the army. In coming to this conclusion I have not overlooked the maxim, that a large standing army is dangerous to the liberties of the country, and that our ultimate reliance for defence ought to be on the militia. Its most zealous advocate must, however, acknowledge, that a standing army, to a limited extent, is necessary, and no good reason can be assigned why any should exist, but what will equally prove that the present is not too large. To consider the present army as dangerous to our liberty, partakes, it is conceived, more of timidity than wisdom. Not to insist on the character of the officers, who, as a body, are high-minded and honorable men, attached to the principles of freedom by education and reflection, what well-founded apprehension can there be from an establishment distributed on so extended a frontier, with many thousand miles intervening between the extreme points occupied? But the danger, it may be said, is not so much from its numbers, as a spirit hostile to liberty, by which, it is supposed, all regular armies are actuated. This observation is probably true, when applied to standing armies collected into large and powerful masses; but dispersed as ours is, over so vast a surface, the danger, I conceive, is of an opposite character, that both officers and soldiers will lose their military habits and feelings, by sliding gradually into those purely civil.

I proceed next to consider whether any reduction can be made with propriety by changing the organization, or by reducing the number of officers of the line, or the staff, in proportion to the men. It is obvious that, as the officers are much more expensive in proportion to their numbers, than the soldiers, that the pay of the army, in relation to its aggregate numbers, must be increased or diminished in the increase or the diminution of the former. It is impossible to fix any absolute proportion between officers and men, which will suit every country and every service; and the organization of different countries and of different periods, in the same country, has accordingly varied considerably. Our present organization, of which document marked A contains an exhibit, is probably as well or better adapted to the nature of our country and service than any other, as it seems to be the result of experience; for, by a reference to document marked B, it will be seen that it is nearly similar, with the exception of the general staff, in which the present is more extensive, to the organization of the Military Establishments of 1802 and 1808. It is believed that the proportion of officers of the line to the men, will require no further observations.

The staff, as organized by the act of the last session, combines simplicity with efficiency, and is considered to be superior to that of the periods to which I have reference. In estimating the expenses of the army, and particularly that of the staff, the two most expensive branches of it, the engineer and ordnance departments, ought not fairly to be included. Their duties are connected with the permanent preparation and defence of the country, and have so little reference to the existing establishment, that, if the army were reduced to a single regiment, no reduction could safely be made in either of them. To form a correct estimate of the duties of the other branches of the staff, and, consequently, the number of officers required, we must take into consideration not only the number of troops, but, what is equally essential, the number of posts and extent of country which they occupy. Were our Military Establishment reduced one-half, it is obvious that, if the same posts continued to be occupied, which now are, the same number of officers in the quartermaster's, commissary's, paymaster's, medical, and adjutant and inspector general's departments, would be required.

To compare, then, as is sometimes done, our staff with those of European armies, assembled in large bodies, is manifestly unfair. The act of the last session, it is believed, has made all the reduction which ought to be attempted. It has rendered the staff efficient without making it expensive. Such a staff is not only indispensable to the efficiency of the army, but is also necessary to a proper economy in its disbursements; and should an attempt be made at retrenchment, by reducing the present number, it would, in its consequences, probably prove wasteful and extravagant.

In fact no part of our military organization requires more attention in peace than the general staff. It is, in every service, invariably the last in attaining perfection; and, if neglected in peace, when there is leisure, it will be impossible, in the midst of the hurry and bustle of war, to bring it to perfection. It is in peace that it should receive a perfect organization, and that the officers should be trained to method and punctuality, so that, at the commencement of a war, instead of creating anew, nothing more should be necessary than to give to it the necessary enlargement. In this country, particularly, the staff cannot be neglected with impunity. As difficult as its operations are, in actual service, everywhere, it has here to encounter great and peculiar impediments, from the extent of the country, the badness, and frequently the want of roads, and the sudden and unexpected calls which are often made on the militia. If it could be shown that the staff, in its present extent, was not necessary in peace, it would, with the view taken, be unwise to lop off any of its branches, which would be necessary in actual service. With a defective staff, we must carry on our military operations under great disadvantages, and be exposed, particularly at the commencement of a war, to great losses, embarrassments, and disasters.

As intimately connected with this part of the subject, it is proper to observe, that so many and such distant small posts as our service requires, not only adds to the expense of the Army, by rendering a more numerous staff necessary, but it increases the price of almost every article of supply, and the difficulty of enforcing a proper responsibility and economy. To an Army thus situated, the expenses and losses resulting from transportation alone constitutes a considerable sum. Under the best management, our Army must be more expensive, even were our supplies equally cheap, than European armies collected in large bodies, in the midst of populous and wealthy communities. These observations are not made to justify an improper management, or to divert the attention of the House from so important a subject, as the expense of our Military Establishment. They, in fact, ought to have an opposite effect; for, just in the same proportion that it is liable to be expensive, ought the atten-

tion and effort of the Government to be roused to confine its expenses within the most moderate limits which may be practicable.

The next question which presents itself for consideration is, can the expenses of our Military Establishment be reduced, without injury to the public service, by reducing the pay and emoluments of the officers and soldiers? There is no class in the community whose compensation has advanced less, since the termination of the war of the Revolution, than that of the officers and soldiers of our Army. While money has depreciated more rapidly than at any other period, and the price of all of the necessaries of life has advanced proportionably, their compensation has remained nearly stationary. The effects are severely felt by the subaltern officers. It requires the most rigid economy for them to subsist on their pay and emoluments. Documents marked F and G exhibit the pay and subsistence during the Revolution, and as at present established; and document marked H exhibits the allowance of clothing, fuel, forage, transportation, quarters, waiters, stationery, and straw, at the termination of the Revolutionary war, and in 1802, 1815, and 1818. By a reference to those documents, it will be seen that, under most of the heads, the variation of the different periods has been very small; and that, on a comparison of the whole, the pay of an officer is not near equal now, if allowance is made for the depreciation of money, to what it was during the Revolution. I will abstain from further remarks, as it must be obvious from these statements that the expense of our Military Establishment cannot be materially reduced, without injury to the public service, by reducing the pay and emoluments of the officers and soldiers.

It only remains to consider, in relation to this part of the resolution of the House, whether the expense of our Military Establishment can be reduced by a proper attention to its administration, or by a more rigid enforcement of responsibility and economy. Our Military Establishment is doubtless susceptible of great improvement in its administration. The field is extensive, and the attention of the Government has not heretofore been so strongly directed towards it, as its importance deserves. Here all savings are real gain, not only in a moneyed, but in a moral and political point of view. An inefficient administration, without economy or responsibility, not only exhausts the public resources, but strongly tends to contaminate the moral and political principles of the officers who are charged with the disbursements of the Army. To introduce, however, a high state of economy and responsibility in the management of a subject so extensive and complicated as our Military Establishment, is a task of great difficulty, and requires not only a perfect organization of the department charged with it, but a continued energetic and judicious enforcement of the laws and regulations established for its government. The organization is the proper sphere of legislation, as the application of the laws and regulations is that of administration. The former has done all, or nearly all, that can be done. It is believed that the organization of the War Department, as well as the general staff of the Army, is not susceptible of much improvement. The act of the last session regulating the staff has not only made important savings in the expenses of the Army, but has given both to the department and the staff a much more efficient organization than they ever before had. Every department of the Army charged with disbursements has now a proper head, who, under the laws and regulations, is responsible for its administration. The head of the department is thus freed from detail, and has leisure to inspect and control the whole of the disbursements. Much time and reflection will be required to bring the system into complete operation, and to derive from it all the advantages which ought to be expected. The extent of the saving which may result from it can only be ascertained by time and experience; but, with an attentive and vigorous administration, it doubtless will be considerable. In war it will be much more difficult to enforce economy and responsibility; but with a system well organized, and with officers trained to method and punctuality, much of the waste and frauds which would otherwise take place in war, will be prevented. In peace there can be no insuperable difficulty in attaining a high degree of responsibility and economy. The mere moneyed responsibility, or that of purchases and disbursements, will be easily enforced. The public now sustains much greater losses in the waste and improper use of public property, than in its moneyed transactions. In our Military Establishment, responsibility in the latter is well checked, and not badly enforced. The accounts are rendered with considerable punctuality, and are promptly settled; and even neglect or misapplication of public funds, by the disbursing officers, are not often accompanied with ultimate losses, as they are under bonds for the faithful discharge of their duties. Accountability, as it regards the public property, is much more difficult, and has heretofore been much less complete. Returns of property in many cases, particularly in the medical department, have rarely been required; and even where they have been, they have not been made with punctuality. It cannot be doubted but what the public has sustained very considerable damage from this want of accountability. Every article of public property, even the smallest, ought, if possible, to be in charge of some person who should be responsible for it. It will be difficult to attain this degree of perfection; but it is hoped, by making each of the subordinate departments of the War Department liable for the property in its charge, a very considerable improvement and reduction of expenses will be made.

On the quality of the ration, and the system of supplying and issuing it, which I propose next to consider, the health, comfort, and efficiency of the Army mainly depend. Too much care cannot be bestowed on these important subjects; for, let the military system be ever so perfect in other particulars, any considerable deficiency in these must, in all great military operations, expose an army to the greatest disasters. All human efforts must, of necessity, be limited by the means of sustenance. Food sustains the immense machinery of war, and gives the impulse to all its operations; and if this essential be withdrawn, even for a few days, the whole must cease to act. No absolute standard can be fixed, as it regards either the quantity or quality of the rations. These must vary, according to the habits and products of different countries. The great objects are, first and mainly, to sustain the health and spirit of the troops; and the next, to do it with the least possible expense. The system which effects these in the greatest degree, is the most perfect. The ration, as established by the act of the 16th of March, 1802, experience proves to be ample in quantity, but not of the quality best calculated to secure either health or economy. It consists of eighteen ounces of

bread, or flour, one pound and a quarter of beef, or three-quarters of a pound of pork, one gill of rum, brandy, or whiskey, and at the rate of two quarts of salt, four quarts of vinegar, four pounds of soap, and one pound and a half of candles to every hundred rations.

The objections to it in relation to the health of the Army, are fully stated in a report of the Surgeon General to the War Department, (marked I,) which I would respectfully annex as a part of this report. Under this view of the subject more need not be added, except to urge its importance, both on the score of humanity and policy.

Our people, even the poorest, being accustomed to a plentiful mode of living, require, to preserve their health, a continuation, in a considerable degree, of the same habits of life, in a camp; and a sudden and great departure from it subjects them, as is proved by experience, to great mortality. Our losses, in the late and Revolutionary wars, from this cause, were probably much greater than from the sword. However well qualified for war in other respects, in the mere capacity of bearing privations, we are inferior to most nations. An American would starve on what a Tartar would live on with comfort. In fact, barbarous and oppressed nations have, in this particular, a striking advantage, which, however, ought to be much more than compensated by the skill and resources of a free and civilized people. If, however, such a people want the skill and spirit to direct its resources to its defence, the very wealth by which it ought to defend itself becomes the motive for invasion and conquest. Besides, there is something shocking to the feelings, that, in a country of plenty beyond all others, in a country which ordinarily is so careful of the happiness and life of the meanest of its citizens, its brave defenders, who are not only ready, but anxious, to expose their lives for the safety and glory of their country, should, through a defective system of supply, be permitted almost to starve, or to perish by the poison of unwholesome food, as has frequently been the case. If it could be supposed that these considerations are not sufficient to excite the most anxious care on this subject, we ought to remember that nothing adds more to the expense of military operations, or exposes more to its disasters, than the sickness and mortality which result from defective or unwholesome supplies. Impressed with this view of the subject, considerable changes have been made in the ration under the authority of the 8th section of the act regulating the staff of the Army, passed at the last session of Congress. The vegetable part of the ration has been much increased. Twice a week, a half allowance of meat, with a suitable quantity of peas or beans, is directed to be issued. Fresh meat has also been substituted, twice a week, for salted. In the southern division, bacon and kiln-dried Indian corn meal have been, to a certain extent, substituted for pork and wheat flour. In addition, orders have been given, at all the permanent posts, where it can be done, to cultivate a sufficient supply of ordinary garden vegetables for the use of the troops; and, at the posts remote from the settled parts of the country, the order is extended to the cultivation of corn, and to the supply of the meat part of the ration, both to avoid the expense of distant and expensive transportation, and to secure, at all times, a supply within the posts themselves.

In addition to these changes, I am of opinion the spirit part of the ration, as a regular issue, ought to be dispensed with; and such appears to be the opinion of most of the officers of the Army. It both produces and perpetuates habits of intemperance, destructive alike to the health and moral and physical energy of the soldiers. The spirits ought to be placed in depot, and be issued occasionally, under the discretion of the commander. Thus used, its noxious effects would be avoided, and the troops, when great efforts were necessary, would, by a judicious use, derive important benefits from it. Molasses, beer, and cider, according to circumstances, might be used as substitutes. The substitution of bacon and kiln-dried corn meal, in the southern division, will have, it is believed, valuable effects. They are both much more congenial to the habits of the people in that section of our country. Corn meal has another, and, in my opinion, great and almost decisive advantage; it requires so little art to prepare it for use. It is not easy to make good bread of wheat flour, while it is almost impossible to make bad of that of Indian corn. Besides, wheat is much more liable to be damaged than the Indian corn, for the latter is better protected against disease and the effects of bad seasons in time of harvest than any other grain; and, when injured, the good is easily separated from the bad. Experience proves it to be not less nutritious than wheat or any other grain. Parched corn constitutes the principal food of an Indian warrior; and such are its nutritious qualities, that they can support long and fatiguing marches on it alone.

I next proceed to consider the system of supplying the Army with provisions, or the establishment of a commissariat, and as they are connected in their nature, I propose to consider that part of the resolution in relation to a commissariat, and the mode of issuing the rations, at the same time.

The system established, at the last session, will, in time of peace, be adequate to the cheap and certain supply of the army. The act provides for the appointment of a commissary general, and as many assistants as the service may require, and authorizes the President to assign to them their duties in purchasing and issuing rations. It also directs that the ordinary supplies of the army should be purchased on contracts to be made by the commissary general, and to be delivered, on inspection, in the bulk, at such places as shall be stipulated in the contract. Document marked J contains the rules and regulations which have been established by order of the President, and presents the operation of the system in detail. It is believed that it is as well guarded against fraud as any other department of our military supplies; and, judging from the contracts already formed under it, will, when improved by experience, probably make a very considerable saving. It would improve the system, to authorize the appointment of two deputy commissaries, one for each division, with the pay, rank, and emoluments, of major of infantry, to be taken from the line or from citizens, and so to amend the act of the last session as to authorize the President to appoint the assistant commissaries, either from the line or citizens. When the assistant commissary is not taken from the line, to make his pay equal to that of a subaltern appointed from the line, it ought to be $56 per month, with two rations a day. It should be the duty of the deputy commissaries to perform such service as the commissary general might prescribe, and particularly to inspect the principal depots, and, in cases of necessity, to make the necessary purchases. When a suitable

subaltern cannot be had, or when his services are necessary in the line, the power proposed to be vested in the President, to select from citizens, would be important. It is not believed that any other alteration would be necessary in peace; but the system would require great enlargement in war to render it sufficiently energetic to meet the many vicissitudes incidental to the operations of war.

It would then be necessary to divide the system into two divisions, one for purchasing and the other for issuing of rations, with as many deputy commissaries of purchases and issues as there may be armies and military districts, to whom ought to be added a suitable number of assistants. The basis of the system ought, in war, to be the same as is now established. The ordinary supplies ought to be by contract on public proposals. By a judicious collection of provisions at proper depots, combined with an active and energetic system of transportation, it would be seldom necessary to resort to any other mode of purchasing. To provide, however, for contingencies, the purchasing department ought to be efficiently organized, and a branch of it, as already stated, attached to each army and military department. As it is the means to be resorted to in cases of necessity, it ought to possess those high and discretionary powers which do not admit of exact control. It is in its nature liable to many abuses, and, to prevent them from being great, more efficient regulations and checks are required than in any other branch of the general staff.

The defects of the mere contract system are so universally acknowledged by those who have experienced its operation in the late war, that it cannot be necessary to make many observations in relation to it. Nothing can appear more absurd, than that the success of the most important military relations, on which the very fate of the country may depend, should ultimately rest on men who are subject to no military responsibility, and on whom there is no other hold than the penalty of a bond. When we add to this observation that it is often the interest of a contractor to fail, at the most critical juncture, when the means of supply become the most expensive, it seems strange that the system should have been continued for a single campaign. It may be said, that, when the contractor fails, the commander has a right to purchase at his risk, by which the disasters, which naturally result from a failure, may be avoided. The observation is more specious than solid. If on failure of the contractor there existed a well organized system for purchasing the supplies, there would be some truth in it: but, without such a system, without depots of provisions, and with the funds intended for the supply of the Army, perhaps, in the hands of the contractor, his failure must generally be fatal to a campaign. It is believed that a well organized commissariat, whose ordinary supplies are obtained by contract founded on public notice, possesses (besides those peculiar to itself) all the advantages fairly attributable to the system of issuing rations by contract. It is equally guarded against fraud, and its purchases can be made on terms more advantageous. A considerable objection to the system of issuing the ration by contract, is, that the merchants and capitalists are deterred from bidding, by the hazard of issuing the ration; and thus the sphere of competition is contracted, and the contracts for supplying the Army often thrown into the hands of adventurers. This objection is avoided under the present system, by which the nation will be cheaply supplied, and the danger of failure almost wholly removed. All of which is respectfully submitted.

J. C. CALHOUN.

RELATIONS WITH SPAIN.

Mr. HOPKINSON then called up the resolution which he yesterday submitted, calling on the President for certain documents connected with our relations with Spain.

The SPEAKER suggested that the Message just received probably embraced the correspondence the gentleman had in view, by his own motion.

Mr. HOPKINSON intimated that he believed it did not.

Mr. HOLMES proposed to modify the resolution, in a manner which he thought would meet the object of the gentleman, and be free from any objection, so as to read as follows:

"That the President of the United States be requested to cause to be communicated to this House such further correspondence and proceedings in relation to our affairs with Spain, as in his opinion it shall not be inconsistent with the public interest to divulge."

Mr. HOPKINSON accepted this modification.

Mr. HOLMES then said he was in favor of the resolution. He should not go into a detail of the particular reasons why he was in favor of the motion; but the Committee of Foreign Relations had thought a call of this kind to be necessary, and he hoped the House would grant it.

The resolve was agreed to, *nem. con.*, and a committee appointed to present the resolution to the President.

EXTENSION OF MILITIA PENSIONS.

The engrossed bill authorizing the extension of the pensions to the widows and orphans of the militia who fell in battle or died in service during the late war, for five years longer, was read a third time.

Mr. SMITH, of Maryland, made some remaks, rather of an explanatory than argumentative nature, on the subject of the bill.

Mr. BUTLER, of New Hampshire, conceiving the discrimination between the families of the militia and of the regulars, in the proposed extension, to be unjust, moved to recommit the bill to the committee who reported it, with instructions to report an amendment, embracing in the extension the provisions of the 2d section of the act of April, 1816.

This motion gave rise to some debate, in which Messrs. T. M. NELSON, and HARRISON opposed it, as calculated, by overloading the bill, to break it down; Messrs. SMITH, of Maryland, RICH, and PITKIN, supported it, as consistent with the principles of equity, which, in their administration, ought to know no distinction of persons.

Before the question on the pending motion was taken, a motion was made by Mr. WHITMAN to lay the bill on the table, and negatived.

Mr. PITKIN then moved to postpone the further consideration of the bill indefinitely.

This question was taken by yeas and nays—for the motion 79, against it 79, as follows:

YEAS—Messrs. Abbot, Adams, Allen of Massachusetts, Austin, Ball, Barbour of Virginia, Bassett,

Bateman, Bayley, Bennett, Boss, Bryan, Butler of New Hampshire, Campbell, Clagett, Claiborne, Cobb, Crafts, Crawford, Cushman, Darlington, Desha, Drake, Edwards, Ellicott, Folger, Garnett, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hogg, Hopkinson, Hunter, Huntington, Johnson of Virginia, Kirtland, Lawyer, Linn, Livermore, W. P. Maclay, McCoy, Marchand, Mason of Massachusetts, Mason of Rhode Island, Merrill, Mills, Morton, Moseley, Jeremiah Nelson, Orr, Owen, Pegram, Pitkin, Rice, Rich, Richards, Ruggles, Savage, Sawyer, Scudder, Sherwood, Simkins, Slocumb, S. Smith, J. S. Smith, Speed, Stewart of North Carolina, Strother, Tarr, Taylor, Terry, Tompkins, Townsend, Tucker of Virginia, Upham, Williams of Connecticut, Williams of New York, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Barber of Ohio, Beecher, Bellinger, Bloomfield, Blount, Boden, Butler of Louisiana, Colston, Comstock, Cook, Cruger, Davidson, Earle, Ervin of South Carolina, Floyd, Gage, Gilbert, Harrison, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Holmes, Hostetter, Hubbard, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Lewis, Lincoln, Little, McLean of Illinois, W. Maclay, Mercer, Middleton, Robert Moore, Samuel Moore, Mumford, Murray, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogle, Palmer, Parrott, Patterson, Pawling, Pindall, Pleasants, Poindexter, Porter, Quarles, Rhea, Ringgold, Robertson, Rogers, Sampson, Sergeant, Settle, Silsbee, Ballard Smith, Alex. Smyth, Storrs, Tallmadge, Trimble, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, and Whitman.

The House being equally divided the SPEAKER voted in the negative; and so the motion was rejected.

The question then recurred to recommit the bill with instructions as aforesaid; and a division thereof being called for, was taken on the first member thereof, to wit: "Shall the said bill be recommitted to a select committee?" and also determined in the negative—yeas 62, nays 97, as follows:

YEAS—Messrs. Abbot, Adams, Allen of Massachusetts, Austin, Bennett, Boss, Bryan, Butler of New Hampshire, Clagett, Cobb, Crafts, Crawford, Cushman, Darlington, Desha, Edwards, Ellicott, Folger, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hogg, Hunter, Huntington, Kirtland, Lawyer, Linn, W. P. Maclay, McCoy, Mason of Rhode Island, Merrill, Mills, Morton, Moseley, Jeremiah Nelson, Orr, Owen, Palmer, Pegram, Pitkin, Rice, Rich, Richards, Ruggles, Savage, Sawyer, Scudder, Sherwood, Simkins, Slocum, S. Smith, J. S. Smith, Speed, Stewart of North Carolina, Strother, Taylor, Terry, Tucker of Virginia, Upham, Williams of Connecticut, Williams of New York, and Wilson of Pennsylvania.

NAYS—Messrs. Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Bayley, Beecher, Bellinger, Bloomfield, Blount, Boden, Butler of Louisiana, Campbell, Claiborne, Colston, Comstock, Cook, Cruger, Davidson, Drake, Earle, Ervin of South Carolina, Floyd, Fuller, Gage, Garnett, Gilbert, Harrison, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Holmes, Hopkinson, Hostetter, Hubbard, Irving of New York, Johnson of Kentucky, Johnson of Virginia, Jones, Kinsey, Lewis, Lincoln, Little, Livermore, McLean of Illinois, W. Maclay, Marchand, Mason of Massachusetts, Middleton, Robert Moore, Samuel Moore, Mumford, Murray, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Parrott, Patterson, Pawling, Pindall, Pleasants, Poindexter, Porter, Quarles, Rhea, Ringgold, Robertson, Rogers, Sampson, Schuyler, Sergeant, Settle, Silsbee, Bal. Smith, Alex. Smyth, Storrs, Tallmadge, Tarr, Tompkins, Townsend, Trimble, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Westerlo, Whiteside, and Wilson of Massachusetts.

The question was then taken, Shall the said bill pass? and passed in the affirmative—yeas 82, nays 79, as follows:

YEAS—Messrs. Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Barber of Ohio, Beecher, Bellinger, Bloomfield, Blount, Boden, Butler of Louisiana, Colston, Comstock, Cook, Cruger, Davidson, Earle, Ervin of South Carolina, Floyd, Fuller, Gage, Gilbert, Harrison, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Holmes, Hostetter, Hubbard, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Lewis, Lincoln, Little, McLean of Illinois, W. Maclay, Mercer, Middleton, Robert Moore, Samuel Moore, Mumford, Murray, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogle, Palmer, Parrott, Patterson, Pawling, Pindall, Pleasants, Poindexter, Porter, Quarles, Rhea, Ringgold, Robertson, Rogers, Sampson, Schuyler, Sergeant, Settle, Silsbee, Bal. Smith, Alex. Smyth, Storrs, Trimble, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Whitman, and Wilkin.

YEAS—Messrs. Abbot, Adams, Allen of Massachusetts, Austin, Ball, Barbour, of Virginia, Bassett, Bateman, Bayley, Bennett, Boss, Bryan, Butler of New Hampshire, Campbell, Clagett, Claiborne, Cobb, Crafts, Cushman, Darlington, Desha, Drake, Edwards, Ellicott, Garnett, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hogg, Hopkinson, Hunter, Huntington, Johnson of Virginia, Kirtland, Lawyer, Linn, Livermore, W. P. Maclay, McCoy, Marchand, Mason of Massachusetts, Mason of Rhode Island, Merrill, Mills, Morton, Moseley, Jeremiah Nelson, Orr, Owen, Pegram, Pitkin, Rice, Rich, Richards, Ruggles, Savage, Sawyer, Scudder, Sherwood, Simpkins, Slocumb, S. Smith, J. S. Smith. Speed, Stewart of North Carolina, Strother, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Tucker of Virginia, Upham, Westerlo, Williams of Connecticut, Williams of New York, Wilson of Massachusetts, and Wilson of Pennsylvania.

So the said bill was passed.

The remainder of the day was occupied on the following bills:

A bill to incorporate a company to build a bridge over the Eastern Branch of the Potomac, from the southern extremity of Eleventh street east, in the City of Washington.

A bill for the relief of Thomas B. Farish.

A bill for the relief of Samuel H. Harper.

Which severally passed through Committees of the Whole, and were ordered to be engrossed for a third reading to-morrow.

The House then, on motion, adjourned until to-morrow.

WEDNESDAY, December 16.

Mr. WILLIAMS, from the Committee of Claims, to which was referred the bill from the Senate, entitled "An act for the relief of Matthew Barrow," reported the same without amendment, and the bill was committed to a Committee of the Whole.

Mr. POINDEXTER, from the Committee on the Public Lands, reported a bill, allowing to each non-commissioned officer, musician, and private, in the Army of the United States, who were on furlough at the close of the late war with Great Britain, a bounty in land, as in other cases; which was read twice, and committed to a Committee of the Whole.

Mr. POINDEXTER, from the same committee, to which was referred the petition of the General Assembly of the State of Illinois, reported a bill granting a donation of land to the State of Illinois for the seat of government of said State; which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, made a report on the petition of Captain Stanton Sholes; which was read; when Mr. J. reported a bill for the relief of the said Captain Stanton Sholes; which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON also made a report on the petition of Harvey Wakefield; which was read; when Mr. J. reported a bill for the relief of the said Harvey Wakefield; which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON also reported a bill providing for the payment of property lost and destroyed in the Seminole war; which was read twice, and committed to a Committee of the Whole.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a statement of public lands sold in the Alabama Territory, and the amount paid to receivers, and the balance due by individuals; rendered in obedience to a resolution of this House, of the 3d instant; which was read, and ordered to lie on the table.

Mr. PITKIN was excused from a further service on the joint committee appointed upon the subject of the printing, ordered by the respective Houses of Congress, and Mr. SEYBERT was appointed of the said committee.

Mr. TARR submitted the following resolution, which was read and rejected by the House—ayes 55, noes 54:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency of appropriating the sum of —— dollars, to be expended under the direction of the Secretary of the Treasury, in further completing that part of the turnpike road lying between Cumberland, in the State of Maryland, and Wheeling, in the State of Virginia; and pledging for the repayment thereof the two per cent. fund arising from the sales of the public lands northwest of the river Ohio.

On motion of Mr. WALKER, of North Carolina, the Committee on Military Affairs were instructed to inquire into the expediency of providing by law for allowing an equal bounty in land, as other soldiers, to all minors who enlisted in the army of the United States in the late war, and continued in service until peace was concluded and were regularly discharged.

On motion of Mr. POINDEXTER, the Secretary of the Treasury was directed to lay before the House of Representatives a statement of the tracts of land reserved for the establishment of towns in the Alabama Territory, specifying the price at which said lands have been sold, and such other information as may be in his possession relative to said reservations.

The engrossed bill for the relief of Thomas B. Farish; the engrossed bill for the relief of Samuel H. Harper; and the engrossed bill for the incorporation of a company for making a bridge across the Eastern Branch, from between Eleventh and Twelfth streets, in Washington city, were severally read a third time, and passed.

The House having proceeded to the orders of the day—

The bill providing for the payment of certain bills drawn by General Armstrong in favor of the William Morgan, &c., under the treaty with France, passed through a Committee of the Whole, and being explained and supported by Mr. SMITH, of Maryland, was ordered to be engrossed for a third reading.

The bill for the relief of Mattrom Ball, of the Northern Neck of Virginia, allowing him fourteen hundred dollars for a house destroyed by the British during the war, in consequence of its having been occupied by our troops, passed through a Committee of the Whole, and was ordered to be engrossed for a third reading.

IRISH SETTLERS IN ILLINOIS.

Mr. CLAGETT submitted the following resolution, to wit:

Resolved, That it is expedient to authorize the Secretary of the Treasury to designate and set apart —— townships, each of six miles square, in the State of Illinois, east of the military bounty lands, each alternate section thereof to be settled by emigrants from Ireland, and sold to them at two dollars per acre, to be paid by three instalments, as follows, to wit: one-third part thereof, at the end of four years; one other third part thereof, at the end of eight years; and the residue thereof, at the end of twelve years from the day of sale, with interest on the said several sums: *Provided,*

First. That the said Secretary of the Treasury may, and it shall be his duty to, reject all applications of such emigrants, for the lands aforesaid; unless the applicants shall have been satisfactorily recommended as moral and industrious men.

Secondly. That no contract shall be made with any emigrant as aforesaid, unless he engage to improve at least twenty of each hundred acres, to be transferred as aforesaid; and also to erect a suitable dwelling-house and barn thereon.

Thirdly. That no contract shall be binding upon the United States, nor title vest in any emigrant settler, until he shall have made the settlement and im-

provements aforesaid, and fully paid for the lands contracted for as aforesaid.

Fourthly. That no such contract shall be made, nor a patent issued to any one settler or his heirs, for more than —— acres of land.

Fifthly. That in every instance, where the conditions of settlement, improvement, or payment, shall not have been fully complied with, at the expiration of the term of twelve years from the date of such contract, the said premises so forfeited shall revert to the United States; and the Secretary of the Treasury shall cause the same to be sold for the benefit of the said United States: *Provided, nevertheless,* That in all cases where payment in part shall have been made, the sum or sums so paid, shall be refunded to such emigrant, or his heirs.

Resolved, That a committee be appointed and instructed to prepare and report a bill, embracing the subject matter, and in pursuance of, the foregoing first resolution.

The question was then taken. Will the House now proceed to consider the said resolution? and determined in the negative by a large majority.

MISSOURI—TERRITORIAL GOVERNMENT.

Mr. ROBERTSON, of Kentucky, offered for consideration the following resolution:

Resolved, That a committee be appointed to inquire into the expediency of establishing a separate territorial government in that part of the new Territory of Missouri, lying south of thirty-six degrees and thirty minutes north latitude, which is called the Arkansas country, and which is not included in the proposed boundary of the projected State of Missouri, by the bill now before the House, for the purpose of establishing a State government in part of the Territory of Missouri, and that the said committee have leave to report by bill, or otherwise.

Mr. R. explained briefly the object of his motion. There being every reason to expect that the people of the Territory of Missouri would be authorized, at the present session, to form a constitution of State government, and with certain limited boundaries, the whole Territory being too extensive to be included within one State; that part of the Territory not included within the limits of the State, would of course have occasion for a separate Territorial government, which, as in the case of the admission of Mississippi into the Union, had been done in regard to the Territory of Alabama. But, if his expectation was disappointed, and an act should not pass at the present session to authorize the people of Missouri to form a State government, it was yet necessary thot a separate Territorial government should be established. This Territory, which was likely to become in time one of the most populous Territories in the Union, was, from its remoteness from the present seat of Government, almost without either law or government.

Mr. SCOTT, of Missouri, said he did not rise to oppose the resolution; on the contrary, had he a vote to give, it would be for its adoption. He was not sensible that any remarks he was capable of making would have any influence on the vote of the House, but he rose lest his silence might be construed into an opposition, which he did not intend; and to repel any inference that might be drawn that he had neglected his duty to a part of his constituents, in not being the mover of the proposition. He had intended to introduce a resolution of a similar character, so soon as he should receive from the Legislature of the Territory a memorial praying for the erection of a State in the northern section of the Territory, together with a certified copy of the census of the whole Territory, which he was in the daily expectation of receiving. This data had not yet arrived, and he felt a reluctance, in the press of business before the House, to present, voluntarily, a proposition, even for the consideration of the House, without having good authority, or some leading reason to justify him. He knew, however, that the situation of that portion of the Territory, removed four or five hundred miles from the seat of Territorial government, called loudly for the interposition of the General Government. They were not unfrequently without a competency of civil and military officers to administer justice, or keep order in the country; and although he was not in possession of the census of the Territory, or any petition from the people of that part of it, yet he was convinced that the quantity of the population, and its respectability, justified the request; and believing, as he did, that it was the wish of the people, and knowing it was their interest, he hoped the House would not consider the resolution premature, but that it would be adopted.

The motion was then agreed to, without opposition; and Messrs. ROBERTSON, BEECHER, and JONES, were appointed the said committee.

PASSENGER SHIPS.

The bill to regulate passenger ships and vessels came next in order.

Mr. NEWTON explained the necessity of this bill and the nature of its provisions. The great object of it was, he said, to give to those who go and come in passenger vessels, a security of sufficient food and convenience. In consequence of the anxiety to emigrate from Europe to this country, the captains, sure of a freight, were careless of taking the necessary quantity of provisions, or of restricting the number of passengers to the convenience which their ships afforded. To show how necessary such a bill as this had become, one or two facts would suffice. In the year 1817, five thousand persons had sailed for this country from Antwerp, &c., of whom one thousand died on the passage. In one instance a captain had sailed from a port on that coast with one thousand two hundred and sixty-seven passengers. On his voyage he put into the Texel, previous to doing which four hundred had died. After being on the passage to our shores, before the vessel arrived at Philadelphia, three hundred more had died. The remainder, when the vessel reached Newcastle, were in a very emaciated state from the want of water and food, from which many of them afterwads died. Many other cases might be stated, but these would suffice to show the absolute necessity of provisions such as those of

this bill. The bill restricted the number of passengers to two for every five tons' burden of the vessel. In Great Britain, formerly, but one had been allowed to every five tons; but now, one to every three tons. The committee had been of opinion that the scale of one to every two tons and a half would afford every necessary accommodation. With regard to the other sections of the bill, they were generally similar to those of the act respecting seamen, by which a captain is obliged to take on board a certain quantity of water and bread for each seaman employed.

No objection being made to the bill, it was ordered to be engrossed for a third reading.

The bill regulating pensions next passed through the Committee of the Whole.

Mr. T. M. NELSON stated the object of the bill to be to protect the Government from imposition. He knew of many men receiving pensions for wounds received in the late war, who had wholly recovered of those wounds, and were as hale, hearty men as any in the community, &c.

After some debate between Messrs. NELSON and MILLS, respecting an amendment proposed by the former, and an unsuccessful motion by Mr. W. P. MACLAY to recommit the bill, it was ordered to be engrossed for a third reading.

THURSDAY, December 17.

Another member, to wit: from South Carolina, STEPHEN D. MILLER, appeared and took his seat.

Mr. HUGH NELSON, from the Committee on the Judiciary, reported a bill concerning the marshal and district attorney of the western district of Pennsylvania, and the clerk of the eastern district of said State; which was read the first and second time, and committed to a Committee of the Whole to-morrow.

The SPEAKER laid before the House a letter addressed to him by HEMAN ALLEN, containing a notification of the resignation of his seat in this House, as one of the representatives from the State of Vermont, which was ordered to lie on the table.

Ordered, That Mr. ANDERSON, of Kentucky, be appointed of the Committee of Foreign Affairs, in the place of Mr. ALLEN, resigned.

The SPEAKER also laid before the House a letter from the Secretary of the Navy, transmitting statements rendered in obedience to the resolution of this House of the 4th of April last, in relation to the expenditure of the several appropriations heretofore made, to reward the officers and crews of certain public armed vessels for captures made by them during the late war with Great Britain, which was ordered to lie on the table.

On motion of Mr. SCOTT, the Secretary of the Treasury was directed to communicate to this House a copy of the instructions given by him under the eighth section of the act of the 21st of April, 1806, entitled "An act supplementary to an act, entitled 'An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans and district of Louisiana;' to the several boards of commissioners, appointed under the act of the 2d of March, 1805, for the ascertaining and adjusting the titles and claims to land within the aforesaid Territories."

On motion of Mr. JOHNSON, of Kentucky, the Committee of Ways and Means were instructed to inquire into the expediency of providing by law for the payment of lost Treasury notes.

On motion of Mr. HENDRICKS, the Committee on the Public Lands were instructed to inquire into the expediency of so amending the act to enable the people of the Indiana Territory to form a constitution and State government as to authorize the selection of lands granted to the State, for the purpose of fixing their seat of government, in quarter sections and fractions, or parts of fractions, and, if necessary, in contiguous townships, as the Legislature of the State may direct.

On motion of Mr. SILSBEE, the Committee of Ways and Means were instructed to inquire into the expediency of allowing goods on which the duty has been paid to be transported coastwise, to one or more districts within the United States, without loss of debenture.

On motion of Mr. SERGEANT, the Committee of Ways and Means were instructed to inquire whether any, and what, further powers are necessary to enable the accounting officers of the United States, to settle and adjust accounts of long standing, where, from loss of vouchers or other known cause, no additional evidence can be expected.

The engrossed bill for regulating payments to military pensioners was read a third time.

Mr. RICH moved to recommit the bill, with a view to amend it so as to reconcile some of its provisions with existing laws on the subject of pensions, with which, he thought, as the bill now stood, they were inconsistent.

Mr. TAYLOR seconded the motion, and stated particular cases of exceptions to any general provisions on this subject, which appeared to him to require a revision of this bill.

The question was then taken on recommitment, and decided in the affirmative.

The engrossed bill to regulate passenger ships and vessels; the engrossed bill directing the payment of certain bills drawn by General Armstrong in favor of William Morgan; and the engrossed bill for the relief of Dr. Mattrom Ball, were severally read a third time, and passed.

Mr. LITTLE, from the joint committee, on the subject of the public printing, made report, which was read and the resolution therein contained, was concurred in by the House, as follows:

Resolved, That when any printing is done, by virtue of a joint rule or resolution of the two Houses, the Secretary of the Senate and Clerk of the House of Representatives, jointly, and when ordered by either House, the Secretary and Clerk respectively, be authorized and required to employ such printer or printers as will most expedite its execution and delivery, and allow him or them the same prices now allowed to the printer employed by the said Secretary and Clerk, giving the latter the preference, when it be prac-

ticable for him to execute and deliver it as soon as it can be done by any other printer or printers.

CASE OF GILES KELLOGG.

The House then resolved itself into a Committee of the Whole, on the report of the Committee of Claims on the petition of Giles Kellogg.

This is a case in which Captain Kellogg, with a company of volunteers, entered the service of the United States, on the New York frontier, and, in the course of the campaign of 1812–13, sustained losses of clothing, &c., by consequence of a precipitate retreat ordered by Colonel Forsyth, on the invasion of Ogdensburg, in February, 1813, and by a subsequent retreat from Horse Island, in May, 1813. This clothing being their private property, they claim indemnification for its loss. The Committee of Claims report that, according to the practice of the Government, the petitioners are not entitled to relief; and, for a case in point, refer to the case of Commodore Barney's flotilla men, to whom Congress refused indemnification for the loss of clothing, occasioned by blowing up the flotilla in the Patuxent, by order of the commanding officer.

Mr. LAWYER, of New York, moved to reverse this report, and supported his motion by a long argument, founded on the general principles of equity, and supported by analogies derived from other cases, in which Congress had made indemnifications for losses of private property, occasioned by the operations of war. The private property of these volunteers, he argued, did not become public property by their volunteering their services, in the trying period, in defence of their country; and the loss of it being occasioned by the orders of officers under whose command they were placed, and by no fault of theirs, but rather from a devotion to duty, ought to be compensated by the Government.

Mr. WILLIAMS, as chairman of the Committee of Claims, defended the report. Whatever Congress might think proper to do in such a case, from motives of generosity, the petitioner and his company had no claim, either in law or equity, on the Government of the United States. To sustain this position, Mr. W. entered into an argument on the principle and the laws of the case. Mr. W. also objected to the evidence in this case, and deprecated the number of claims of this description pressed upon the consideration of Congress, without any better foundation than the wishes of the petitioners.

After some further remarks from Messrs. STORRS, WILLIAMS, of North Carolina, and LAWYER, the question was taken on the motion to reverse the report, and decided in the negative—yeas 43.

The Committee having reported its decision to the House, affirming the report—after an unsuccessful motion to recommit the report to the Committee of Claims (negatived, 65 to 63) the question was proposed on concurring in the report.

Mr. STORRS spoke against the report, and contended, in the course of his argument, that, without appealing at all to the generosity of Congress, this claim was fully sustained on the principles of justice.

Mr. LIVERMORE and Mr. TERRY also spoke on the subject; when the question was taken, and the report finally concurred in.

FRIDAY, December 18.

The SPEAKER presented a memorial of the Legislative Council and House of Representatives of the Territory of Missouri, in the name and on behalf of the people of the said Territory, praying that they may be permitted to form a constitution and State government, with the boundaries described in said petition; and admitted into the Union on an equal footing with the original States.—Referred.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill for the relief of Daniel Bickley and of Catharine Clark, administratrix of John Clark, deceased; which was read twice and committed to a Committee of the Whole.

Mr. SMITH also reported a bill, making appropriations for the support of the Navy of the United States, for the year 1819; which was read twice and committed to a Committee of the Whole.

A motion was made by Mr. SMITH, of Maryland, that the House reconsider the vote taken yesterday, to concur in the resolution contained in the report made by the joint committee on the public printing; and the question being taken to reconsider the said vote, it passed in the affirmative, and the report was recommitted to the committee by which the same was made.

The Committee of the Whole, to which is committed the bill relating to duties on foreign merchandise, were discharged, and the said bill was postponed indefinitely.

The House resolved itself into a Committee of the Whole on the bill for the relief of the legal representatives of John Baker, and the legal representatives of Peter Trouillet, and on the bill for the relief of the legal representatives of Alexander Montgomery, deceased.

The Committee had leave to sit again on the first mentioned bill, and reported the last without amendment, which was ordered to be engrossed and read a third time.

The SPEAKER laid before the House, a letter from the Secretary of the Treasury, transmitting sundry statements relative to the internal duties and direct tax, as required by the 33d section of the act of the 22d July, 1813; which was ordered to lie on the table.

The SPEAKER also laid before the House, another letter from the Secretary of the Treasury, transmitting a statement of lands sold northwest of the river Ohio, the purchase money of which has not been fully paid, and of moneys received for said lands, and of the sums now due, together with a description of bank paper, which has been received and is still receivable for the same; which was also ordered to lie on the table.

MASSACHUSETTS' CLAIM.

The SPEAKER having called over, among the orders of the day, the bill providing for the payment of the claim of the State of Massachusetts, for expenses incurred by her militia during the late war—

Mr. MASON, of Massachusetts, rose, and begged the indulgence of the House, that the order of the day might be passed for the present. He made this motion at the request of the gentlemen composing the delegation from the State of Massachusetts, who had been instructed respecting the claim. The Legislature of the State would be in session early in the month of January next, and the delegation were desirous of receiving further documents and communications relative to the claim prior to its discussion; but he hoped that, in the course of the session, the subject might be brought up, and receive a full and fair discussion.

Mr. MILLS, of Massachusetts, made a few remarks to the same effect.

Mr. FOLGER, of Massachusetts, however, moved that the House resolve itself into a Committee of the Whole on the subject.

And the question being taken on that motion, the House decided as follows: For going into committee 73, against it 63.

The House having accordingly resolved itself into a Committee of the Whole, and the bill having been read through—

Mr. CLAY (Speaker) rose to make a motion that the Committee should rise. He was persuaded, he said, that the House could not have heard what had been stated by the honorable gentleman (Mr. MASON) who was chairman of the committee which had reported this bill, or it would, on the present occasion, have exercised the courtesy usually shown to every chairman of a committee who reports a bill, of choosing his own time for calling it up. It might be proper for him to state, Mr. C. said, that his opinion on this subject did not differ, probably, from that of those gentlemen who had chosen to go into committee on the subject. But the chairman having stated to the House that, on a consultation of the delegation of the State, it had been thought proper not now to go into a Committee of the Whole on the subject; that he wished to have further communication with the government of the State on the subject; and that he hoped, in the course of the session, to bring the subject fully and fairly before the House, he thought it hardly possible, had his remarks been heard, that the discussion of the subject would be pressed against his wishes. With regard to the merits of this claim, Mr. C. continued, he would only say, that when the facts were all before the House, and the question open for discussion, gentlemen would find him as decided in his opinion, and as firm in maintaining it, as any other opponent of the claim. But, he said, a certain degree of liberality, of courtesy, of calm deliberation on this subject, was due from the House, no less to itself than to the State whose claims were the subject of consideration. He hoped, when gentlemen were ready, however, they would enter into a full and fair discussion of the question. Holding the opinions he did, he should not fail to express them at a proper opportunity. But, if the discussion were now to proceed, and the question to be decided, gentlemen would have an occasion for saying that they were hurried into the discussion; that they were taken by surprise; they might, if he were allowed to introduce a forensic term to explain his meaning, say that the decision of the House was a snap judgment, rendered without an examination of evidence, or time given, &c. He hoped, therefore, the Committee might rise, to give the gentlemen in favor of the claim time to prepare themselves for the discussion.

Mr. CAMPBELL, of Ohio, said that he had voted for going into Committee on this subject, under the impression that it was the wish of the gentlemen who were in favor of the claim to have an investigation into its merits. But, not having heard the remarks of the gentleman who reported the bill, and the Speaker having now stated them, he had no hesitation in voting for the Committee to rise. He wished the question should not be settled until every species of proof on the subject was in possession of the House, because he wished the decision should be such as, when made, should be satisfactory to all parties.

Mr. TALLMADGE, of New York, said, as he had been a member of the committee who reported this bill, and had voted to proceed in the discussion, he thought it proper to rise on this occasion, lest, if silent, his views might be misconceived. With respect to the courtesy due to the gentleman from Massachusetts, and to the State he represented, Mr. T. said he entirely reciprocated the sentiments of the honorable Speaker. But, as the report of the committee in this case, if not acted on at the present session, might, and perhaps would, be adduced hereafter as an argument in favor of the claim; and, as he thought it probable this subject would not again come before the House at the present session, he should take this opportunity to state, that the report made on this subject by the committee was considered as a statement of the case in behalf of Massachusetts, drawn up by herself, as it was in fact by her agent. The committee had thought it a liberality due to a State, appearing as a petitioner before this House, to leave it to her agent, or immediate representative, to make a statement of her own case, in her own way. On the question in committee to accept that report, Mr. S. said, there was a minority; and he, for one, took this occasion to say that, had the discussion of this claim now gone on, and if it should recur at the present session, there was a variety of collateral documents relating to the history and merit of these claims, which he was ready and felt it his duty to urge in argument in opposition to allowing them. Desiring, however, to cultivate harmony in the Union, by treating every State in it with due respect, he did not wish to press the discussion now. Taking this opportunity, then, as the only one he might ever have, to protest

against the report of the committee accompanying this bill being considered as the deliberate opinion of the committee, or hereafter brought in as an argument in favor of the claim, being in fact the most favorable statement that a party interested could make of it, he was, for the reason before assigned, in favor of the Committee's rising.

The question was then taken on the Committee's rising, and decided in the affirmative.

Mr. NEWTON, of Virginia, in order to insure to this question a consideration during the present session, proposed that the Committee should be refused leave to sit again, and that the bill should be referred to a Committee of the Whole on the state of the Union, which, always having preference of other orders of the day, would insure its being taken up whenever desired by the friends of the claim.

Mr. ORR, of Massachusetts, objected to this course, as it would subject the House to the same inconvenience as they had just experienced; that of being called upon to act on the subject before the delegation might be prepared to take it up, &c.

Mr. PITKIN, of Connecticut, objected to it for a different reason. If referred to a Committee of the Whole on the state of the Union, it would be made the order of the day for every day, and might be called up and decided when scarce half the House was present.

On the question, leave was given to the Committee to sit again on the bill.

THADDEUS MAYHEW.

The House then resolved itself into a Committee of the Whole on the bill for the relief of Thaddeus Mayhew, and the accompanying report of the Committee of Claims.

The claim of the petitioner in this case is for property used, lost, and destroyed by the British army, in consequence of the same being used as barracks, and for places of military deposite by the United States troops, to the amount of fifteen thousand eight hundred ninety-eight dollars. The committee say they believe the Government not bound to remunerate the petitioner; and, if it were considered so bound, would have protested against the extravagance of the charges. The committee report against the whole claim, therefore, with the exception of the sum of $1,298 for beds, bedding, and other furniture taken for the use of the United States troops, and taken or destroyed by them. For the payment of this amount, the committee report a bill.

Mr. BUTLER, of Louisiana, moved to amend the bill so as to allow to Mr. Mayhew the whole amount of his claim; and supported his motion by an argument, on the principles and facts of the case, of considerable length.

An extended and able debate took place on this motion, in the course of which it was supported by Messrs. POINDEXTER, JOHNSON, of Kentucky, BALDWIN, SMITH, of Maryland, and BUTLER, and opposed by Messrs. WILLIAMS and MCCOY.

The debate resulted in agreeing to the motion of Mr. BUTLER; and, thus amended, the bill was reported to the House, and ordered to be engrossed for a third reading.

Mr. POINDEXTER introduced a joint resolve for an adjournment from Monday next to Monday week; which was negatived; and the House adjourned to Monday.

MONDAY, December 21.

Another member, to wit: from Massachusetts, SOLOMON STRONG, appeared and took his seat.

Mr. JOHNSON, of Kentucky, presented a petition of Hanson Catlett, a surgeon in the Army of the United States, praying compensation for a negro slave, who was drowned while attending him as a servant, during the late war with Great Britain.—Referred.

Mr. CAMPBELL, from the committee appointed on the 10th instant, reported a bill to provide for taking the fourth census or enumeration of the inhabitants of the United States; which was read twice, and committed to a Committee of the Whole.

Mr. MARCHAND, from the committee appointed on the petition of John Wells, made a report, which was read; when Mr. M. reported a bill for the relief of the said John Wells, which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON, of Kentucky, from the Military Committee, reported a bill "concerning the Military Establishment of the United States." [This bill proposes a modification of parts of the staff of the Army, without reducing it.]

The bill was twice read, and committed.

Mr. JOHNSON, from the same committee, made a report on the petition of Patrick Callan, which was read; when Mr. J. reported a bill for the relief of the said Patrick Callan, which was read twice, and committed to the Committee of the Whole, to which is committed the bill for the relief of Joseph Wheaton.

Mr. ROBERTSON, from the select committee appointed on that subject, reported a bill establishing a separate Territorial government for the southern part of the Territory of Missouri; which was twice read, and committed.

On motion of Mr. POINDEXTER, the Committee on the Public Lands were instructed to inquire into the expediency of amending the several laws, to prevent waste and damage on the public lands, by cutting timber thereon.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting statements of the sales of public lands, during the year 1817, and the three first quarters of the year 1818, which were intended to have accompanied the annual report on the state of the finances; which was ordered to lie on the table.

An engrossed bill, entitled "An act for the relief of the heirs of Alexander Montgomery, deceased," was read the third time, and passed.

The engrossed bill for the relief of Thaddeus Mayhew was read a third time.

Mr. STORRS, on the ground that the evidence

establishing the value of some of the articles destroyed was defective, moved to recommit the bill to the Committee of Claims to re-investigate that point.

After a long debate the motion was agreed to, and the bill recommitted.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the relief of Major General John Stark," with amendments. They have also passed bills of the following titles, viz: "An act to provide for the due execution of the laws of the United States, within the State of Illinois;" and "An act for the relief of Louis and Antoine Dequindre;" in which amendments and bills they ask the concurrence of this House.

The amendments to the bill, entitled "An act for the relief of Major General John Stark," were read and concurred in by the House.

The bill from the Senate, entitled "An act to provide for the due execution of the laws of the United States within the State of Illinois," was read twice, and referred to the Committee on the Judiciary.

The bill from the Senate, entitled "An act for the relief of Louis and Antoine Dequindre," was read twice, and referred to the Committee of Ways and Means.

The resolution for a temporary adjournment of Congress, offered on Friday last by Mr. Poindexter, was, on motion of Mr. Taylor, indefinitely postponed.

The House resolved itself into a Committee of the Whole, on the bill for the relief of Ebenezer Stevens, Lucretia Stevens, late Lucretia Sands, and others; and, after some time spent therein, the Committee rose and had leave to sit again thereon.

The House then resolved itself into a Committee of the Whole, on the bill making appropriations for the support of the Navy of the United States for the year 1819.

The bill includes the following items:

Pay of officers and seamen -	$1,270,333 50
Provisions - - - - - -	594,037 50
Medicines and all expenses of sick	36,000 00
Repairs of vessels - - -	350,000 00
Contingent expenses - - -	300,000 00
Repairs of navy yards, docks, &c.	100,000 00
Completing medals and swords -	7,500 00
Pay and subsistence of marine corps	122,898 00
Clothing the same - - -	2,038 10
Military stores for do. - - -	1,087 50
Contingent expenses - - -	18,600 00

The bill was then reported to the House, and ordered to be engrossed for a third reading.

The House then resolved itself into a Committee of the Whole on the bill for the relief of Renner and Heath.

The claim of the petitioners in this case is for the destruction of their ropewalk and its contents, in consequence of the walk having been employed in the manufacture of cordage for the United States, and in consequence of the carts and boats employed for the removal of their property having been pressed by officers of the United States. The Committee of Claims report a bill for the payment of $19,803, for the amount of cordage destroyed; rejecting the claim for payment for the building burnt by the enemy.

Mr. Williams, of North Carolina, opposed, at considerable length, the principle of the bill, and moved to strike out the first section; which motion was opposed by Mr. McCoy, another member of the Committee of Claims, and decided in the negative.

The bill was then reported to the House, and ordered to be engrossed for a third reading.

Tuesday, December 22.

Mr. Hendricks presented a petition of John James Dufour, on behalf of himself and his associates, stating that a short time past he went to the land office in Cincinnati, for the purpose of completing the payment for the lands lying within the State of Indiana, heretofore purchased by them for the cultivation of the vine; and that the bank paper which he offered would not be received in consequence of an order from the Treasury Department, directing the receiver not to receive anything in payment for lands except specie, or notes of the Bank of the United States; that he is unable to procure either within the time prescribed for the last payment, and that if the money is not paid by the first of January next, the lands will be forfeited to the United States; and praying for an extension of credit for one year from the said first day of January next, or such other relief as Congress may think proper to grant.—Referred to the Committee on the Public Lands.

Mr. Smith, of Maryland, from the Committee of Ways and Means, to which was referred the bill from the Senate, entitled "An act for the relief of Louis and Antoine Dequindre," reported the same without amendment, and the bill was committed to a Committee of the Whole.

Mr. Hugh Nelson, from the Committee on the Judiciary, to which was referred the bill from the Senate, entitled "An act to provide for the due execution of the laws of the United States, within the State of Illinois," reported the same without amendment; and the bill was committed to a Committee of the Whole.

On motion of Mr. Harrison, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of granting a pension to To-hon-do-che a Seneca Warrior, attached to the command of Brigadier General McArthur, and who was wounded in an action with the enemy at Malcolm's Mills, in the province of Upper Canada.

Among the petitions this day presented, was one by Mr. Herbert, from the Rockville and Washington Turnpike Company, praying to be empowered to make that part of said road which lies between the line of the District and the boundary of the City of Washington; which was referred to the Committee on the District of Columbia.

Mr. Smith, of Maryland, from the Committee

of Ways and Means, reported a bill making appropriations for the military service of the United States during the year 1819, and a bill for the relief of William Coffin and others; which were twice read, and committed.

Mr. HERBERT, from the Committee on the District of Columbia, reported a bill to incorporate the Provident Association of Clerks in the several departments of Government within the District of Columbia; which was twice read, and committed.

Mr. JOHNSON, of Kentucky, from the Military Committee, laid before the House a letter from the Secretary of War, respecting the alterations proposed to be made, by a bill now before the House, in the Military Establishment; which was referred to the Committee of the Whole, to whom the bill was referred.

On motion of Mr. PETER, the Committee for the District of Columbia were instructed to inquire into the expediency of authorizing the Corporation of the City of Washington to open and use as a way Four-and-an-half street west, across the Mall in the said city, until the said Mall may be wanted for national purposes.

Mr. BUTLER, of New Hampshire, submitted the following resolution:

Resolved, That the Committee on Revolutionary Pensions be instructed to consider the expediency of amending the law, of the last session, entitled "An act to provide for certain persons engaged in the land and naval service of the United States, in the Revolutionary war," approved March 18, 1818, so as to embrace such soldiers as enlisted or engaged for a less term than nine months, and at the request of the commanding officer or officers, continued and completed nine months, or more, actual service, at any one period of the war.

The question was then taken, Will the House now proceed to consider the said resolution? and determined in the negative.

On motion of Mr. JOHNSON, of Kentucky, the Committee of the Whole were discharged from the further consideration of the bill authorizing the people of Michigan Territory to elect a delegate to Congress, and the bill was ordered to be engrossed for a third reading.

The engrossed bill making appropriations for the Naval service of the United States, for the year 1819; and the engrossed bill for the relief of Daniel Renner and Nathaniel H. Heath, were read a third time, passed, and sent to the Senate for concurrence.

EBEN. STEVENS, AND OTHERS.

The House then resolved itself into a Committee of the Whole on the bill for the relief of Ebenezer Stevens, and others.

This claim is of the date of 1785, and is founded on an award of commissioners authorized, by resolutions of Congress, to examine the claims of Tench Francis, Comfort Sands, and others, then late contractors for the moving army, and of Comfort Sands and Co., then late contractors for the post of West Point and its dependencies, for damages sustained by them, from the late Superintendent of Finance having failed to make good the stipulated payments, and from his having withdrawn the contracts. The award was, in 1790, reported by the Auditor of the Treasury to be binding on the United States, to the amount of [$33,675 for the first company, and $6,621 for the last mentioned company.

The documents on which this award was founded were also before the House, and were all read through.

When the reading of the documents was finished, the greater part of the day had been consumed. The Committee then rose, and obtained leave to sit again.

WEDNESDAY, December 23.

Mr. HOSTETTER presented a memorial of sundry inhabitants of the town of York, in the State of Pennsylvania, stating that, notwithstanding the act prohibiting the importation of slaves, persons of color have been illegally introduced into the United States, and have been seized and sold as slaves, by virtue of the fifth section of the said act, and praying the interposition of Congress to prevent the said practice.—Referred to the committee on so much of the President's Message as relates to the illicit introduction of slaves into the United States.

Mr. HERRICK presented a memorial of the representatives of the Religious Society of Friends, in the States of Ohio, Indiana, and Illinois, and the adjacent parts of Pennsylvania and Virginia, praying that schools may be established among the Indians, and that further measures may be adopted for their civilization.—Referred to the Committee on Indian Affairs.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, who were instructed by resolution to inquire into the expediency of allowing goods, on which the duty has been paid or secured, to be transported coastwise, to one or more districts within the United States, without loss of debenture, made report; which was read, and ordered to lie on the table.

Mr. SMITH, from the same committee, reported a bill to increase the duty on cotton imported into the United States, and to prohibit the allowance of drawback on the exportation of gunpowder; which was read twice, and commmittd to a Committee of the Whole.

Mr. SMITH also reported a bill to authorize the payment, in certain cases, on account of Treasury notes which have been lost or destroyed; which was read twice, and ordered to be engrossed, and read a third time to-morrow.

J. J. DUFOUR, AND OTHERS.

Mr. POINDEXTER reported, from the Committee of Public Lands, a bill to extend, for the term of twelve months, the time allowed to J. J. Dufour, and his associates, of Vevay, Indiana, for completing the payment for the lands purchased by them from the United States.

On this bill arose a debate, which wholly occupied the House until the usual hour of adjournment; in the course of which the bill was so

amended as to make the extension for six, instead of twelve months.

The debate was more animated than at the first glance one would have expected such a question to produce. The petitioners ask this indulgence, because such money as they have the receiver of public moneys will not take from them. The bill, therefore, was supported on various grounds, on the reasonableness of the request, and on the merit of the petitioners, on whom a high eulogium was pronounced. The bill was opposed on the general ground of the inexpediency of making a discrimination between these claimants and other petitioners. Messrs. Poindexter, Harrison, Taylor, Hendricks, Trimble, Mercer, and Beecher, supported the bill, and Messrs. Williams of N. Carolina, Simkins, Mills, Storrs, McCoy, Sergeant, and Desha, opposed it.

The question on ordering the bill to a third reading having been taken by yeas and nays, was decided in the affirmative—yeas 73, nays 67, as follows:

Yeas—Messrs. Abbot, Adams, Anderson of Kentucky, Baldwin, Barber of Ohio, Bateman, Bayley, Beecher, Bellinger, Bloomfield, Boden, Butler of Louisiana, Campbell, Clagett, Comstock, Cruger, Ellicott, Floyd, Fuller, Harrison, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Holmes, Hostetter, Hubbard, Hunter, Irving of New York, Johnson of Kentucky, Jones, Kirtland, Lawyer, Lincoln, Linn, McLean of Illinois, Marchand, Mason of Massachusetts, Mercer, Merrill, Robert Moore, Moseley, H. Nelson, Nesbitt, Ogle, Palmer, Parrott, Patterson, Peter, Poindexter, Porter, Quarles, Rhea, Rich, Rogers, Ruggles, Sampson, Savage, S. Smith, Alexander Smyth, Tallmadge, Tarr, Taylor, Tompkins, Trimble, Upham, Walker of North Carolina, Walker of Kentucky, Wendover, Whiteside, Williams of New York, and Wilson of Pennsylvania.

Nays—Messrs. Allen of Massachusetts, Ball, Bassett, Bennett, Blount, Boss, Butler of New Hampshire, Claiborne, Cobb, Colston, Cook, Crafts, Crawford, Darlington, Davidson, Desha, Edwards, Folger, Gage, Gilbert, Hall of Delaware, Hogg, Hopkinson, Huntington, Johnson of Virginia, Little, W. Maclay, W. P. Maclay, McCoy, Middleton, Miller, Mills, Samuel Moore, Murray, Jeremiah Nelson, Owen, Pawling, Pindall, Pitkin, Pleasants, Rice, Richards, Ringgold, Robertson, Sawyer, Schuyler, Scudder, Sergeant, Settle, Sherwood, Simkins, Slocumb, Bal. Smith, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Strother, Terrell, Tucker of Virginia, Tucker of South Carolina, Westerlo, Whitman, Wilkin, Williams of Connecticut, Williams of North Carolina, and Wilson of Massachusetts.

Thursday, December 24.

Another member, to wit: from Tenn., George W. L. Marr, appeared, and took his seat.

Mr. Livermore presented the petition of Alpheus Hutchins, praying to be allowed the land bounty to which he conceives himself entitled for his services as a soldier in the army, in the late war with Great Britain, which is withheld in consequence of his being a minor at the time of his enlistment and discharge.—Referred.

Mr. Poindexter, from the Committee on Public Lands, reported a bill supplementary to the act admitting the State of Indiana into the Union; which was twice read, and committed.

Mr. Pleasants, from the Committee on Naval Affairs, to whom was referred the resolution from the Senate, "directing a survey of certain parts of the coast of North Carolina;" reported the same without amendment, and the resolution was ordered to be read a third time to-day.

Mr. Bloomfield made a report on the petitions of Hannah Ring and Luther Frink, which was read; when Mr. B. reported a bill for the relief of the said Hannah Ring and Luther Frink; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. Ballard Smith, the Committee of Ways and Means were instructed to inquire into the expediency of authorizing, by law, the Commissioner of the Revenue to appoint an agent in each of the counties of the several States, to receive the tax due therein to the General Government, on lands which are or may be sold for the non-payment of the said tax.

On motion of Mr. Pindall, the Committee on Roads and Canals were instructed to inquire into the expediency of completing the road from Cumberland to Wheeling.

On motion of Mr. Pleasants, the Committee on Naval Affairs were instructed to inquire into the propriety of authorizing, by law, the purchase of the timbers, particularly live oak, necessary for building twenty sloops, or other small vessels of war.

On motion of Mr. Lincoln, the Committee on Indian Affairs were instructed to inquire into the expediency of providing, by law, that it be the duty of the several public agents, employed by the United States to transact business with the Indian tribes, to obtain all the information in their power relative to the population, manners, and customs, history, languages, or anything peculiar to said tribes; and to report the same, annually, to the Secretary of War.

On motion of Mr. Cobb, it was

Resolved, That the President of the United States be requested to lay before this House, if in his opinion the same should not be inconsistent with the public interest, copies of the correspondence, if any, between the Department of War and the Governor of Georgia, in answer to the letter of the latter to the former, dated on the 1st of June of the present year, communicated to this House on the 12th instant; and also the correspondence, if any, between the Department of War and General Andrew Jackson, in answer to the letter of the latter of the 7th of May, 1818, also communicated to this House on the 12th inst.

Messrs. Cobb and Edwards were appointed a committee to present the said resolution to the President.

On motion of Mr. Gage, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of making compensation to Reuben Colburn, for boats and other supplies furnished by the authority of General Washington, to the expedition under the

command of Colonel Arnold, at the time it ascended Kennebeck river, in 1775; and that the documents forwarded by the claimant be referred to the said committee.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting the report of the recorder of land titles in the Territory of Missouri, made in obedience to the act of the 20th of April, 1818, entitled "An act for the relief of James Mackay, of the Missouri Territory;" which was read, and referred to the Committee on Private Land Claims.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the relief of Aquila Giles;" in which they ask the concurrence of this House.

The said bill was read twice, and referred to the Committee on Pensions and Revolutionary Claims.

Engrossed bills of the following titles, to wit:

"An act authorizing the election of a delegate from the Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory;" and,

"An act to authorize the payment, in certain cases, on account of Treasury notes, which have been lost or destroyed;" were severally read the third time, and passed.

The resolution from the Senate, "directing a survey of certain parts of the coast of North Carolina," was read a third time, and passed.

J. J. DUFOUR, AND OTHERS.

An engrossed bill for the relief of John James Dufour, and his associates, was read the third time; and, being on its passage,

Mr. STROTHER moved that it be laid on the table; which motion was rejected.

The question was then taken, Shall the said bill pass? and determined in the negative—yeas 65, nays 66, as follows:

YEAS—Messrs. Adams, Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Barber of Ohio, Bayley, Beecher, Bellinger, Bloomfield, Boden, Butler of Louisiana, Campbell, Clagett, Comstock, Cruger, Cushman, Drake, Ellicott, Floyd, Harrison, Hasbrouck, Hendricks, Herkimer, Herrick, Hitchcock, Holmes, Hostetter, Hubbard, Hunter, Irving of N. York, Johnson of Kentucky, Jones, Kirtland, Lawyer, Lincoln, Linn, Livermore, McLean of Illinois, Marchand, Mason of Massachusetts, Merrill, Robert Moore, Moseley, Nesbitt, New, Ogle, Parrott, Patterson, Peter, Poindexter, Porter, Quarles, Rich, Ruggles, Sampson, Savage, Seybert, Alexander Smyth, Tarr, Taylor, Tompkins, Upham, Wendover, Whiteside, and Williams of New York.

NAYS—Messrs. Ball, Bassett, Bateman, Bennett, Blount, Boss, Butler of New Hampshire, Claiborne, Cobb, Cook, Crafts, Crawford, Darlington, Davidson, Desha, Edwards, Folger, Gage, Hall of Delaware, Hall of North Carolina, Hogg, Hopkinson, Huntington, Johnson of Virginia, Kinsey, W. Maclay, W. P. Maclay, McCoy, Marr, Miller, Samuel Moore, Murray, Jeremiah Nelson, H. Nelson, Newton, Orr, Owen, Pindall, Pitkin, Pleasants, Rhea, Rice, Richards, Robertson, Scudder, Sergeant, Settle, Sherwood, Silsbee, Slocumb, Bal. Smith, J. S. Smith, Southard, Stewart of North Carolina, Storrs, Strong, Strother, Terrell, Terry, Townsend, Tucker of Virginia, Tucker of S. Carolina, Whitman, Williams of Connecticut, Williams of N. Carolina, and Wilson of Massachusetts.

So the bill was rejected. And then the House adjourned to Monday.

MONDAY, December 28.

Mr. IRVING presented a petition of "The New York Society for promoting the Manumission of Slaves, and protecting such of them as have been or may be liberated;" praying that some effective provisions may be made to abolish the African slave trade, in any arrangement which may be hereafter definitively entered into between this country and Spain, or the South American provinces.

Mr. SERGEANT presented a memorial from the American Convention for promoting the Abolition of Slavery, and improving the condition of the African race, praying that the acts respecting the illicit introduction of slaves into the United States may be so amended, as that any person so introduced shall be declared free; and that the situation of slavery within the District of Columbia may be considered, and a plan devised, for its gradual and certain termination within said District.—Referred to the committee on that part of the President's Message which relates to the illicit introduction of slaves within the United States.

Mr. RHEA made an unfavorable report on the petition of Matthew McCauley; which was read, and ordered to lie on the table.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was committed the bill for the relief of Thaddeus Mayhew, of the State of Louisiana, made a detailed report on the case of the said Mayhew; which was read, and ordered to lie on the table.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, made a report on the petition of General Robert Swartwout, which was read; when Mr. J. reported a bill for the relief of the said General Robert Swartwout; which was read twice, and committed to the Committee of the Whole, to which is committed the bill for the relief of Joseph Wheaton.

Mr. JOHNSON also made a report on the petition of Ezra Child, which was read; when Mr. J. reported a bill for the said Ezra Child; which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON also reported a bill, supplementary to "An act providing for cases of lost military land warrants, and discharges for faithful services," and for other purposes; which was read twice, and committed to a Committee of the Whole.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

In compliance with a resolution of the 15th inst., I lay before the House of Representatives a report from

the Secretary of State, with the papers and documents accompanying it. JAMES MONROE.

December 28, 1818.

The Message and documents were referred to the Committee on Foreign Affairs.

The Speaker laid before the House a letter from the Attorney General of the United States, in relation to the accounts of James Thomas, a quartermaster general in the Army in the late war with Great Britain; which was referred to him, by orders of this House, of the 17th of March, and 10th of April last; which letter was ordered to lie on the table.

The Speaker also laid before the House a letter from the Secretary of the Treasury, transmitting copies of instructions given by the Secretary of the Treasury, under the eighth section of the act of the 21st of April, 1806, to the several boards of land commissioners, in the State of Louisiana and Territory of Missouri, rendered in obedience to a resolution of this House, of the 17th instant, which was ordered to lie on the table.

Mr. Palmer submitted the following resolution; which was read and rejected, viz:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire whether any, and, if any, what amendments are necessary to be made to the act, supplementary to the act, to regulate the collection of duties on imports and tonnage, passed the 20th of April, 1818, in relation to the importation of goods, &c., into the United States, by land, from the dominions of Great Britain in North America; and, also, that the same committee be instructed to inquire into the expediency of so amending the fourth section of an act, entitled "An act to continue in force, an act, entitled 'An act further to provide for the collection of duties on imports and tonnage, passed the 3d day of March, 1815, and for other purposes,' passed the 3d day of March, 1817;" that the provision therein contained shall apply only to steamboats on Lake Champlain, which are employed solely in the transportation of passengers and their baggage; and that the said section shall not extend to authorize the entry of any goods, wares, and merchandise, except passengers' baggage, in any district, other than the one in which the same are to be landed.

On motion of Mr. Johnson, of Kentucky, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of authorizing the Postmaster General to contract for the transportation of the mail, by steamboats or otherwise, on navigable waters, in the same manner that he is authorized by law to contract for transportation of the mail by land.

On motion of Mr. Tallmadge, the Judiciary Committee were instructed to inquire into the expediency of providing by law for the appointment, by the President, by and with the consent of the Senate, of the clerks of the several district courts of the United States; and, also, to require from them greater security for the performance of their duties.

J. J. DUFOUR, AND OTHERS.

Mr. Pindall, after stating that information had come to his knowledge since the decision of the House, on Thursday last, against the bill for the relief of J. J. Dufour and others, which he thought had a material bearing on the expediency of extending relief, in some shape, to the petitioners, and after entering into some reasons which, from reflection and further investigation, had occurred to him, in support of the motion he rose to make, moved to reconsider the vote which rejected the bill, and to bring it before the House to receive the modification which he thought would entitle it to the sanction of the House.

Mr. Lincoln, of Mass., spoke as follows:

Mr. Speaker: I place my vote on the broad basis of national policy—the policy of encouraging emigration, and the culture of the vine. When I am told that the inhabitants of the little village of Vevay are the countrymen of the illustrious Tell, that they are planters of the vine, and industrious and virtuous people, delighting in the exercise of the rites of hospitality, I find my sympathy strongly excited; yet I do not suffer that sympathy to delude my understanding. But, should these people write to their friends across the Atlantic, and inform them that they are here, enjoying the patronage and fostering care of our Government, would not those friends, although looking around them, and seeing themselves surrounded by ramparts of mountains, yet, perceiving the avalanches of European power continually tumbling upon their heads, be disposed to abandon a country where their liberties are so insecure, and come to one where they should be assured of an asylum? On the other hand, should they be informed that these persons came to their hard-hearted creditor—that creditor an opulent, powerful nation, and told him that they had been unfortunate, but not guilty; negligent, but not delinquent; yet that he drove them from his door with scorn and contempt, bade them begone, and prepare to pay him the last farthing of their bond at the moment when it should become due, what, then, would be their feelings? They could not be other than those of the deepest aversion and horror. We cannot do too much, sir, to encourage the emigration of a class of population like that of the Cantons of Switzerland, a population remarkably assimilated to that of our own country, in manners, customs, feelings, and principles.

There is yet another argument more weighty than that just urged—I mean that resulting from the policy of encouraging the cultivation of the vine, encouraging it, paradoxical as it may seem, for the purpose of preventing intemperance; for, true it is, that there are no people more temperate than those of France and Switzerland. The reason is, that they make use of the products of their own vineyards, as the substitute for those deleterious ardent spirits which are here consumed to so lamentable an excess. Give then to these people a little indulgence, and you shall see not only the banks of the Ohio festooned by the grape vine, but it shall climb to our mountains tops, and its fruit bask in the sunshine upon all our hills.

The question was then taken on reconsidering the vote on the bill, and decided in the affirmative; when, on motion of Mr. PINDALL, the bill was referred to a select committee.

EBENEZER STEVENS, AND OTHERS.

The House then again resolved itself into a Committee of the Whole, on the bill for the relief of Ebenezer Stevens, Lucretia Stevens, late Lucretia Sands, and others—the question to strike out the first section being still under consideration.

Mr. SHERWOOD supported the bill in a speech of considerable length, and very minute investigation. He was followed by Mr. RHEA in opposition to the bill; and, after refusing to strike out the first section, and a little discussion on its details, the bill was filled with the sum of $21,431, with interest from October, 1787, and the bill reported to the House.

The sum with which the blank was filled was agreed to by the House; and, after some further remarks from Mr. RHEA, in opposition to the bill, the question was taken on ordering the bill to be engrossed for a third reading, and decided in the negative, by yeas and nays—yeas 63, nays 72, as follows:

YEAS—Messrs. Abbott, Adams, Allen of Massachusetts, Baldwin, Ball, Bayley, Beecher, Boden, Boss, Cruger, Cushman, Darlington, Ellicott, Ervin of South Carolina, Fuller, Gilbert, Hall of Delaware, Harrison, Hasbrouck, Herbert, Herkimer, Hitchcock, Hopkinson, Hostetter, Hubbard, Huntington, Johnson of Virginia, Kirtland, Lawyer, W. Maclay, Mason of Massachusetts, Mason of Rhode Island, Merrill, Middleton, Samuel Moore, Moseley, Murray, Jeremiah Nelson, Nesbitt, Ogden, Ogle, Orr, Palmer, Parrott, Peter, Pitkin, Quarles, Rice, Ruggles, Schuyler, Sergeant, Sherwood, Silsbee, Storrs, Tallmadge, Taylor, Terrell, Terry, Upham, Westerlo, Whitman, Wilkin, and Williams of Connecticut.

NAYS—Messrs. Anderson of Kentucky, Bassett, Bateman, Bellinger, Bennett, Bloomfield, Butler of Louisiana, Campbell, Claiborne, Cobb, Cook, Crafts, Crawford, Culbreth, Davidson, Desha, Drake, Earle, Edwards, Folger, Gage, Hale, Hall of North Carolina, Hendricks, Herrick, Hogg, Holmes, Hunter, Jones, Kinsey, Linn, Livermore, Lowndes, McLean of Illinois, W. P. Maclay, McCoy, Marchand, Marr, Miller, H. Nelson, Newton, Patterson, Pindall, Pleasants, Rhea, Rich, Richards, Robertson, Sampson, Savage, Sawyer, Scudder, Settle, Seybert, Slocumb, Ballard Smith, Alexander Smyth, J. S. Smith, Southard, Speed, Stewart of North Carolina, Strother, Tarr, Tompkins, Tucker of Virginia, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wendover Whiteside, Williams of North Carolina, and Wilson of Pennsylvania.

TUESDAY, December 29.

Mr. H. NELSON, from the Judiciary Committee, to whom had been referred the letter of the Sergeant-at-Arms, respecting the suit commenced against him by John Anderson, reported a resolution authorizing and requesting the Speaker to employ such counsel, as he may think proper to defend the suit brought by John Anderson against the said Thomas Dunn, and that the expenses be defrayed out of the contingent fund of the House; which resolution was concurred in.

Mr. N. reported also a bill concerning suits brought on copy rights; which was twice read, and committed.

Mr. PLEASANTS, from the Committee on Naval Affairs, made a report on the petition of Thomas Shields, for compensation for prisoners captured in the late war with Great Britain; which was read; when Mr. P. reported a bill concerning Thomas Shields and others; which was read twice, and committed to a Committee of the Whole.

A message from the Senate informed the House that the Senate have passed a bill of this House entitled "An act for the relief of William B. Lewis," with an amendment. They have also passed a bill, entitled "An act for the relief of John Rice Jones;" in which amendment and bill they ask the concurrence of this House.

Mr. HERBERT, from the Committee on the District of Columbia, reported a bill authorizing the corporation of the City of Washington to open and extend certain streets in certain parts of the City of Washington, through public reservations; which was twice read.

Mr. H., from the same committee, reported a bill authorizing the Rockville and Washington Turnpike Company to extend and make the same from the line of the District of Columbia to the boundary of the City of Washington; which bill was twice read, and was about to be ordered to be engrossed for a third reading, when, on motion of Mr. RICH, it was referred to a Committee of the Whole.

The verbal amendment of the Senate to the bill for the relief of William B. Lewis was taken up and agreed to.

The bill from the Senate for the relief of John Rice Jones was twice read, and committed.

The bill reported at the last session, authorizing a subscription to the Chesapeake and Delaware Canal Company, being called, as the order of the day—

Mr. TUCKER, of Virginia, after stating that the gentleman (Mr. McLANE, of Delaware,) who reported this bill, and who was particularly interested in its discussion, was absent from the House, as one of the Bank Committee; and that the information directed by a resolution of the last session to be collected by the Secretary of the Treasury, on the subject of internal improvements, had not yet been received respecting the Chesapeake and Delaware Canal, moved that the Committee of the Whole, to whom the bill had been referred, be discharged therefrom, and that it be referred to the Committee on Internal Improvement; which motion prevailed, and the bill was accordingly so referred.

The bill for the relief of Samuel F. Hooker; the bill for the relief of Harold Smith; and the bill for the relief of Sampson S. King, severally passed through Committees of the Whole; and were ordered to be engrossed for a third reading.

On motion of Mr. PINDALL, the select committee to whom was recommitted the bill to ex-

tend to John James Dufour, and others, the time of payment for certain lands, were discharged from the further consideration thereof, and it was ordered to lie on the table. [The reason of this proceeding was, that a letter has been received, that the payment requested to be deferred has since actually been made, by a sacrifice of heavy discount.]

EBEN. STEVENS, AND OTHERS.

A motion was made by Mr. HENDRICKS, to reconsider the vote of yesterday, by which the bill for the relief of Ebenezer Stevens, and others, was rejected, on the ground of a desire to recommit it for an amendment, the object of which was to submit the justice of the claim to the decision of the Supreme Court, or of some other judicial tribunal.

On the motion of Mr. STROTHER, protesting against the reconsideration, the yeas and nays were required on the question.

Whereupon, there arose a debate of considerable interest, and of two hours and more in length, on the question of reconsidering the matter. The motion was supported by Messrs. HENDRICKS, STORRS, PITKIN, SMYTH, of Virginia, HOPKINSON, WHITMAN, MILLER, and SERGEANT, and opposed by Messrs. STROTHER, RHEA, W. P. MACLAY, and WILLIAMS, of North Carolina.

The question on reconsidering the vote of yesterday, was finally decided in the affirmative, by yeas and nays—yeas 75, nays 67.

The bill being again before the House, the question recurred whether it should be engrossed, and read a third time; when, on motion of Mr. STORRS, it was committed to a select committee.

WEDNESDAY, December 30.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to which was committed the bill from the Senate, entitled "An act to authorize the settlement of the account of James Wilde," reported the same without amendment, and it was committed to a Committee of the Whole.

Mr. ROBERTSON, from the Committee on Private Land Claims, made a report on the petition of John B. Regnier; which was read; when, Mr. R. reported a bill for the relief of the said John B. Regnier; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. LITTLE, from the joint committee on the subject of the printing ordered by the two Houses of Congress, respectively, to which was recommitted their report of the 17th instant, reported the same without amendment; which was then ordered to lie on the table.

On motion of Mr. NEWTON,

Resolved, That for supplying the deficiency in the appropriation for the subscription for the Statistical Annals of Adam Seybert, and the purchase of Pitkin's Commercial Statistics, the further sum of four hundred dollars be paid, out of the contingent fund of the House of Representatives.

Mr. NEWTON submitted a joint resolution for the distribution of Seybert's Statistical Annals, and directing Pitkin's Commercial Statistics to be deposited in the Library; which was read twice, and,

Mr. LIVERMORE moved to amend the said resolution authorizing the distribution of the Statistics, among the members of the next, instead of the present Congress; which was rejected.

The resolution was then amended, and ordered to be engrossed and read a third time, to-morrow.

On motion of Mr. MCLEAN, of Illinois, the Committee on the Public Lands were instructed to inquire into the expediency of establishing additional land offices, for the sale of public lands, in the State of Illinois; and also, into the expediency of appointing a surveyor of the lands of the United States, in the said State.

The House took up and proceeded to consider the report of the Committee of Pensions and Revolutionary Claims, made at the last session (30th March, 1818,) on the petition of Benjamin Wells; whereupon, it was

Ordered, That the petition of the said Benjamin Wells be referred to the Secretary of the Treasury, and that the said report lie on the table.

Engrossed bills of the following titles, to wit: An act for the relief of Harold Smyth, An act for the relief of Samuel F. Hooker; and, An act for the relief of Sampson S. King; were severally read a third time, and passed.

The bill to incorporate the Medical Society of the District of Columbia, and the bill to incorporate the Provident Asssociation of Clerks for the District of Columbia, passed through a Committee of the Whole, and were, (the former with some amendments,) ordered to be engrossed for a third reading.

The bill for the relief of Samuel Burr also passed through a Committee of the Whole.

The same Committee took up, also, the bill for the relief of John Delafield, (to allow him to fund forty-three loan office certificates, of four hundred dollars each, with the balance of interest.)

The documents were read, connected with the bill last mentioned, and Mr. RUGGLES spoke some time in favor of the claim; after which the Committee rose, reported progress on the latter bill, and the House adjourned.

THURSDAY, December 31.

DEATH OF MR. MUMFORD.

Mr. SMITH, of North Carolina, announced the death of GEORGE MUMFORD, a member of this House, from the State of North Carolina; whereupon,

Resolved unanimously, That a committee be appointed to take order for superintending the funeral of GEORGE MUMFORD, deceased, late a Representative from the State of North Carolina.

Messrs. SMITH, of North Carolina, WILLIAMS, of North Carolina, OWEN, STEWART, of North Carolina, SETTLE, EDWARDS, and SLOCUMB, were appointed the said committee.

Resolved unanimously, That the members of this House will testify their respect to the memory of GEORGE MUMFORD, late one of their body, by wearing crape on their left arm, for one month.

Resolved unanimously, That the members of this House will attend the funeral of the late GEORGE MUMFORD, to-morrow morning, at 10 o'clock.

Ordered, That a message be sent to the Senate, to notify them of the death of GEORGE MUMFORD, late a member of this House, and that his funeral will take place to-morrow, at 10 o'clock.

The House then adjourned to Monday.

MONDAY, January 4, 1819.

Mr. PLEASANTS, from the Committee on Naval Affairs, made a report on the petition of Thomas Shields, for stores lost and private property destroyed by the British; which report was read; when, Mr. P. reported a bill authorizing the payment of a sum of money to Thomas Shields; which was read twice, and committed to a Committee of the Whole.

Mr. PLEASANTS, from the same committee, also reported a bill authorizing the purchase of live oak timber, for building small vessels of war; which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, made a report on the petition of Jasper Bennett, on behalf of his son Malcolm Bennett; which was read; when, Mr. J. reported a bill for the relief of the said Malcolm Bennett; which was read twice, and committed to a Committee of the Whole.

The Committee of the Whole, to which is committed the bill explanatory of the act authorizing the sale of certain grounds, belonging to the United States, in the City of Washington, were discharged, and the bill referred to a select committee; and Messrs. COBB and CULBRETH were appointed the committee.

On motion of Mr. SCOTT, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of providing by law for the payment of a loan office certificate, for two hundred dollars, issued to Thomas Stiner by S. Hillegas, on the 23d day of December, 1777, with the interest thereon, according to the tenor of said certificate.

On motion of Mr. JOHNSON, of Kentucky, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of establishing a post route, by water, from Louisville, in Kentucky, to St. Louis, on the Mississippi.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives of the 7th instant, requesting me to lay before it the proceedings which have been had under the act entitled "An act for the gradual increase of the Navy of the United States," specifying the number of ships that have been put on the stocks, and of what class, and the quantity and kind of materials which have been procured, in compliance with the provisions of said act, and also the sums of money which have been paid out of the funds created by the said act, and for what objects; and likewise the contracts which have been entered into, in execution of the said act, on which moneys may not yet have been advanced; I transmit a report from the acting Secretary of the Navy, together with a communication from the Board of Navy Commissioners, which, with the documents accompanying it, comprehends all the information required by the House of Representatives.

JAMES MONROE.

DECEMBER 31, 1818.

The Message, with its enclosures, was ordered to be printed.

On motion of Mr. BUTLER, of New Hampshire, the Secretary of War was directed to lay before the House any information in his possession respecting the adjustment and payment of the claim of the friendly Creek Indians, made in consideration of their treaty with the United States, of August 9, 1814.

The engrossed bill, authorizing the corporation of the City of Washington to cut streets through certain public reservations; the engrossed bill to incorporate the Provident Association of Clerks in the public offices in the City of Washington; the engrossed resolution authorizing a distribution of the number of Seybert's Statistics, subscribed for by Congress; and the engrossed bill to incorporate the Medical Society of the District of Columbia, were severally read a third time, and passed. [The House divided on the latter, which passed by a vote of 58 to 48.]

The SPEAKER laid before the House a letter from the Secretary of War, accompanied with a list of the names, &c. of persons placed on the pension list, to the 16th of November last, under the act of the 18th of March, 1818, rendered in compliance with the resolutions of this House, of the 20th of April and 28th of November, 1818; which was ordered to lie on the table.

EXPORTS.

The SPEAKER laid before the House the following letter from the Secretary of the Treasury:

TREASURY DEPARTMENT, *Jan.* 1, 1819.

SIR: I have the honor to transmit a statement of the exports of the United States, during the year ending the 30th September, 1818, amounting in value, in articles of

Domestic produce and manufacture, to	$73,854,437
Foreign do do do do	19,426,696
	$93,281,133

Which articles appear to have been exported to the following countries, viz:

	Domestic.	*Foreign.*
To the northern countries of Europe	1,554,259	1,081,424
To the dominions of the Netherlands	4,192,776	3,022,711
Of Great Britain	44,425,552	2,292,280
Of France	10,666,798	3,283,791
Of Spain	4,589,661	2,967,252
Of Portugal	2,650,019	248,158

The Hanse Towns and ports of Germany - - -	2,260,002	1,073,491
All others - - - - -	3,515,355	4,915,589
	$73,854,437	$19,426,696

I have the honor to be, &c.

WM. H. CRAWFORD.

The SPEAKER of the House of Reps.

The letter, with its enclosures, was ordered to be printed.

EXECUTIVE MESSAGE, &c.

A Message, in writing, was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives, of the 24th instant, requesting me to lay before it "copies of the correspondence, if any, between the Department of War and the Governor of Georgia, in answer to the letter of the latter to the former, dated on the 1st of June, of the present year, communicated to the House on the 12th instant, and also the correspondence, if any, between the Department of War and General Andrew Jackson, in answer to the letter of the latter, of the date 7th May, 1818, also communicated to the House, on the 12th instant;" I transmit a report from the Secretary of War, with a copy of an extract of a letter from Major Van Deventer, Chief Clerk in the Department of War, in reply to General Jackson's letter of the 7th of May, 1818.

JAMES MONROE.

DECEMBER 31, 1818.

DEPARTMENT OF WAR, *Dec.* 30, 1818.

The Secretary of War, to whom was referred the resolution of the House of Representatives of the 24th instant, "requesting the President of the United States to cause to be laid before this House, if, in his opinion the same should not be inconsistent with the public interest, copies of the correspondence, if any, between the Department of War and the Governor of Georgia, in answer to the letter of the latter to the former, dated on the 1st of June of the present year, communicated to this House on the 12th instant; and also the correspondence, if any, between the Department of War and General Andrew Jackson, in answer to the letter of the latter, of the date of the 7th of May, 1818, also communicated to this House on the 12th instant," has the honor to transmit an extract of a letter written by Major Vandeventer, Chief Clerk, Department of War, in reply to General Jackson's letter of the 7th of May, 1818, and to state that no letter was written by this Department to the Governor of Georgia, in answer to his letter of the 1st of June, 1818.

J. C. CALHOUN.

Extract of a letter from Major C. Vandeventer, Chief Clerk, to Major General Andrew Jackson, dated

"DEPARTMENT OF WAR, *June* 2, 1818.

"Your letters of the 7th of April, one without date, and of the 26th of April, are received.

"The President of the United States and the Secretary of War are out of town. The former will return about the 15th instant, the latter not before the middle of next month. So soon as the President returns, your despatches, together with your orders to Major Davis, commanding the arrest of Captain Wright, and a copy of your letter to the Governor of Georgia, in relation to the horrid and atrocious destruction of the Choctaw village, will be laid before him. In the meantime I am advised to communicate the "opinion" that the trial of Captain Wright, by court martial, is decidedly preferable to a civil prosecution in the Federal court."

Ordered to lie on the table, and to be printed.

IMPORTS FROM CANADA.

Mr. PALMER, of New York, offered for consideration the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire whether any, and if any, what provisions are necessary to be made more effectually to enforce the payment of duties on goods, &c. imported by land, from the British provinces in America, into the United States: also, that the same committee be instructed to inquire into the expediency of so amending the 4th section of a law of Congress, passed the 3d day of March, 1817, that the provisions therein contained shall apply only to steamboats on Lake Champlain that are employed wholly in the transportation of passengers and their baggage, and that the said section shall not extend to authorize the entry of any goods, &c., except passengers' baggage, in any district other than the one into which they are to be landed; with leave to report by bill or otherwise.

Mr. P. said that he had, a few days previously, moved the reference of similar resolutions to the Committee of Commerce and Manufactures; that they were not then adopted, because, as he understood, the subject was thought most properly to refer itself to the Committee of Ways and Means. He now hastened, he said, to renew them with this alteration, lest it should be thought the House was unwilling to consider a subject that was of much importance to the section of country which he represented; which, he was persuaded, was not the case.

Mr. P. said, it had been his fortune, as residing nearer the frontier alluded to than most other members, to have witnessed the deplorable inadequacy of our revenue laws, as they are at present constituted, to meet the kind of importations by land from Canada which prevails on our Northern frontier; that the collectors of the district of Vermont and Champlain had both stated to him, in personal conversation, their full conviction that some improvements to the revenue laws applicable to our Northern frontier are absolutely necessary. It would be further recollected, Mr. P. said, that the Secretary of the Treasury, who is charged with the execution of our revenue laws, had, at the last session, recommended similar provisions to those now contemplated; but that those provisions had not yet been passed into law.

Mr. P. said, if it was necessary now to state in what the difficulties existing in the system of our revenue laws, as applicable to this frontier, consisted, he would say—that the revenue laws all contemplated goods, &c., to be entered at the office of the collector of the customs only, and not at the offices of the deputy collectors resi-

ding on the different roads, distant from the collector's office, by which goods are introduced. We had, Mr. P. said, provided for the appointment of deputy collectors, to be stationed on the principal roads by which goods are introduced, in order to guard them; but there were no provisions, Mr. P. said, obliging importers to report or enter their goods at those custom-house offices. Mr. P. said his object was to make it obligatory on the importers, under penalty of a forfeiture of their goods, and the other usual penalties, "to report and enter their goods at the office of the deputy collector nearest the road by which they are first imported." At present, goods were smuggled past the custom-house officers stationed on these several avenues; and, if pursued and overtaken, no penalty or forfeiture accrued; and it was sufficient for the smuggler to allege that he intended to enter his goods at the office of the collector of the district, where alone he is required, by law, to report and enter them; and the inspector must accept this declaration as sufficient, and receive the duties; hence a maxim has grown into use, "to import goods as secretly as possible, and, if detected, it is always soon enough to enter them and pay duties." One difficulty, out of many thus occasioned, was, that the officers of the customs, instead of receiving the duties and entries at the place where they are *first imported*, are compelled to pursue the goods, thus secretly introduced, all over the interior of these districts, in order to collect the duties on them; whereas, if the importers were required, by proper penalties and forfeitures, to enter them "at the office of the collector of the customs nearest the road by which they are first imported," the principal difficulties complained of would be removed. Mr. P. said that the other branch of the resolution applied to steamboats on Lake Champlain; and their object is to take, from such as may be used for the ordinary purposes of trade, the privilege of importing goods subject to duty, without observing the same rules which are exacted in other cases, in order to prevent imposition upon the revenue.

Mr. P. said he believed the privileges granted to steamboats to enter goods, other than passengers' baggage, in any other district than the one in which they were to be landed, had already proved injurious to its operations. But, Mr. P. said, he had a further and more powerful reason which induced him to wish for an alteration of the law, alluded to in this branch of the resolution. Mr. P. said it was now understood, that an additional steamboat would be employed on that lake the next season, which was intended to be solely employed for the purposes of commerce. And if this section is permitted to remain, a provision, which was only intended to afford a facility to the transportation of passengers and their baggage, will become applicable to the great body of our importations by that lake, and will supersede one of the principal guards to our revenue laws; that is, the necessity of entering goods, which are subject to duties, in the district in which they are landed. Mr. P. said that he should not have troubled the House with the observations he had made, but that the subject was somewhat local, and he had thought it due to the House to express some of the principal reasons which had induced him to offer the resolution to the House.

The resolution was agreed to.

THE SLAVE TRADE.

Mr. MERCER introduced the resolution which follows by a few remarks, importing that the law of the United States prohibiting the citizens of the United States from engaging in the slave trade, was evaded in a manner which demanded the interposition of Congress. He referred to the law which authorizes the President of the United States to employ our armed vessels in executing its provisions, and also authorizes those vessels to seize and bring into the ports of the United States all ships and vessels engaged in the violation of it. In a publication which Mr. M. said he had seen, and to which he referred, the names were given of at least twenty vessels fitted out in the ports of the United States for the obvious purpose of carrying on the slave trade. Appeals had been taken from the decisions which had been made by the inferior tribunals in some of these cases, and the names of American houses and American citizens engaged in this detestable traffic, were to be found on the records of the British court. To obtain information having a direct bearing on this subject, Mr. M. submitted this resolution:

Resolved, That the Secretary of the Navy be directed to report to this House a copy of such instructions, if any, as may have been issued by this Department, in pursuance of the act of Congress of 1817, prohibiting the importation of slaves, to the commanders of the armed vessels of the United States, for the purpose of intercepting, on the coast of Africa, or elsewhere, such vessels as have been engaged in the slave trade.

The motion was agreed to.

Mr. MERCER then said, he had another resolution to offer, in relation to another branch of the same subject. We have all been informed, he said, in the course of the last few months, that individuals brought into the United States, in violation of the law before referred to, had, in execution of the provisions of the law, been condemned to hereditary slavery; and, on examining the acts of Congress, he found that the authority under which this iniquity (he would so call it) had been practised, was derived from one of those acts. To obtain such information as might assist the House in arriving at a proper remedy for this fault, he moved the following resolution:

Resolved, That the Secretary of the Treasury be directed to report to this House the number and names of the slave ships, if any, which have been seized and condemned within the United States for violation of the laws thereof against the importation of slaves, and if any negroes, mulattoes, or persons of color, have been found on board such vessels, their number, and the disposition which have been made of them by the several State governments under whose jurisdiction they have fallen.

Mr. Strother moved to amend the resolution to as to direct a report to be made also of the number and names of the slave ships, if any, and the ports from which they had sailed, if they could be ascertained. Mr. S. said he wished that the ignominy of this trade, if any, should attach where it belonged, and not be imputed, on the authority of general rumor, to the whole country. He wished at least that the country of which he was a Representative should be absolved from any charge of participation in it.

Mr. Floyd wished, also, that the names of the places where the vessels are owned should be added to that of the place whence they sailed.

Mr. Cobb desired to amend this resolve further, so as to require information by whom, as well as where, the vessels were owned.

These amendments were not objected to by Mr. Mercer, and were, as well as the original motion, all agreed to.

The House then again resolved itself into a Committee of the Whole, on the bill for the relief of John Delafield.

Mr. Rhea, of Tennessee, occupied the floor, in opposition to the claim, until after three o'clock; when the Committee rose and reported progress.

Tuesday, January 5.

The Speaker laid before the House a letter addressed to him by Benjamin H. Latrobe, late Surveyor of the Public Buildings and of the Capitol, at the City of Washington, in relation to his conduct while in the capacity aforesaid; which was referred to the Committee on Public Buildings.

Mr. Smith, of Maryland, from the Committee of Ways and Means, made a report on the petition of John Gooding and James Williams; which was read; when Mr. S. reported a bill for the relief of the said John Gooding and James Williams; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. Poindexter, from the Committee on the Public Lands, to whom was referred the bill from the Senate, entitled "An act for the relief of John Rice Jones," reported the same without amendment, and it was committed to a Committee of the Whole.

Mr. Pleasants, from the Committee on Naval Affairs, who were directed to inquire into the expediency of increasing the amount of the security to be required from navy agents, made a report; which was read; when Mr. P. reported a bill concerning navy agents; which was read twice, and committed to a Committee of the Whole.

Mr. Pindall, from the select committee appointed at the last session, on the subject, reported a bill to authorize the prosecution of suits, in the nature of petitions of right and informalities of intrusion, in cases in which the United States are concerned; which was read twice, and committed to a Committee of the Whole.

Mr. Cobb, from the select committee to which was committed, yesterday, the bill explanatory of the act, authorizing the sale of certain grounds, belonging to the United States, in the City of Washington, reported the same with an amendment; which was read, and the said bill was ordered to lie on the table.

On motion of Mr. Campbell, the Committee on the Public Lands were instructed to inquire into the expediency of passing a law to vest, in the Legislature of the State of Ohio, power to sell the remaining thirty-five sections of land in the reservation at the Sciota Salt Works, and to apply the proceeds of the sale to such purposes, for the use of the State, as the said Legislature may deem most proper.

On motion of Mr. Southard, the Committee on the subject of the Militia were instructed to inquire whether any, and, if any, what alteration or amendment to the laws of the United States are necessary to insure an equitable enrolment, and annual returns of the militia of the respective States.

On motion by Mr. Sampson, the Committee of Ways and Means were instructed to inquire into the expediency of amending the fifth section of the act, entitled "An act laying a duty on imported salt; granting a bounty on pickled fish exported; and allowances to certain vessels employed in the fisheries," so that the owner of every vessel above twenty tons, employed in the fisheries, shall receive an allowance of four dollars, for each and every ton of such vessel's burden: *Provided*, That the allowance aforesaid on any one vessel, for one season, shall not exceed three hundred and sixty dollars.

On motion of Mr. Alexander Smyth, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of fixing the standard of weights and measures.

The Speaker laid before the House a letter from the First Comptroller of the Treasury, transmitting a list, made out by the Register of the Treasury, of those persons who have not rendered accounts for settlement within the year; which was ordered to lie on the table.

The Committee of the Whole having been discharged, on motion of Mr. Rich, from the further consideration of the bill to authorize the Rockville and Washington Turnpike Company to make the road as far as the city boundary, the same was ordered to be engrossed for a third reading.

A Message was received from the President of the United States, as follows:

To the House of Representatives of the United States:

I transmit to Congress a proclamation, dated the 22d of last month, of the convention made and concluded at Madrid, between the Plenipotentiaries of the United States and His Catholic Majesty, on the 11th of August, 1802, the ratifications of which were not exchanged till the 21st ultimo, together with the translation of a letter from the Minister of Spain, to the Secretary of State.

JAMES MONROE.

Washington, *January* 4, 1819.

The Message was read, and, with its accompanying documents, ordered to lie on the table.

BILLS REJECTED.

The House then again resolved itself into a Committee of the Whole on the bill for the relief of John Delafield.

Mr. RHEA concluded, in about half an hour, the speech he yesterday commenced against the bill.

He was followed by Mr. BALDWIN and Mr. CUSHMAN, each at some length, in support of the bill.

Mr. CLAIBORNE moved to strike out the first section of the bill, which motion was carried by a large majority; and,

On motion of Mr. LIVERMORE, the first section of the bill for the relief of Samuel Burr, referred to the same Committee of the Whole, was also stricken out.

The Committee then rose, and reported the bills as amended to the House.

The question on concurring with the Committee of the Whole on striking out the first section of the bill for the relief of John Delafield, was decided in the affirmative, by yeas and nays—90 to 64, and the bill of course rejected.

The amendment reported to the bill for the relief of Samuel Burr, was also concurred in by the House, and the bill of course rejected.

Then the House adjourned.

WEDNESDAY, January 6.

Mr. CROWELL, from the select committee appointed on the petition of the Legislative Council and House of Representatives of the Territory of Alabama, on behalf of Tandy Walker, reported a bill to place the said Tandy Walker on the pension list; which was read twice, and ordered to lie on the table.

On motion of Mr. CROWELL, the Committee on the Public Lands were instructed to inquire into the expediency of authorizing by law the sale of such townships of land, in the Alabama Territory, that have been returned by the surveyors, as not, in their opinion, worth two dollars per acre, and consequently not surveyed or offered for sale.

An engrossed bill, entitled "An act to authorize the President and Managers of the Rockville and Washington Turnpike Road Company, in the State of Maryland, to extend and make a turnpike road to or from the boundary of the City of Washington, in the District of Columbia, through the said District, to the line thereof," was read the third time and passed.

On motion of Mr. MERCER, the Secretary of War was directed to report to this House, the present strength and distribution of the Army of the United States; and to subjoin to such report the number and value of the extra days' labor performed by the several detachments thereof, respectively, in the year ending on the 30th day of October last, upon roads or other objects of fatigue duty; together with a statement of such objects, if any there are, of a similar nature, to which it is contemplated to direct the labor of the troops, in the current year, distinguishing the sums expended on roads.

MILITARY APPROPRIATION BILL.

The orders of the day being then announced, a motion was made by Mr. SMITH of Maryland, to take up, out of its turn, the bill making appropriations for the support of the Military Establishment for 1819. This departure from the usual course of business requires the unanimous consent of the House. Mr. MERCER of Virginia, objected, and the question was therefore not put.

Mr. SMITH then moved to postpone all the orders of the day which preceded that bill, in order to take it up.

Mr. WILLIAMS, of North Carolina, opposed the motion, considering it, in the present state of the business before the House, to be premature. There were several propositions before the House, yet to be decided on, by which the provisions of the bill might be affected; amongst which was a proposition to reduce the Army, the decision of which ought certainly to precede that on this bill.

Mr. MERCER, of Virginia, also opposed the motion. There was no part of our institutions, he said, in regard to which there ought to be less precipitation, or more deliberation, than in what regarded the Army of the United States. That, he said, was the doctrine of the Constitution. The illustrious framers of that instrument were men who looked back on the pages of history, and forward into futurity; and amongst other provisions of the Constitution, they had inserted one which provides that no appropriation to the use of the Army shall be for a longer term than two years. Mr. M. was opposed to going into the consideration of the bill at the present time, for reasons which he proceeded to state. He had waited, he said, and the nation had anxiously waited until the two committees appointed to inquire into the subject of the Seminole war should make their reports. The House was aware that some difference of opinion had existed between those two committees, as to the scope of their respective duties; but, he had this morning understood with pleasure, from the chairmain of the Military Committee, that a report on this important subject might be expected from that committee in a few days. Now, Mr. M. said, he would exercise the candor here to declare, that his own opinion on the subject was made up; but the courtesy due to those differently situated and to the usual course of debate in the House forbad him from proceeding, at this time, to intimate the grounds of his opinion; which was, that, if there was no other mode of expressing the sense of this House, in relation to the transactions of that war, the number of Major Generals in the Army should be reduced to one. If no other gentleman should make a motion to that effect, Mr. M. said he should, very reluctantly, take upon himself the burden of proposing an expression of the opinion of the House in some shape or other. He should at present invite no discussion on this subject, unless other gentlemen sought it; but, he said—for he had not for many nights been able to sleep in quiet on his pillow from his painful reflections on the trans-

actions of that war—it was a duty he owed to himself, to his constituents, and to his country, and which he should therefore feel himself bound to perform, to express his sentiments on the subject of the incidents and character of the Seminole war.

Mr. Smith, of Maryland said, that, for his part, his slumbers had not been at all disturbed by the circumstance the gentleman had referred to; nor did he see what connexion the question arising out of the Seminole war had with the annual appropriation bill for the support of the Army. His object was to pass the bill, that the officers of the Government might not be obliged to make use of the public money without appropriations by law, or the Army to remain unpaid. Was it not proper, he asked, that appropriations should be made before the commencement of the year? Or was the House to wait till the end of the session, and till all the discussions on the subject of the Seminole war had been gone through? Suppose the proposition to reduce the Army should succeed, the appropriation bill would not interfere with it, because, if the expenditure should be diminished, the surplus would remain in the Treasury. In the early history of our Government, it had been usual to pass the annual appropriation bills soon in the session; and such, Mr. S. thought, was the obviously proper course. The Quartermaster General's department and provision department must go on; and the appropriations for them ought not to be withheld longer than was absolutely necessary.

Mr. Mercer said, the argument of the gentleman, that the appropriation bill ought to pass before the commencement of the year, proved too much; for this was not the first day of the month, but the sixth, nor the first of the session, said he, for we have been here almost two months. The framers of the Constitution, he said, looked to this mode of checking abuses in the military authority; and, countenanced by their authority and by their wisdom, he should persevere in his opposition to going into Committee of the Whole at this time on the appropriation bill.

Mr. Storrs, of New York, said, if the gentleman supposed that, by going into Committee of the Whole now, the appropriation bill would be immediately despatched, he was very much mistaken. The first inquiry, on proceeding to the consideration of the bill, would be, whether the House approved of the purposes in which the Army had been employed. This would bring before the House not only the conduct of any particular part of the Army, but the whole Military Establishment. Mr. S. was, therefore, opposed to going into Committee of the Whole, until he saw the report of the Committee of Military Affairs on the subject, as it was understood that the whole subject would thus soon be properly before them.

Mr. Johnson, of Kentucky, said, if there was not reason to expect that discussion would take place on direct propositions, respecting the Seminole war and the execution of Arbuthnot and Ambrister, as well as for the reduction of the Army, he should not have been surprised at this incidental discussion. This morning, he said, had been the first time the Military Committee had been able to take up the subject referred to them, and no disposition to procrastinate could be attributed to them, when it was known that in the next week the Military Committee would make some kind of a report. So far from any abuse in the administration of the War Department, calling for legislation out of the ordinary course, without going into particulars—he would no more than the gentleman from Virginia provoke a discussion at this time—the same establishment called for a less appropriation this year, by $500,000, than last year, in consequence of the changes made in the arrangements of the War Department by late modifications of its details. As a general principle, unless in times of great public calamity, the courtesy never had been denied to the chairman of the Committee of Ways and Means, to take up the appropriation bills when called for by him. It was proper that this bill should now be early passed upon, to prevent, on the one hand, that kind of interregnum in the establishment which must be produced by stopping the expenditure for provisions, pay, &c., or, on the other, the alternative of paying money from the Treasury without previous appropriation by law. He hoped, therefore, the bill would be permitted to go on.

Mr. Tucker, of Virginia, said, he was very well satisfied, that, with respect to the greater part of the military appropriations, it was practicable for the House to act on them, and to go on and make appropriations, without committing themselves on any principle likely to be brought into discussion. But there was at least one subject embraced in the bill, to which this remark did not apply; and it was proper to inquire whether, on that subject, the chairman of the Committee of Ways and Means could impart to the House the information necessary to enable it to act understandingly. Mr. T. said, he had seen, in the National Intelligencer of this morning, notice that thirteen miles of the military road on the northern frontier of New York had been completed. He did not allude to this work because he disapproved of it, for it had his hearty approbation—but, he asked, by what authority had this road been made, and by what means? By the authority, undoubtedly, of an appropriation made by Congress, in the last appropriation bill. By what authority would that work, now in progress, continue to be prosecuted? That these thirteen miles of excellent northern road were made for nothing, when the House very well knew that the Cumberland road cost at least something, was not to be believed. By what authority, then, was the road to be continued? By the authority, unquestionably, of an appropriation contained in this bill. Agreed, sir, said Mr. T.—give me internal improvement, under the authority of Congress, and I care little what department has charge of it. But I think it but fair, and perfectly right, that this House should distinctly express its opinion on the subject.

When we come to that part of the appropriation for the Quartermaster's department, or for the Pay department, I think it would be better to separate from them so much as is required by the expenditure for making roads, and that it be either appropriated in a separate bill, or under a separate head of expenditure in the same bill, that we may all see and understand what it is we vote. Before he sat down, Mr. T. said, that, hoping to get the necessary information from the gentleman, he should not be averse to taking up the appropriation bill.

Mr. SMITH, of Maryland, after stating that the House was in possession of most of the information the Committee of Ways and Means had received, said that the committee had no information going directly to the object of the gentleman last up; there was an estimate for the cost of lime, timber, &c., including extra pay to the soldiers for work, but the smallness of the sum, only $30,000, induced him to believe that this appropriation applied only to work to be done on barracks, &c. But, if the gentleman desired to make a separate article of the amount of extra pay to soldiers for work on roads, there would be no difficulty in doing it. Mr. S. took occasion to signify his approbation of this mode of employing the troops.

Mr. TUCKER said he could scarcely have supposed that so much road had been made, and that no information on the subject had been communicated to the Committee of Ways and Means. He should therefore move a resolution calling for information on this subject; for he did think, when they were obliged to heave the lead in getting through this House appropriations for the unfinished road in the West, making under the authority of the United States, under the obligation of a compact with one of the States; when on this subject every inch of ground had to be fought for, it was proper that the House should have some information respecting the roads making under the direction of the Executive. Mr. T. said he was happy to perceive that the Secretary of War, who had been one of the most able advocates of the system of internal improvement in this House, had not, in his transit to another office, dropt his principles by the way, but continued the friend and the agent of internal improvement in his present station. Mr. T. said he was glad to see the work in question going on; for he had, on coming into this House, parted with local partialities and prejudices, and was desirous to see anything in progress which was to benefit any part of the country. If the bill should be taken up, he said he should move to amend it, so to separate the expense of making roads from the other items in the bill, as that it should be rendered impossible for any man to read without understanding it.

Mr. WILLIAMS, of North Carolina, said, in addition to the subject of the road, the ground on which he particularly opposed going into Committee was, that there is a proposition on the table to reduce the Military Peace Establishment, and that, until that proposition was finally acted on, he did not feel himself at liberty to vote a single cent for the support of the establishment.

Mr. FLOYD, of Virginia, was in favor of taking up the bill. As to the extra pay to soldiers, for work done on roads, fatigue duty done by them had always been paid for, from the earliest date of the Government to the present day, and the appropriation for it now involved no new principle. As to the question of the Seminole war, that, he said, ought to stand by itself, and not to interfere with the current and ordinary business of the session.

Mr. REED, of Maryland, said that the discussion had already proceeded far enough to show the propriety of the observations of the gentleman from North Carolina. It proved that larger appropriations had been made than were necessary for the payment of the Army, and that a part of the money appropriated under the head of military expenditure, had been applied to the purpose of making roads. It appeared clearly to him, that the question on the proposition to reduce the Army ought to be first settled.

The question was then taken on going into Committee of the Whole on the Military Appropriation bill, and decided in the affirmative by a small majority.

The bill in question embraces the following items of appropriation:

For subsistence (in addition to $200,000 already appropriated,) $506,600.

For forage for officers, $26,496.

For clothing, $400,000.

For bounties and premiums, $62,500.

For the medical and hospital department, $50,000.

For the quartermaster's department, $550,000.

For contingencies of the Army, $60,000.

For arrearages, arising from a deficiency in the appropriation to pay outstanding claims, $100,000.

For fortifications, $500,000.

For making a survey of the water-courses tributary to, and west of, the Mississippi; also, those tributary to the same river, and northwest of the Ohio, $6,500.

For the current expenses of the ordnance department, $100,000.

For the armories at Springfield and Harper's Ferry, $375,000.

For arming and equipping the militia, $200,000.

For the erection and completion of arsenals, to wit: for completing the arsenal at Augusta, in Georgia, $50,000; for erecting a powder magazine at Frankford, near Philadelphia, $15,000; for completing the arsenal and other works at Watertown, near Boston, $20,000; for completing the arsenal and other works at Pittsburg, Pennsylvania, $5,000; for a levee round the arsenal at Watervleit, New York, $6,000; for building a powder magazine at Baton Rouge, $20,000.

For cannon, powder, and shot, to fulfil existing contracts; for mounting cannon, and for purchase of lead, $191,200.

To provide for the payment of the retained bounty, and the per diem travelling allowance of pay and subsistence to soldiers discharged from the Army in the year 1819, $92,500.

For the purchase of maps, plans, books, and instruments for the War Department, $1,500.

For fuel, maps, plans, books, erection of quarters

and other buildings, and for contingent expenses for the Academy at West Point, $35,640.

For marking and running the boundary line of the several cessions of land made by the Indians, $15,000.

For the payment of half-pay pensions to widows and orphans, $200,000.

For the annual allowance to invalid pensioners of the United States, $368,039.

For the annual allowance to the Revolutionary pensioners, under the law of March 18, 1818, $1,708,500.

For arrearages arising from a deficiency in the appropriation for paying the Revolutionary pensions in the year 1818, $139,400 85.

For the Indian department, including arrearages incurred by holding Indian treaties, $213,000.

For annuity to the Creek nation, under the treaty of 1802, $3,000.

The House then resolved itself into a Committee of the Whole on the bill making appropriations for the support of the Military Establishment for the year 1819; to which Committee had also been referred a bill for modifying, in some respects, the Staff department of the Army.

Mr. COLSTON, of Virginia, said he hoped that gentlemen would take up the appropriation bill first; and that they would not at this time urge upon the Committee the consideration of a bill of so much importance as the other bill referred to that Committee, which so short a time had been allowed to examine.

The appropriation bill was taken up; and, having been read through—

Mr. CLAY (Speaker) said that, although he approved entirely of the course the House had pursued of taking up the public business of the session, in preference to the tedious sittings they had lately held for the adjudication of private claims, he must confess he was somewhat surprised at the scantiness of the information which he had heard, whilst in the chair, the chairman of the Committee of Ways and Means was able to afford to the House on the subjects embraced in the bill. He had given notice, he said, yesterday to the gentleman, that he should make the inquiry of him, when this bill came up, as to the amount of money Congress had parted with, and the amount it was now called upon to appropriate, for the purpose of making roads. It was with surprise, Mr. C. said, he had heard from the gentleman, after this notice, that he had no information on the subject. He hoped, he said, the gentleman would refresh his memory, and find under what item of the bill the appropriation was made for extra pay to the Army for the purpose of constructing military roads. It was very important that the House should have this information. It would be recollected that at the last session this great Constitutional question of the power of Congress to make internal improvements had been discussed in this House. It would be recollected that whilst the power of the Executive branch of the Government to employ the labor and money of the nation on objects of internal improvement had been strenuously maintained, the same power was as strenuously denied to Congress. Mr. C. said he had understood that, in addition to the Northern road to which the gentleman had alluded, other roads, bearing the denomination of military roads, were making—for example, a great and magnificent road from the Tennessee river to Lake Ponchartrain; and that over this *military* road it was proposed very soon to march a detachment of stage coaches, proposals having been already made to the Post Office Department to avail itself of the services of this description of *military corps*. If it be the pleasure of this House, said Mr. C., to fold its arms, and see, one by one, every power of Government taken from it—the power to lay taxes, to make war, to apply the sword and purse of the nation—be it so. But for his part, Mr. C. said, he desired information; as that which the House now had was extremely unsatisfactory. He begged the attention of gentlemen to it. Mr. C. then read the few first lines of the letter of the Secretary of War to the Committee of Ways and Means, until he came to that part of the letter, speaking of the documents being so voluminous as to make it necessary, to save the time required for copying them, to send the originals. Documents so voluminous, Mr. C. said, that notwithstanding the number—How many clerks were there in the War Department? he really could not count them—they could not be copied. These documents, so voluminous that they could not be copied, because there were so few clerks in the War Department, considering that they related to the expenditure of some millions of dollars, afforded yet very scanty information. Sir, said Mr. C., upon my unfortunate friends, the Patriots of South America, we can have whole volumes, nay, whole libraries, copied and printed; but on this very important affair, of appropriating six or seven millions of dollars, some few fragments of paper are thrown into the House, and then we are told the affairs of the country cannot go on, the wheels of the Government must stop, unless we forthwith pass the bill. Mr. C. said he hoped the honorable chairman would look again at his notes, and see in what part of the bill the appropriation for this fatigue money, as the expense of making the road is called, is contained. Mr. C. said he did not so much want the information for himself, as for the benefit of his honorable friend who now sat in the chair, (Mr. H. NELSON,) who at the last session so pathetically deplored that Congress should attempt to appropriate money for making roads; or for his eloquent colleague, (Mr. BARBOUR,) who had advocated the same side of the question. He hoped one of those gentlemen would move to strike out that part of the bill when it was discovered where it was, that the Committee might see what it was doing, and that a clear expression might be obtained of the opinion of the House, whether the Executive was to go on, at its own will and pleasure, to make roads, without Congress having any other concern in the matter than to pass the appropriation bill, whenever the chairman of the Committee of Ways and Means chose to call it up.

Mr. P. P. BARBOUR, of Virginia, rose for the purpose, he said, of thanking the Speaker for the

very polite and friendly manner in which he had expressed an inclination to furnish him (Mr. B.) with information whereon to bottom his vote. That information, Mr. B. said, he did not want; for he did not mean, as long as he was a member of this House, to submit either to Legislative or Executive assumption of power. When the subject was before the House at the last session, he had freely expressed the opinion he had ever entertained, that neither this, nor any department of the Government had the power to make roads in the several States. The gentleman's kindness, therefore, ought to have been directed to some other quarter of the House. Mr. B. repeated, and he wished it to be distinctly understood, that, as on the one hand he believed no two departments together possessed the power to make roads, so neither did any one of them. He did not mean, knowingly, to vote for any item of appropriation intended to cover that object. But, at the same time, he said, he did not feel that he was now in want of any information on the subject; for he found the first item now particularly under consideration, in language respecting the import of which he could not possibly doubt, and which he could not hesitate to vote for. It was this: "For the pay of the Army, one million of dollars." What was the "pay of the Army?" An act of Congress has fixed the number of the Army of the United States, including officers of every grade. The same authority has attached to every private certain proportions of pay; so much per month to the major generals, and down through the whole graduated scale to the private. When, then, he was called upon to give his vote on this item, what was he to understand? He was about to vote for that only which the constituted authorities had declared should be paid; if he was to vote for more, he should then be indebted to the honorable Speaker for any information going to establish that point. If language be not one thing, and intention another, he should feel himself, on every principle of propriety, warranted in giving his vote in favor of an item, which, until otherwise informed, he should take to mean what it purported. We are already advanced into the year 1819, and the appropriation for the last year being presumed to be expended, it was proper that this bill should pass without unnecessary delay, as no money can constitutionally be drawn from the Treasury without appropriation by law.

Mr. SMITH, of Maryland, said he was very glad that anything had served to relieve the House from the state of apathy into which it had fallen for some weeks past. So desirous were gentlemen now to take the floor, that they had gone beyond the usual course of proceedings, which had been, to allow to the chairman of the committee who reported a bill, at least the privilege of having the first word. He should not, however, permit himself to be drawn off from the subject of the bill into an argument, on a subject which had been sufficiently discussed in this House at the last session, and which was, besides, rather irrelative to the question before the House. Mr. S. then went into a detailed statement, founded on information which the Committee of Ways and Means had sought and obtained from the War Department, of the component parts of the several items of appropriation, and of the reason why the appropriations recommended by the committee were less than the first estimates furnished to the House proposed—this reduction of the amount being justified by the surplus of appropriation under the item of pay remaining unexpended, and by the diminution of expenditure under the item of subsistence, occasioned by the change from the contract to the Commissariat system of supply. Mr. S. thus went on, and separately explained the occasion for the several appropriations. In the course of his remarks he stated that, among the contracts made by the Ordnance department, was one for cannon suitable for the militia service, which he was very glad to hear of, considering it as of much importance.

Mr. TRIMBLE, of Kentucky, as a member of the Committee of Ways and Means, rose to notice what had fallen from the honorable Speaker. The appropriation for extra pay to the soldiers for working on military roads, &c., was certainly contained in the bill, or the expenditure made under the order of the Executive was not merely under color of an appropriation by law, but was absolutely without any appropriation. The amount expended for extra pay for fatigue duty, might, no doubt, readily be ascertained by a motion for that purpose; but it was not in the power of the committee to afford it. There was, in the annual military appropriation bill, an item of contingent expenses of considerable amount, but the precise application of which could not, from its very nature, be anticipated. It is an item in all appropriation bills, the expenditure of which must be trusted to the discretion of the Heads of Departments and of the President. If he understood that item correctly, out of it the President or the Secretary of War might pay the soldiers for extra duty, working on the roads, or other necessary military works. How could the Speaker attain his object but by lessening the appropriation? And how was it to be ascertained how much, for this purpose, the appropriation for contingencies ought to be curtailed? Mr. T. said, for himself, he thought the application of money to the making of roads to be illegal, unless it was specifically appropriated. He hoped some mode would be found of checking it by law, or of conveying to the Executive an intimation, that no part of the sums appropriated under other heads of expenditure should be applied to the purpose of making roads. But, at present, unless the whole item of contingent expenses were struck out, which would hardly be advisable, he did not see how the gentleman, his colleague, could come at his object.

Mr. CLAY said, he really must profess it was with surprise, as well as regret, he found that the House could have, from the Committee of Ways and Means, no sufficient information on the subject on which he had asked for it. I have re-

quested the gentleman to tell me, said Mr. C., which of the items in this bill comprehends the appropriation for the expense of making roads, under the authority of the Executive; instead of answering my inquiry, the gentleman from Maryland has gone into a general exposé of the bill. Is it possible, that an appropriation bill is brought into this House, accompanied by all the estimates and statements from the proper department, containing, among others, an important appropriation, because involving a great Constitutional question, on which the Legislature and the Executive are divided in opinion, and yet the chairman of the committee cannot tell us in which of the several items of the bill this appropriation is contained? It was true that another honorable gentleman, his colleague, has given the House information on the subject, but, said Mr. C., in a way not bearing the stamp of certainty. He says the appropriation is certainly in the bill. Yes, sir, we have found the covert in which the game lies; and I wish we could start it. My colleague thinks it is quite likely it is in the item of contingencies. I wish we could be sure of it. Mr. C. said, he had yesterday given the honorable chairman (Mr. SMITH) notice that he should call on him this day for information on this subject, and he was surprised not to receive it. He should like to know from the honorable chairman, he said, whether the public interest was likely to suffer by one or two days' delay of this bill; it was due to Congress, to the interests which the members of this House represented, not to proceed hastily on it. Unless some reason why the bill should immediately pass could be shown, he should hope the Committee would rise; and if there were not already clerks enough in the War Department to copy the papers required for the information of Congress, he was willing to vote for more. He submitted, he said, to the gentleman from Virginia, (Mr. BARBOUR,) since he conceded the point that he would not vote for money to be applied to what in his (Mr. B.'s) judgment was an unconstitutional purpose, whether the same consideration ought not to restrain that honorable gentleman from voting to pay for men who are thus to be unconstitutionally employed. If you would not give the money of the nation for a particular purpose, would you give the labor of the nation? For, Mr. C. said, he took it, that the army of the nation, from which the labor on roads was derived, afforded as much the labor of the nation, as the amount paid the soldiers for extra duty in the same vocation was the money of the nation. He was aware it might be said the responsibility for misapplication of money appropriated by Congress belonged to the respective departments, &c. But what, he asked, was the reason of the Constitutional limits to appropriations of money; and what particularly of that clause which provides that no appropriation for the pay of the Army shall be for more than two years? Certainly, that this House might hold a control over this sometimes unmanageable machine, a standing army; that it might control it by withholding, in extreme cases, the appropriations necessary to keep it in existence. Was it not known that, year after year, whilst the Executive too sends a message to Congress expressing the opinion that they had no power to make roads or canals, the Executive employs the Army in the very object over which he denied the power to Congress? Was this not one of the cases contemplated by the Constitution? At least, for those who held the doctrine of a defect of power in the General Government to employ the resources of the nation on objects of internal improvement, here was a case in which they ought to say, we will no longer continue to appropriate money to be thus misapplied. In answer to the difficulty started by his colleague, as to the mode of preventing this misapplication of public money, Mr. C. said it would be easy to effect that object, if it could be once ascertained under what head was included the appropriation in question. He had heard, he said, an anecdote of a former member of this House, which might furnish the honorable chairman of the Committee of Ways and Means with a clue to find the proper item. Some years ago it had been the custom, now abolished, to use in this House a beverage in lieu of water for those members who preferred it. A member of the House said he was not in the habit of using this sort of substitute for one of nature's greatest and purest bounties, but would prefer something stronger. The officers of the House said they should be glad to gratify him, but did not know how they could with propriety pay for it out of the contingent fund. Why, said the member, under what head of appropriation do you pay for this syrup for the use of the members? Under the head of stationery, the officer said. Well, replied the member, put down a little grog under the head of fuel, and let me have it. Mr. C. said that, seriously, he did not think the honorable chairman ought to have been so much at a loss. I have asked for bread, said he, and he has given me a stone; I have asked for information on a particular point, and he has given us information on every point but that. Is there or is there not in the bill an appropriation for the expense of making roads by the War Department? One member said he thought it was under one head, but was not certain. If not there, where was it? He hoped the House would delay acting on the bill until they could obtain this information.

Mr. BARBOUR again rose, observing that he had never more unexpectedly than now found himself brought into a discussion by what he would call the *argumentum ad hominem* of the honorable Speaker, which he felt himself bound again to notice. The gentleman had said, if you are indisposed to vote the money, will you not withhold the labor of the people of the United States from a particular object? If the question propounded to me, said Mr. B., were whether I would refuse to put the labor of the nation at the disposition of the Government for an unconstitutional purpose, I answer in the affirmative—unquestionably I would. But what is the proposition actually before the House? Shall we keep and main-

tain an army? I am, said he, in favor of a standing army to a certain extent; and I take this occasion to state that, as I am at present informed, I do not consider the present army as too large—leaving myself, however, on this head, open to conviction. Whilst thus in favor of it, shall I vote for its disbandment because, peradventure, in the progress of time its labor may be applied to a purpose which I do not wish? Mr. B. said he was, indeed, disposed to withhold any appropriation, specific or contingent, which should authorize the Executive to employ the soldiery in the construction of roads. But, whilst he would do this, he would not withhold the pay of the army, as fixed by law, the maintenance of which army he considered consistent with the well-being of the country, because, by possibility, the labor of that army might be applied to a purpose he should not consider correct.

Mr. TUCKER, of Virginia, was of opinion that the House ought not to proceed to act upon this subject without further information. There were in this House various classes of opinion on the subject of the power of the Government to execute internal improvements. Of one class, opposed to the construction of roads in any manner by any branch of the Government, was his friend from Virginia, who had just sat down. It appeared to Mr. T. that information on the subject must be necessary for him; for he was a member of this House when the two last annual appropriation bills passed, under the authority of appropriations, in some part or other of which three or four roads had been making; and those bills received the gentleman's vote. Since the gentleman thought all appropriations for such objects unconstitutional, did he not desire some information on this head? There was another class in the House anxious to see improvements going on in any shape. Was it not desirable to them to have information on the subject? Mr. T. wished to proceed on tangible ground; if they were to fight for one road in this House, he wished all roads to pass the same ordeal. The Speaker appeared to think that the Secretary of War ought to have furnished the House with information on this subject. Mr. T. said he knew not, and perhaps he doubted because of his very favorable opinion of the gentleman who filled that office, whether he ought to have volunteered this information. The Secretary had before him the fact, that no such information had heretofore been thought necessary to be communicated, respecting roads known to have been constructed under the orders of that Department. If the information had been asked from the War Department, Mr. T. said he had no doubt it would have been afforded with the utmost promptitude. It is our business to call for information on the subject, said he; and my object in rising was to express the hope that the Committee will rise, and I will submit a motion having that object in view. [Mr. T. here read a motion to that effect, which he proposed to move should the Committee rise.]

Mr. MERCER, of Virginia, said, he had before attempted to catch the eye of the gentleman who was in the Chair, but had with pleasure given way to the honorable Speaker, whose object was to obtain information, which he was surprised the chairman had not in his power to furnish. The Committee, Mr. M. said, could not have forgotten that, at the last session, a certain part of the House having a desire to express, in some sort, a censure on the practice of allowing brevet pay, the Committee of Ways and Means had instructed their chairman to insert a provision in the general appropriation bill, and then to move to strike it out. Of such a specification, if inserted in the present bill, in regard to the appropriation for extra pay for the labor of the troops, on roads, Mr. M. said, he presumed the honorable gentleman from Kentucky would take the same view as himself, and would rather increase than diminish it. What difficulty could there be in making a discriminating and specific appropriation in this case, since, at the last session, it was so readily made, where the object was to deprive our gallant officers, who had shed their blood in their country's service, of the poor reward allowed them by the brevet pay attached to the rank their bravery had won, in the defence of the dearest rights and interests of the country? That discrimination was then made; and it appeared to him impossible but this mode of reaching the object now in view must have occurred to some member of the Committee of Ways and Means. It must now be apparent, Mr. M. thought, that the very respectable minority, whom he had counted in their seats, on the question of going into Committee of the Whole, were right in supposing gentlemen were not ready for the discussion. There was another subject, he said, of a painful nature, which ought to undergo the examination of the House before the bill passed. If he were to introduce the debate by a motion to amend this bill, he should find a precedent in the motion, at the last session, having for its object the acknowledgment of the independence of the South American colonies; and, with the object he had in view, had he regarded the course pursued at the last session as correct, he might resort to a motion to reduce the appropriation for the support of the army. The course, Mr. M. said, which he expected the House would be invited to pursue, by those who concurred with him in opinion with respect to the events of the Seminole war, was one in which he could not concur, and imposed on him the necessity of expressing his opinion in a different way. If the course which he proposed were not pursued, some other would be proposed, which, if receiving the assent of the House, would amount to a censure on the Chief Magistrate, or some other officer of the army. For this he was not prepared; he would not vote a censure on the Chief Magistrate, because he thought the occasion would not warrant it, and because, moreover, he doubted the Constitutional power of this House to pronounce censure on the President, in any other mode than that prescribed by the Constitution. Still less, in his opinion, had this House the Constitutional authority to pass a vote of censure on the com-

mander of the army. The proper mode of trying a military officer was by a court martial, convened at the instance of an informer; and it was not the office of this House to become an informer, to bring any officer before a court martial. Mr. M. said, he therefore wished to come at his object by a course analogous to the practice of the country from which we have borrowed most of our institutions; a course pointed out, indeed, by the Constitution itself. He wished to institute an inquiry, whether the army was such a one as we ought to sustain; whether the establishment was such that, in some branch or other of it, it could not be properly reduced. For this purpose, he desired that this bill should be postponed; and, so far from a necessity for expedition for passing it, the contrary was demonstrated by the fact, stated by the chairman of the Committee of Ways and Means, of surpluses existing of the last year's appropriation. Why, then, hasten a decision on it? Are all our proceedings, said Mr. M., to be conducted in this way? Are we to listen from day to day—listen—nay, are we to look on with listless indifference, whilst, day after day, the Speaker and Clerk adjudicate private claims, and then, unexpectedly, to be precipitated into Committee of the Whole on important questions, which, but for a sort of legislative legerdemain, that of postponing the orders of the day, would not have presented themselves in the order of business for many days to come? This, he said, was the second time he had witnessed, in this House, this mode of arriving at a particular bill; and the first time he had seen it, at the last session, was also to bring up the army bill. If the military year so ended as to require the appropriation bill to pass before the first day of January, or the operations and pay of the army to be suspended, this was another difficulty that required attention, and the military year should be so arranged by law as not to begin on the first of January, but the fourth of March in each year, that the amount of appropriation might be duly adapted to the measures of the session affecting the army expenditure. The questions presented, and to be presented to the House, were worth deliberation. At this moment, when not a whisper of party spirit was heard; when all parties united in singing hosannas to the present Administration, should he not be allowed, though he should stand alone in the course he proposed to pursue, an opportunity of expressing his views? If gentlemen were prepared to pronounce their opinion; if they were willing to receive, as satisfactory to their minds, the State paper recently transmitted to the House, which had been pronounced to contain a complete justification of the proceedings in Florida—a State paper covered with flowers, but with flowers that scented of blood—he hoped he should be allowed the opportunity of showing the reasons why he did not subscribe to that opinion. He was not prepared, he desired it to be understood, to reduce the army—not a man of them. He had for many days had a resolution in his pocket, which he had not pressed on the House, because he thought the proper time for it had not arrived—the object of which was to show that the army could be so employed as to aid in the very object of internal improvement which had been this morning the subject of discussion. [The object of this resolution, Mr. M. stated; it was the same motion which he introduced, after the close of the debate this day, and which was agreed to.] He said we had not in the army a man too many; and the proposition he had announced his intention to make, to reduce the number of Major Generals, sprung exclusively from the view which he took of recent occurrences on the southern border.

Mr. Williams, of North Carolina, after showing that the army would not be disbanded, nor even deranged in any manner by a few days' delay of the annual appropriation for its support, demanded of gentlemen where was the urgent, the imperious necessity which they seemed to suppose existed for passing this bill at the present moment? He trusted that the assembled wisdom of this nation would proceed with greater caution, that the House should know distinctly for what purposes it appropriated the public money. The gentleman from Virginia was entirely satisfied as to the vote he should give on this bill. If he is, said Mr. W., I am not. I had the honor of voting with the gentleman on the question of internal improvement at the last session, on which association with him I congratulate myself. I had doubts of the constitutionality of the power we were called upon to exercise, and, when I have doubts on any such question, I had rather err on the safe side of it. I would at all times abstain from any act, of the correctness of which I was not clearly satisfied. Is the gentleman fully convinced that, in voting for "the pay of the army," he votes for nothing more? Has he not reason to believe that he votes for something else? Unquestionably he has. Shall Congress vote money in the contingent fund for an unconstitutional purpose? For such purpose there is no more right to take money from the contingent fund, than from the appropriation for subsistence or for forage. The gentleman from Kentucky (Mr. Trimble) had said, that the contingent fund was placed at the discretion of the head of the Government. But if, said Mr. W., from the contingent fund the head of a department pays money improperly or unconstitutionally, we must hold our hands. Mr. W. did not subscribe to this doctrine of discretion and irresponsibility on the part of the Executive officers. He cared not from what fund the expenditure for constructing roads was made, it was equally repugnant to the principles of the Constitution, as announced to Congress by the President himself in his Message at the commencement of the last session. He believed the Constitutional corrective of every abuse to be in this House, and hoped they would not shrink from the exercise of it. Mr. W. made some further remarks, to show that there was no reason for hurrying this bill through the House.

Mr. Lowndes, of South Carolina, said he should not have risen, but for the suggestion made by one gentleman, and repeated by another, that the

expenditure of money appropriated under the head of contingent expenses of the Army, in paying the soldiers for extra labor in making roads, was illegal. On the contrary, he said, this question had been fairly before the House, and the appropriation made with the express understanding, and previous declaration of the War Department, that a part of it was to be applied to the purpose of paying soldiers for extra duty, for work done on roads. Among the documents presented to the House, when the appropriation was first proposed, a year or two ago, was the Quartermaster's estimate for extra pay for fatigue duty of those soldiers engaged in making military roads. With respect to the expenditure, then, which had taken place under Executive authority, it had been authorized by appropriations made for that purpose, or with the distinct understanding that they were to be so applied. If any member would compare the present estimate with the former appropriation for contingencies, he would find a very considerable diminution. Appropriations for contingencies, however, were only intended to cover expenditures not precisely authorized by law, and which could not be foreseen so as to be provided for; but, where an expenditure, like that on roads, for example, can be anticipated, the object should be distinctly stated in the appropriation. When, however, a sum has been appropriated, under an estimate that one branch of it is made necessary by the extra expenses of the detachments of the Army employed in making roads, Mr. L. said he could not conceive that any censure could attach to the Executive for applying the money so appropriated to that object. It was an usual practice for committees, particularly for those which had an undue portion of labor to perform, to include under one head, or in one bill, provisions which ought to be divided into several; this course, too, frequently was proper, as conducing to brevity and convenience. Whilst he thought the committee not censurable for not having introduced a separate appropriation in the former laws for this object, it was fair to say that he should consider it perfectly proper now to make it a distinct item, because the principle was important, and because there is a very great difference of opinion with respect to the constitutionality of the power. He did not see that there was any particular urgency requiring the House to act upon the bill forthwith; and he therefore hoped time would be given to obtain the requisite information on that subject.

Mr. JOHNSON, of Virginia, said, as reasons had been offered why the Committee should not now act on this subject, he desired leave to submit to the House some of the reasons which would influence his vote. He was in favor of inquring, by a distinct call on the proper Department, whether the Executive continues to do that which he has denied that the Congress of the United States has the power to do. If he had no other reason, he would vote for the Committee's rising, to get at this fact. Mr. J. was disposed to protest, too, against other doctrines he had heard to-day. We are told, said he, that we have a right to impeach, but that we have no right to censure the President. For one, I claim the right. This is the grand inquest of the nation; and this House has the right to censure any and every officer, from the President of the United States down to the most subordinate in public employ. He claimed the right, he repeated; he represented a portion of the people of this country—and whensoever, in his judgment, any officer of this Government should do wrong, if the wrong amounted not to an act for which he would be liable to legal prosecution, if he (Mr. J.) believed him to be wrong, he claimed the right, and would exercise the right, of censuring him. It is important, said he, that we should exercise it; we represent the people; we speak their voice; their voice shall be heard; that voice shall and will be obeyed. Mr. J. went on to show other reasons why the Committee should rise, founded on the defect of information before the House, particularly as to the expenditures for making roads. What did these roads cost last year? What have they cost since you begun them? These were questions to which answers were required before he gave his consent, &c. He was surprised that such information, as well as of the amount expected to be applied to that object during the ensuing year, was not in possession of the Committee of Ways and Means. He laid it down as a sound axiom, in government, never to render that contingent, which can be made certain. If, he said, we could foresee all the expenses of the Government, and provide specifically for each, it would be best. Some objects of expenditure were so uncertain as not to admit of that course. But it was seen at a glance that there was no reason why the appropriation for making roads should be included in the contingent fund. His honorable colleague was in favor of increasing the appropriation when made specific. Mr. J., on the contrary, desired it to be specific, that he might vote to strike it out altogether. There should not be appropriated to that object, by his vote, one dollar, nor a fraction of a dollar. He had, at the last session, performed a very humble part in endeavoring to assign the reasons why he thought the Constitution had not given the power to Congress to make roads. Having given that vote, he could not now give a vote to sanction an appropriation which he believed would be a violation of that instrument which gave to Congress their being, and conferred on them their powers.

Mr. SMITH said he was much bound to the politeness of the honorable Speaker, for the notice yesterday given him, as the gentleman had to-day informed the House, that he should call for certain information respecting one of the items of appropriation in the bill. In consequence of that intimation, Mr. S. said, he had addressed a letter to the Secretary of War, to which he had just received an answer,* which he would com-

* The following is so much of the document as relates to the question in debate:

"The sum estimated for extra pay to soldiers, was intended to be applied to the pay of soldiers engaged

municate to the House. Mr. S. then stated substantially the information contained in the document which he had received.

Mr. Johnson, of Ky., spoke against the Committee's rising. He made some remarks, also, on the power exercised by the Executive, of employing the Army, or any part of it, in the construction of military roads. None, he said, would deny the right to make a bridge by the army, for its own safety in retreat, or for the purpose of crossing a river in pursuit of an enemy; nor the right of making a causeway over a ditch, or over a swamp —and he could see no difference in principle, if the causeway became a paved road on dry ground. The real question for the House to decide now, was whether they would pay the poor soldier, who receives five dollars a month only for his services, an extra ration or allowance for laboring on public works, or whether he should be deprived of this pay, by depriving the Government of the means of paying him. The power to make a bridge, a causeway, or a road, by employing the soldiery on it, would in no manner be affected by this decision. At the last session of Congress, however, what was the decision of this House on the subject of the power of Congress to cause roads to be constructed? Was it not in favor of the power to make military roads as well as commercial roads? Mr. J. said he could not see this lurking harm, this poison to the liberties of the country, in the appropriation referred to; for, if censure or thanks were supposed due to the act of employing the soldiers on the public roads, Mr. J. said he would vote heartily for thanks to the Administration for having done what he considered an acceptable duty. It was obvious why the subject had now presented itself. The late war with Great Britain was not many years past—he hoped it was not forgotten—it had brought to our knowledge the fatal consequences of not having military roads in several parts of our country. The Government, availing itself of this experience, had directed the Army, otherwise reposing in sloth, and contracting the vices of the camp, to be employed to a greater extent in a species of duty in which they had frequently been employed before, but on a smaller scale. There never had been an army, he said, but the contingent fund of its Quartermaster's department had been applied to pay for the extra work of the soldier. Mr. J. was not only ready to vote the required appropriation, but to applaud the Government for having engaged in an undertaking which required it.

After some further remarks, principally explanatory, from Mr. Trimble, and Mr. Clay, the Committee rose, the usual hour of adjournment having arrived, and obtained leave to sit again.

in labor upon roads, as well as upon barracks, and other public works. If it be determined to strike out this item, about the sum of ten thousand dollars was intended to be applied to that object.

"You have enclosed, herewith, copies of the regulations on the subject of extra allowance to the soldiers detailed for labor, the first dated in 1808, the latter in 1816."

EXTRACT FROM REGULATIONS.

"The non-commissioned officers and privates, who may be drawn, as artificers, to work constantly on fortifications, bridges, barracks, roads, or other public works, for a term of not less than ten days, Sundays excepted, shall be allowed, for each day's actual labor, fourteen cents, and one gill of spirits each, in addition to their pay and rations.

"Other non-commissioned officers and privates, not artificers, who shall be drawn for constant labor on fortifications, roads, bridges, barracks, or other public works, for a term of not less than ten days, Sundays excepted, shall be allowed, for each day's actual labor, ten cents, and one gill of spirits each, in addition to their pay and rations."

The above regulation established in 1808.

"Non-commissioned officers and privates, employed at work on fortifications, in surveys, in cutting roads, and other constant labor, will be allowed fifteen cents, and an extra gill of whiskey, per day, while so employed, which will be paid by the officer or agent disbursing the contingent expenses of the work or expedition."

The above regulation established in 1816.

Thursday, January 7.

Mr. Livermore, from the Committee on the Post Office and Post Roads, reported a bill to increase the salaries of the Assistants Postmaster General; which was read twice and committed to a Committee of the Whole.

Mr. Bellinger, from the Committee on the Public Buildings, made a report, which was read; when Mr. B. reported a bill making appropriations for the public buildings; for the purchase of a lot of land, and for furnishing a supply of water, for the use of certain public buildings; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. Herbert, the Secretary of the Treasury was instructed to report to this House, a statement of the debts, credits and funds of the incorporated banks of the District of Columbia, required by the 19th section of the act of Congress, entitled "An act to incorporate the subscribers to certain banks, in the District of Columbia, and to prevent the circulation of the notes of unincorporated associations within the District.

On motion of Mr. Floyd, the Committee on the Judiciary were instructed to inquire into the expediency of enacting a law, to define and punish piracies and felonies committed on the high seas, and offences against the laws of nations.

The Speaker laid before the House a letter from the Secretary of State, transmitting a list of the names of persons to whom patents have been granted, for any useful invention, during the year ending the 31st day of December, 1818; which was read and ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the relief of Frederick Brown," with amendments, in which they ask the concurrence of the House.

The amendments were read and concurred in by the House.

The bill for the relief of Thomas Hall Jervey passed through a Committee of the Whole, received an amendment, and was ordered to a third reading.

Mr. MERCER submitted the following resolution; which was ordered to lie on the table:

Resolved, That the Committee on Military Affairs be instructed to report to this House a bill to reduce, to one, the number of Major Generals of the Army of the United States.

On motion of Mr. MERCER, the Secretary of War was directed to include in the report of the strength of the army, called for by the resolution of yesterday, the amount, in value, if any, of the extra compensation in the subsistence, clothing, or pay, allowed the troops, for extra labor during the year, ending the 30th of October last, on fatigue duties, distinguishing that which has been bestowed in compensation for labor on roads.

MILITARY APPROPRIATION BILL.

The House resolved itself into a Committee of the Whole on the Military Appropriation bill—

Mr. SMITH, of Maryland, said, that the debate had taken a course yesterday wholly unusual. The bill had scarcely been read through, when the honorable Speaker took the floor, and, after a few remarks, diverged into a subject which had been fully discussed at the last session, to wit: that of internal improvements. This called up other gentlemen to justify their votes on that subject; and thus the bill before the Committee had been left out of view. The custom had ever been, Mr. S. said, for the chairman of a committee who reports a bill to present a view of its objects, and to explain such parts of it as, in his opinion, might require explanation. He would now perform that duty, and would not permit himself to be drawn into a discussion of the Seminole war—the conduct of General Jackson—internal improvements, or any other extraneous subject.

The bill before the Committee of the Whole, Mr. S. proceeded to say, is a bill making appropriations for the military service of the current year. The estimates on which the bill was founded were presented on the 2d of December, and printed on the 15th. The Committee of Ways and Means, anxious to pass the appropriation bill, entered immediately on the subject, and directed letters to be addressed to the Secretary of War for information on certain points; to which they received the Secretary's answer (now in print) on the 19th of December, accompanied by the original documents on which his estimates had been formed. The bill was reported on the 22d of December—the holidays then intervened—and this, Mr. S. said, would be an answer to the gentleman from Virginia, (Mr. MERCER,) and would convince him that proper industry had been used by the committee. One of the original papers had been printed, by which that gentleman might be informed that great and expensive fortifications had been commenced, and others about to be commenced. Those, said Mr. S., for New Orleans and its vicinity, will cost $1,800,000; those for the Chesapeake, $3,000,000; for the Delaware, $300,000; for New York, $275,000; for Rouse's point, (Lake Champlain,) $200,000. This last, said Mr. S., will not be executed until it is ascertained whether that point will fall within the boundary of the United States. Here Mr. S. took a view of the security which those fortifications would give to the United States—passed a handsome compliment to the abilities and industry of the engineer, (General Bernard,) and called on gentlemen to remember that, by voting the supply, they were approbating those fortifications—the aggregate cost of which would amount at least to five and a half millions. Mr. S. observed, that the Committee of Ways and Means had not conceived it necessary to print any other of the documents; they were such as had been annually laid before the House, and could be seen by any gentleman; and that he, or some of the Committee of Ways and Means, would explain them with pleasure at the request of any member.

The first item in the bill, Mr. S. continued, was for the pay of the Army; in that no extra pay was introduced; it was simply for the pay, as authorized by the existing laws. The sum estimated to be necessary was $1,299,000. It was found, however, that there was an unexpended balance of $300,000; and the bill was filled in consequence with one million. The second item, Mr. S. said, was for subsistence. An error had been made in filling up the blank, which would be corrected; the sum ought to have been $789,213, which, with $200,000 appropriated by a special law during the present session, and a presumed gain by the new mode of supply by commissariat, instead of by contract, of $146,524, would make the sum stated in the estimate. The Secretary of War, Mr. S. said, had informed the committee that $400,000 would be sufficient for the purchase of clothing. This was a deduction from the estimate of $49,530, and the blank had accordingly been filled up with $400,000. The estimate required $92,500 for bounties and premiums. On inquiry, however, it was found that there was an unexpended balance of the last year of $30,000, and the sum proposed for that item in the bill was, accordingly, $62,500. The Quartermaster's department, Mr. S. continued, is always an expensive one. The present Quartermaster General has lately come into the office; he appeared to be a man of system, and no doubt was entertained that, when he had attained a complete knowledge of the department, he would economize as far as possible. At present, however, that officer was obliged to rely for his statements on those of the last year, which amounted to $460,000. He required an addition of $40,000 for the transportation of provisions; that expenditure arose from its being the duty of this Quartermaster to transport the provisions from the place of purchase to that of consumption, and was properly a charge upon the new system of supply; it was formerly paid by the contractors. He also requires $50,000 for the construction of barracks and storehouses, to wit:

At Indian frontier posts - - -	$10,000
At Detroit - - - - - -	5,000
At St. Louis - - - - -	5,000
At Baton Rouge - - - -	25,000
At Sackett's Harbor, completing -	5,000
	50,000

The arrearages arising from a deficiency in certain appropriations of the last year, Mr. S. said, would be found in the estimate; but, from two letters from the Secretary, (which were read,) the sum required was $126,207, and the estimate would be so filled. The estimate, Mr. S. said, required $838,000 for fortifications. It would be found that $200,000, intended for Rouse's point, would not be wanted, as before observed, until it was decided whether that point be within the boundary of the United States. The Secretary's letter (before the Committee) shows an unexpended balance of $600,000. The Committee of Ways and Means conceived that $1,100,000 was as much as could be expended during the year; they have, therefore, reduced that item to the sum in the bill of $500,000, being a deduction of $338,000. The estimate for arsenals, Mr. S. said, had been reduced by the Committee of Ways and Means $55,000, which would be explained when the specific item came under consideration. The deductions proposed by the Committee of Ways and Means, from the estimates, amounted to $918,524. The other items in the bill were conformable, Mr. S. said, to the estimates, and would be explained when under consideration. Mr. S. said he hoped, from this view of the subject, it would appear that the Committee of Ways and Means had not been inattentive to their duty. The business of a public nature was sufficient for any one committee; but that of private claims, also referred to them, was very great; and if, with such a mass pressing upon them, any subject should escape them, a fair apology for the committee would offer itself to every mind.

The honorable Speaker, Mr. S. said, had informed the chairman of the Committee of Ways and Means that he meant to make a point in the extra pay allowance to soldiers employed on military roads. No such item being among the papers submitted to the committee, Mr. S. said, he had written to the Secretary of War for information; his answer was received late yesterday; had been read, and was now before every member. There was, however, Mr. S. observed, among the papers of the Quartermaster, an estimate for repairs of barracks, quarters, and storehouses, at fifty-nine posts, including extra pay to soldiers—the purchase of tools, plank, nails, bricks, lime, timber, and other articles, of $30,000. The articles were so many, Mr. S. said, and the sum so small, that it did not occur to the committee that any part of it was intended for extra pay for working on military roads. The subject, Mr. S. continued, was treated as if it were entirely novel; but the bill was precisely such as had been passed for many years. Was it now, for the first time, known to the honorable Speaker, Mr. S. asked, that extra pay had been allowed to soldiers employed on military roads? Did he not recollect that the same subject was before Congess for the three last years? In 1816, a resolution of the House called for the rules and regulations of the Army; among these was an allowance of extra pay and liquor to soldiers when employed on barracks, fortifications, and roads; and a law passed on the 24th of April, legalizing these regulations. Mr. S. here read the following from the 9th section of the act: "That the 'regulations in force before the reduction of the 'Army, be recognised as far as the same shall be 'found applicable to the service—subject, how-'ever, to such alterations as the Secretary of War 'may adopt, with the approbation of the Presi-'dent." Here, then, said Mr. S., the statute vests the President with the power to employ the soldiers, and to allow them extra pay when at work on military roads, and completely absolves him from all censure for so doing. But suppose, said Mr. S., there had been no law, the President would have been justified by the usage of all armies. It may be called the common law of armies to employ the soldiers on fortifications and military roads, and to allow them extra pay. During the Revolutionary war, extra liquor was allowed, under an order of the commanding General; and, as early as 1808, it was made a regulation of the War Department to allow extra pay and liquor; and, although well known, had never before been questioned.

Mr. S. said that he had a right to complain of the novel proceeding on this occasion. The chairman of the Committee of Ways and Means was charged by the honorable Speaker with failing to give the necessary information to the House; that he had asked for bread, and the committee gave him a stone. In reply to this, Mr. S. said it would be recollected that the Speaker rose immediately after the bill had been read by the Clerk, and thus wholly precluded him, or any other member of the Committee of Ways and Means, from furnishing the information they possessed to the Committee of the Whole; but he hoped the view now given would be satisfactory. If, however, any further information was required by any member, it would be given, with pleasure, by him or some other member of the Committee of Ways and Means.

Mr. JOHNSON, of Virginia, rose to request information on a question of practice. How long, asked Mr. J., has it been the custom of the Committee of Ways and Means to report bills of appropriation with the blanks filled up? Was this, he continued, not a dangerous practice? Ought the sums of an appropriation bill to be inserted by any authority but that of the House of Representatives itself? By this practice, Mr. J. said, the Committee of Ways and Means, taking the estimates from the Executive departments, proceeds to make the appropriations, without consulting the House. If, said he, this House were merely a recording synod for the heads of departments, the practice would be a very good one; but, as the representatives of the people, who

alone have the right to appropriate the people's money, every bill should be reported to us in blank; it would then devolve on the chairman of the Committee of Ways and Means to show to the House that such sums as he asked for were necessary for the public service. But, reported as the bills now were, he said, filled up with the sums deemed proper by the committee, it threw the burden of proof on those who might oppose any appropriation, that it was improper, or that the proposed amount was unnecessary, and a different one preferable. In this Government, Mr. J. said, where there was the freest interchange between all the officers of the Government, and every facility to the communication of information, ought the House to shrink from its duty of investigating appropriations, and say that the want of facts rendered such investigation impossible? Or do we, said he, come down here to vote for any bill which shall be reported to us, filled up with round numbers? No; first satisfy my judgment, said he, that these sums are necessary, before I vote for them; and to do this it is the duty of the chairman of the Committee of Finance. The practice, Mr. J. said, to which he objected, was of modern date; it was, he believed, not more than two or three years since the innovation was made; but he hoped to see no more of it. He hoped that all bills would hereafter be reported in blank, and the chairman of the committee be prepared to show to the House how those blanks ought to be filled. It seemed that if an opportunity had offered yesterday, the gentleman (Mr. SMITH) would have been able to shed on it that ray of light which had to-day illumined the House; to have dispelled all the darkness which rested on this subject, and enabled the House to march steadily to its object. But, even now, Mr. J. said, he was not satisfied, after all the gentleman's explanations, and after his being assisted by the letter which had been received from the Secretary of War, of the propriety of this appropriation. And this letter—what was it? It informs us, said Mr. J., that for the construction of roads about $10,000 are wanted; and that if this appropriation be deemed inexpedient, this amount may be stricken out. How many miles of turnpike road, Mr. J. asked, was this sum expected to make? What did the superintendent of the Cumberland road state at the last session? That it cost about $16,000 to make a mile of that road. And are we, said Mr. J., to be amused with a mile of turnpike road? Is this the mighty object which, as the National Intelligencer informs us, raised a breeze in the House yesterday, and disturbed the calm which nothing before had the power to interrupt? Could gentlemen be serious, he asked, on this occasion, or look at this object without a smile? He should like to know if it was intended, with these $10,000, to make half a mile, three quarters, or a whole mile of road? For himself, Mr. J. said, he would not allow them to make even a single mile. And though the sum required might be as dust in the balance, he would give not a dollar for this purpose, because he believed the House had no right to make the appropriation. We have, said Mr. J., the opinion of the Chief Magistrate that we have not the right; and can the attribute attach to the Executive officer of denying to the Legislature the power to do a thing, and yet do that himself which he has said the Constitution gives us no power to do? Considering the millions upon millions annually expended in this country, the amount of this appropriation was as nothing; yet, he repeated, were it but a single dollar, he would not sacrifice principle by voting it for such an object.

Mr. LOWNDES spoke briefly as to the practice of the House respecting appropriation bills. The estimates of appropriations necessary for defraying the expenses of each year were furnished, he said, by the proper departments, and laid before the House. The Committee of Ways and Means, taking the estimates into consideration, either concurred in them, or agreed to diminish, to add to, or to reject them. In all these cases, Mr. L. asked, was it not fairer, as well as more convenient, that, by reporting the bill with the sums specifically stated, the House should have notice of any proposed variation from the estimate, than that they should be taken by surprise when the House was called upon to fill blanks in the bill? Such, at least, was his impression, and such precisely the effect of the innovation of which the gentlemen complained. At the same time that the advantage was afforded of an opportunity for examination, it was perfectly competent to any gentleman to take exception to any item of the bill, and require a question to be taken on it.

Mr. JOHNSON, of Virginia, thanked the gentleman from South Carolina for the view he had taken of the practice of the House, but was free to say that his opinion of the subject was yet not at all changed. Were any facts, he asked, presented to the Committee of Ways and Means which were not also imparted to the House? He presumed not. It was the duty of every member to examine for himself this information, to investigate the estimates of the departments, and make himself acquainted with all the information communicated; and he would reflect upon no gentleman of the House so far as to believe that he had not performed this duty. How, then, could the House be taken by surprise? How were men of common intelligence, capable of forming conclusions from plain facts, to be found unprepared, with all the necessary information before them? According to the old mode of proceeding, and he still thought it the proper one, Mr. J. said it would be necessary for the chairman of the committee to show the necessity of an appropriation before he could call on the House to vote it. When he demanded a sum for any object, he ought to be able to show that it is necessary; and by a clear reasoning to prove that his result is right. There were indeed some propositions so clear as to need no elucidation. No man doubted that the whole is equal to its parts, or that two and two make four. I see the honorable gentleman smile, said Mr. J. A man may smile and smile—[Mr. SMITH, of Maryland, said that if Mr.

J. referred to him, he assured him that his smile was excited by an expression of a gentleman on his left, and not by anything which had fallen from Mr. J.]—I thank the gentleman, said Mr. J.; it is a matter of perfect indifference to me, said he, whether I am attended to by the gentleman or not; I am addressing the House, and not the chairman of the Committee of Ways and Means. He was, he said, indifferent to the opinions of any man whilst doing his duty, nor should he be driven from his object. He stood here the humble Representative of a portion of the people of this country, and, whilst he stood here, should represent faithfully, at least as far as he was capable, their interests; he would speak their choice; he would act up to their will and judgment, whatever should be the consequences. Wherever any puny efforts should be made to impede him in the performance of this duty, he should treat them with scorn and derision.

Mr. Taylor took a short view of the practice which had, at different times, prevailed in the House in acting on appropriation bills. Originally they were reported in blank, and the sums to fill the blanks were separately moved by the Chairman of the Committee of Ways and Means. Subsequently it was the practice to place before the Chairman of the Committee of the Whole the different sums called for, and which he considered as having been separately moved to fill the blanks in the bill. The next step was, to print the sums in the bill itself, but the bill was still considered as in blank, and the Chair continued to put the question on each particular appropriation, as if motions were made for them individually. This practice, Mr. T. hoped, would continue in preference to the present custom of considering the sum with which a blank was filled, as acquiesced in, without putting the question, unless objected to.

The Chairman stated that, unless objected to, he should consider this as the sense of the Committee, and resume the practice, suggested by Mr. Taylor, of putting the question separately on every item of the bill. He accordingly announced the question on the appropriation now under consideration, viz: one million dollars for the pay of the Army; and after some brief conversation, which showed that it was the established pay only of the army that was intended in this appropriation, the question being put thereon, it was decided in the affirmative.

The appropriation of $550,000 for the Quartermaster's department being next stated from the Chair—

Mr. Trimble moved to deduct therefrom ten thousand dollars, the amount stated by the Secretary of War to be necessary for extra pay to soldiers employed in fatigue labor on roads, &c. This motion, Mr. T. said, he made with the view, if it prevailed, of moving this sum as a separate and distinct appropriation in the bill, expressing its object, &c.

This motion was agreed to, and

Mr. Trimble accordingly moved to amend the bill, by inserting, after the appropriation for the Quartermaster's department, the following: "For 'extra pay to non-commissioned officers and soldiers employed in constructing and repairing 'military roads, ten thousand dollars." Having submitted his motion, Mr. T. proceeded to show, by referring to the letter of the Secretary of War, that this appropriation was in conformity to existing laws. He referred to the regulations of 1808 and of 1816, of the War Department, fixing this extra allowance by an act of Congress, as conclusive with regard to its legality; but understanding, he said, that an appropriation for making roads, made in any shape, equally involved the power to make roads, he offered this motion in order to bring the question fairly before the Committee.

Mr. Butler, of Louisiana, moved to amend the proposition by inserting, after "roads," the words on "barracks and other public works."

Mr. Clay hoped that this motion would not be insisted on, and, if insisted on, would not prevail. The object in view was, to present the simple, unmixed proposition whether the Executive has the power to employ the money of the country in constructing roads; if associated with the company proposed, (the amendment,) it would make the sense of the committee equivocal on the important question presented by the motion of Mr. Trimble. For that motion, Mr. C. said, he meant to vote. It would declare by a formal act that it was competent, by the grants of power, for Congress to authorize such works. Mr. C. said he thought Congress had been wanting in its duty in delaying so long to legislate on this subject. It was proper to pass a bill and present it to the President, and if he refused to sanction it, then, Mr. C. declared, he had no hesitation in avowing he should be ready to proceed to hostilities with the President on this point, and withhold every appropriation until he conceded the point. But, Mr. C. said, he should not deem it proper to proceed to extremities with the Chief Magistrate on this score until he had first fairly presented to him a bill appropriating money for the purpose, and saying to him, here it is—sign it or not sign it. He differed from those who believed the President would refuse to sign such a bill. He regarded the opinion announced by the President in the Message to Congress, at the last session, as an opinion extra-judicial. The judge had no right to decide in the matter. Let us make the case, said Mr. C., and present it fairly before him; then, if he says we have not the power, I am ready to reply to him—neither have you. But, Mr. C. repeated, there was little reason to presume, from the opinion he had expressed, that the President would refuse to sanction such a bill, as his conduct had been in direct opposition to that opinion. On the contrary he had acted in exact conformity to the opinion declared by this House in relation to the powers of the General Government to construct roads, &c. It was too much to anticipate, that, after this House had exerted its utmost faculties in maturing a bill, the President would refuse to sign it. Mr. C. hoped that a bill making appropriations for internal im-

provements would be reported. He was willing to take one in the same shape of that which had already once passed this House, and try whether the President would refuse to it his assent, and deny to Congress the power of enacting it. Let us not, said Mr. C., apply to our fears for counsel, but put the question at once fairly and properly to the President.

Mr. C. had yet a stronger reason, he said, for approving the proposition to insert a specific appropriation for this object in the present bill. He thought the mode of making compensation for this extra labor, by the President or Heads of Department, at their discretion, however much he respected those men, to be a dangerous mode, an unconstitutional mode, and one, under every view, improper. It taught the army to direct their views elsewhere, instead of to this House, for compensation and reward. This he thought an important consideration. The gentleman from Maryland (Mr. SMITH) must excuse him for differing from him on this subject. The gentleman talks, said Mr. C., of the common law of the army. The common law of the army! This common law, sir, is always resorted to in extremities: in dangerous times it is resorted to to justify the abuse of power. When a sedition law was to be passed, this common law was the argument for it; now, when it is to justify an allowance of extra pay to the army, the common law is brought up. What common law is it? Is it European—is it English, French, or what is it? Mr. C. said, he knew it not. He had always understood it was proper and legitimate for all armies to make military roads, and it was under that impression he wished the compensation for such labor to be appropriated by law. Allow the President or the head of a Department to make this compensation, to apply the public money to this purpose at their discretion, and they may go on to other objects also. There was, indeed, no limit to which they might not go. Mr. C. said he meant no disrespect to the head of the War Department; on the contrary, he entertained for him the profoundest respect. He was, he said, no flatterer; he had not yet learned the practice of Courts: the expression of his respect for that gentleman was forced from him by the feelings of his heart, and he was proud to acknowledge them. This extra compensation, it seemed, was according to the regulations adopted; but he hoped this would not be contended for as a sufficient authority for it. Extra allowance, Mr. C. said, might be proper, but it ought to be for Congress to make it; and the maximum, at least, if not the object of it, ought to be fixed by Congress. Although the act of 1816 might, in express terms, recognise these regulations, there was no member, he imagined, who voted for it, who thought its exercise was to be unconstitutionally transferred from the Legislature to the Executive. It was far from his intention, Mr. C. said, to enter into the interesting question (the transactions of the Seminole war) touched on yesterday. A proper occasion he hoped would present itself for considering that subject; as he should consider the Legislature wanting in its duty if it permitted the session to pass without the expression of an opinion on it. But when it comes before us in the shape of a direct proposition, let us meet it as men, and pronounce on it properly. He had no idea of concurring with the honorable gentleman from Virginia, (Mr. MERCER,) as to indicating the opinion of this House, respecting the conduct of a military officer, by withholding his pay. This course would be inexpedient also, because it would leave their opinion in doubt, and the Executive might be at a loss, if the pay of one of the Major Generals were withheld, to know which to retain. Mr. C. thought it was proper at least for Congress to express an opinion on this subject, if not to legislate on it. He would, he admitted, not pass a censure upon the Chief Magistrate, but he would have the House to express the opinion, and say, there it is, operate on whom it may. Would not the course suggested yesterday, he asked, express an indirect censure on the Executive by withholding the pay of the officer, and thus compelling the Executive to dismiss him? It certainly would. But, Mr. C. repeated, this was not the occasion for going into that question.

Mr. SMITH, of Maryland, in reply to Mr. CLAY'S question of what was the common law of the army, observed that what he alluded to was this, that a certain practice had prevailed in the army, from the Revolutionary war down to this time. In the war of the Revolution it was common for the commander to allow extra pay to the soldiers for labor performed on permanent works, fortifications, &c. It was usual, also, when the soldiers were ordered on extra duty, on any hard service, for the commander to order them double rations of drink, &c. This was still the case: the regulations of the War Department, respecting extra pay, rations, &c. had been formerly printed and laid on the tables of the members, and the law of 1816 was intended to embrace these regulations. As to the common law, Mr. S. said there was once a common law in Congress: it was common law to allow the members something to drink with their water. It was true, that was done away; but now, said he, by the same kind of common law we are supplied with pen-knives, &c., and whatever thus became general usage was common law.

Mr. MERCER made a few remarks on the motion of Mr. BUTLER, which he disapproved. Having concluded these observations, he said that, whilst up, he had to thank the honorable Speaker for the opportunity of now making an explanation, which he had intended to give in a subsequent stage of the proceedings. And, first, he assured the Speaker that whatever opinion he should express on the conduct of the army in the Seminole war, he should travel directly to his object. I mean not, said he, to mince anything I shall say; and shall in that respect differ probably from the Speaker, so far only as that honorable member always has it more in his power than I to do justice to his subject and to his abilities. Mr. M. said he was misunderstood yesterday. He did

not intend to say that it was proper to reduce the appropriation for the pay of the army with the view to express an opinion of the conduct of the commander of the army: he had meant only to suggest the propriety of the bill's being allowed to rest on the table until the whole subject of the army to be sustained by the appropriations contained in it should be decided. A period might occur—he did not say that this was such a one—when the abuses in the military department should be such as to justify the House in withholding all appropriations. But it must be a great and dire necessity. It would have been inconsistent indeed in him, he said, to sustain, by the proposition it had been supposed he meant to make, a doctrine which he had opposed at the last session. He thought the House had no right to censure an officer by withholding appropriations for his pay. He should, he said, have the same hesitation in withholding payment from a military officer, by way of censuring him, as from a judge, and from a judge as from a major general. No; his object was to let the subject rest until the military committee should have made their report; until, too, he could have tried the sense of the House on a proposition he had in his pocket these ten days, and the existence of which he had before intimated. He now read it, (being the same he laid on the table subsequently, to reduce the number of major generals in the army to one.) If this was not a direct march to his object he would thank the honorable Speaker to point the way, and he would trail a pike after him with all his heart. He had thus disclosed his object, not certainly to introduce a discussion of the subject, but to show why this bill ought not now to have been pressed on the House, particularly when, from the surpluses of last year's appropriations, there was no urgent occasion for it, &c. He was in favor of laying the bill on the table until an opportunity was given for the inquiry whether the conduct of the army had not been such as to require the interposition of this House.

Mr. Strother said, it was with reluctance he offered himself to the attention of the House, at this time; and he should not have done it, if it had not been that remarks had been made, bearing on a delicate subject, and that silence might be considered as an acquiescence in the course and bearing of those observations. In noticing them, he should not attempt to reply to them in detail; he deemed it unnecessary to do so; but, without being the champion of the Administration, or of General Jackson, he must express the surprise with which he had heard the remarks of the Speaker, and of his honorable colleague. In the first place, he could not conceive what impropriety there could be in the Executive having given extra pay to soldiers for labor on public works, when such an allowance had been expressly authorized by law, as had been shown. And, in regard to the question presented by the proposition now before the House, was there not, Mr. S. asked, a wide distinction between roads for common purposes, and a military road for facilitating the march of armies and the transportation of munitions of war? Was there not a wide difference between the bill which passed a few sessions ago, for establishing a fund for the purposes of internal improvement, and the acts of the Executive in regard to the Cumberland road? Congress claimed no sovereign power over the Cumberland road; but the rejected bill did contemplate the giving to the Government a sovereign power over the roads to be constructed under it, and thus to infringe on the rights of the States. This, he said, was a principle which the Executive had not recognised, in giving its sanction to the bill for continuing the Cumberland road. So far from it, it was said, that the objection made to the road passing through his land, by a person living near Wheeling, had proved an insuperable obstacle to the prosecution of a part of that road; and, unless this individual should yield to the general good and to his own interest, that the work must be at an end. That the military power should be subservient to the civil, was an axiom so unquestionable, a principle so vital, that every child in the land knew and acknowledged it. He did not, however, intend to go into an argument respecting the powers of the Government in regard to internal improvement; the time might arrive in this session for an argument on that subject. But, there was not a man who had read the Constitution of the United States, who would hesitate as to the right of the Government to make military roads, where necessary to facilitate the march of armies.

Now, said Mr. S. for my honorable colleague, who yesterday remarked, that he had passed sleepless nights in consequence of his horror of the Seminole war—that he had been so miserable, in consequence of Mr. Secretary Adams's letter, as to have sought in vain this solace of the unhappy. Mr. S. said he should like to know whether the sympathies of his colleague on this occasion had been excited by the groans of the widow and the cries of the orphan; by the bleeding scalps of the infant murdered in the cradle, and of its mother butchered by its side—were these the considerations which had harrowed his soul with horror? Or, was it the infliction of exemplary punishment on those who had instigated the savages to these barbarous deeds? Mr. S. flattered himself that it was the sufferings and injuries of our frontier inhabitants, and not the punishment of the authors of them, that was the source of his painful sensations. He had, he said, anticipated the discussion, which must take place during the session on the subject of the Seminole war, thus far, because it seemed proper to him, whilst invective appeared to be bursting forth in defiance of every effort to restrain it, against the hero who had crowned his country with glory, and prevented an important part of the Union from being severed from the Government, that the nation ought to know that there were numbers in this House prepared to step forth to defend him. The time would arrive, as had been remarked by the honorable Speaker; and, humble as he was, he felt himself able to enter the lists, on this occasion,

with an Ajax or a Samson, and trust to the justice of the cause for the palm of victory. He should not now open a discussion on this subject; but, come when it may, said he, I shall not hesitate, careless of the consequences, to do what I believe to be my duty. The patriotism which animates the bosom of General Jackson will be an ample shield for the hero, who has achieved immortality for himself, and shed the brightest lustre on the arms of his country.

Mr. S. then adverted to other topics introduced into the debate, most of which he considered irrelative, and, if entered into here, inexhaustible. No man doubted, he said, the power of the Executive to cause to be made roads necessary for military operations; and no intimation had been given to this House of an opinion that this power had been improperly exercised. He, therefore, did not see that the proposition embraced any difficulty, or called for the discussion which had grown out of it. Acting in co-operation with the valuable officer at the head of the War Department, who, in the great crisis of our affairs, had gone hand in hand with the honorable Speaker, Mr. S. had no doubt the Executive would so apply the money appropriated as to justify the expenditure.

Mr. BUTLER, of Louisiana, thought the amendment he had proposed to Mr. TRIMBLE'S motion was preferable; it was more consistent with the suggestion in the letter of the Secretary of War, which embraced all the objects of extra pay, as well that for working on roads as others, &c.

Mr. TRIMBLE thought the amendment offered by Mr. BUTLER would subject the appropriation to the same objections as when it was made in the former mode, under the general head of contingencies; and he advocated at some length the propriety of making distinct and specific appropriations in all cases in which it could be done; more especially in this case. Mr. T. said he would not touch upon the subject of the Seminole war, which had been introduced into the present discussion, or give an opinion whether the President had acted right or wrong in applying the public money in making or repairing roads by the soldiers. As, however, the House had appropriated, by the act of 1816, money for this object, he would say, that the power had been, in his opinion, justifiably exercised. In this case he would apply to the Executive a line of Goldsmith, and say that—

"His conduct was right, though his argument wrong;"

and that the country would have great cause to congratulate itself on its good fortune, if, in all time to come, it only found the Executive head using bad reasons for wise measures. He was opposed to controlling the Executive, or any other officer of the Government, by withholding a proper approbation from the Government. That was a proceeding which might be proper in monarchies, or despotisms, where the will of the sovereign could not be otherwise resisted, but it did not comport with the nature or the dignity of republican government, or with the responsibility which belonged to its several branches. He would, he repeated, never withhold, for any such purpose as that alluded to, an appropriation, when required for proper objects.

Mr. MILLER, of South Carolina, thought the principle involved in this discussion was, whether an appropriation should be made for extra pay to the army, for labor on public works. The Secretary of War had distinctly told the House that this amount was wanted for extra pay for labor on barracks, &c., as well as roads; but the committee had not informed the House how much would be wanted for each particular object, and therefore the appropriations could not well be separated. As the $10,000 were not considered necessary for roads alone, he would vote for Mr. BUTLER'S amendment, so as to include all the objects of extra pay in one appropriation.

Mr. REED, of Maryland, was favorable to Mr. BUTLER'S amendment, because if $10,000 be appropriated for roads alone, the Secretary of War would take as much more as he thought necessary for barracks, &c., if not incorporated in this appropriation, because he is already authorized by law to employ the public money on those objects. Mr. R. thought it very proper for the soldiers to be employed in constructing and repairing barracks, &c., but he did not think it right to expend the money in paying them extra pay for such labor; an extra ration might be given, but soldiers thus employed, on what was called extra labor, were exempted from all other duty at the time, and he did not think they ought to receive extra pay for it—it was the proper duty of the army to construct bridges or roads for itself to pass over.

Mr. CAMPBELL, of Ohio, said, he should like to know where these roads were, about which so much had been said. He was not more partial to one part of the country than another; but the House was as competent to decide where roads ought to be made, as the War Department, or any one else. He repeated, he should be glad to know where the roads were which had been commenced, how far they were towards completion, and whether $10,000 was enough for the object.

Mr. SMITH, of Maryland, without attempting to afford full information on this point of inquiry, referred, in reply, to the road now making by the soldiers from Sackett's Harbor; that authorized at the last session through the Cherokee country; and, if he was not mistaken, there was one in the gentleman's own State (Ohio.)

After some further conversation on Mr. BUTLER'S motion, the question was taken thereon, and decided in the negative without a division.

Mr. RHEA then rose to offer an amendment. It was well known, he said, that the sum of $10,000 could be employed, in some parts of the country, to very great advantage in making roads. He, therefore, moved to amend the proposition, by inserting, "in any one of the Territories of the United States." Mr. R. would not now touch the great question of internal improvements, but he argued for some time, and referred to many facts and the experience of the late wars in the South

to show how necessary some roads were in that section, how much they would have saved to the country. By applying the appropriation in making roads in the Territories, the Constitutional difficulty would be avoided by those who doubted the power, though he did not propose this course to avoid the main question; for which he was prepared whenever it should properly come up. As to General Jackson and the Seminole war, it would be time enough to talk about that when the subject properly came before the House.

Mr. Smith, of Maryland, said, this amendment would defeat the whole object of the appropriation, because it would confine the military roads entirely to the Territories.

Mr. Rhea's motion was lost without a division.

Mr. Storrs then moved to strike out of the proposition the word "military," and thus bring the question before the Committee in its broadest shape. He knew not what this term "military" meant. Did it mean a road exclusively military? There was in New York a road which the soldiers had been employed to repair; but the word "military" here was without meaning. If there were any roads made by the army for its exclusive use, they would properly be military roads, but there were none such. By putting the question on the broad ground he proposed, Mr. S. said, it would leave it out of the power of the President to draw a line of distinction between military and other roads, and he would thus be obliged to express his opinion decisively and unequivocally.

Mr. Smith, of Maryland, asked the gentleman to reflect for a moment on the effect of his motion. It would go to appropriate $10,000 for roads for the whole country, and to employ the soldiers of the army on all the roads of the United States. He thought that such an amendment would be obviously improper.

Mr. Storr's motion was lost—ayes 50; and,

The question being taken on Mr. Trimble's motion, it was decided in the affirmative by a large majority.

The Committee, after some further progress in the bill, rose, and had leave to sit again.

Friday, January 8.

Mr. Robertson, from the Committee on Public Land Claims, reported a bill for the relief of Daniel Moss; which was read twice, and ordered to be engrossed and read a third time.

Mr. Tucker, of Virginia, from the Committee on Roads and Canals, reported a bill to appropriate a fund for internal improvements; which was read twice, and committed to a Committee of the Whole.

An engrossed bill, entitled "An act for the relief of Thomas Hall Jervey," was read the third time and passed.

On motion of Mr. Wilkin, the Committee on Pensions and Revolutionary Claims were directed to inquire into the expediency of making provision by law, for the payment to Joseph Merrill, assignee of John Carman, certificate, No. 12,171, dated 1st January, 1782, signed Timothy Pickering, Quartermaster General, to secure to the said John Carman, or his order, the payment in specie, of 209 dollars, with interest at six per centum per annum, until paid.

MILITARY APPROPRIATION BILL.

The House having again gone into Committee of the Whole, proceeded in filling up the remaining blanks of the military appropriation bill; and, having gone through it, they took up the bill "respecting the Military Establishment." The Committee subsequently rose and reported the appropriation bill, as amended, to the House.

Mr. Williams, of North Carolina, conceiving there was no necessity for acting on this bill immediately, as the unexpended surplus of last year's appropriation would be sufficient for present purposes, moved to lay the bill on the table. There were propositions before the House, not yet decided, which materially affected the provisions of this bill. He hoped to see the Military Establishment reduced; and, until that question was decided, he wished this bill to lie on the table, as some of its appropriations might become unnecessary. At any rate, the bill could be taken up at any time, as it had now passed through the Committee of the Whole.

Mr. Smith, of Maryland, made some remarks in reply, to show the improbability of a reduction of the Army at present; and, even if there were any chance of effecting that object, that there would be no impropriety in at once passing this bill. If the bill were not now passed, it would produce much trouble and inconvenience in transferring the surplus from one object to others for which it might be wanted, &c. It would be useless to lay the bill over from day to day, and give rise to fresh discussion, when every mind was made up on the subject.

The motion to lay the bill on the table was rejected, by a large majority; and

After some further conversation, rather than debate, between Mr. Colston and Mr. Smith, of Maryland, on the anticipated superiority of the commissariat over the contract system of subsistence, in point of economy, which Mr. C. could not find demonstrated by the estimates, and was therefore somewhat incredulous about—

All the amendments of the Committee of the Whole were agreed to by the House, with the exception of that which made a distinct appropriation of ten thousand dollars for extra pay to soldiers for repairing and constructing military roads. The question being stated on concurring with the Committee of the Whole to this amendment—

Mr. Pitkin wished to know what military roads were—where any of them were to be found, and by whom their construction had been authorized. The principle by which the House had been governed, Mr. P. said, was, when they appropriated money, it was always for objects authorized distinctly by law, and to be employed on these objects alone. If for fortifications, for instance, it was found that they were explicitly ordered, and the particular plans of their

erection generally pointed out. If this course, in any case, was departed from, the estimates were always previously furnished by the proper department, and the House authorized the expenditure or not; the Executive could only apply the money to the objects which had been mentioned and sanctioned by the House; and so with arsenals at particular points—there was no discretion left with the Executive. As to military roads, there was no such thing known in this country; but, if this appropriation passed, Mr. P. asked if it would not be granting to the Executive, by implication, if not in express terms, the power of making military roads where he pleased, independently of the approbation of this House? And if this right of making military roads were surrendered, he asked if it did not follow that they had a right also to make any other roads and canals? No, Mr. P. said; if there was any such power, it was in Congress, and not in the Executive. He would not venture into the question whether this power resided in Congress; but, whatever powers Congress possessed, he was not for giving them by implication to the President of the United States. In time of war, Mr. P. said, the President might do many things which, in time of peace, he would not be justifiable in doing. The declaration of war conferred on him this extraordinary power. For the purposes of protection, of defence, or for annoying the common enemy, he might destroy a man's house, his garden, &c., without the owner's consent. This power was conveyed by Congress to the President, by the proclamation of war. The right of constructing a military road might be exercised by the President in time of war, but this right did not follow in time of peace. It was said, on this subject, with some plausibility, that in peace we ought to prepare for war—that we should have good roads prepared for the Army to move on, &c.; but did it follow that, if this was proper, the power belonged to the President; that he, in effect, had the power to decide where it was proper to strike a blow, and what Power ought to be attacked? whether it should be Canada, or Florida, or Mexico, which it was proper to assail? For, Mr. P. argued, this discretion would virtually follow the power to select the points for military roads, and would certainly give the President the privilege of declaring where an attack ought to be made, if not the power of declaring war. This, Mr. P. said, was a great and important question. If the appropriation was to be made, ought not the House, he asked, also to say where the road should be made? If this practice was departed from, it would, he said, be a most important departure. In the case of the Cumberland road, the law designated its route, and required the consent of the States through which it passed. So also with the road through the Cherokee country—its route was fixed by law. Ought this discretion, Mr. P. asked, now to be given up to the President? He would give it to no man; for, he repeated, if the President was allowed to lay out and make a military road where he pleased, he might, with the same propriety, make military canals. In truth, Mr. P. said, there was no such thing in this country as military roads, and he hoped we should never have any, strictly so. We know, said he, what military roads were with the Romans—they were a military nation, and made roads in every direction for their legions to pass over. Mr. P. wished also to know what was meant by "constructing?" Had any road been marked out and designated, and nothing was wanted now but money to complete it? No such thing. It gave the complete power to the President to make a road wherever he pleased, without obtaining the consent of the State, or of the proprietor of the soil. It was said, Mr. P. continued, that application of money, in this way, had been sanctioned in some side-way manner by this House; but he did not recollect that it had been sanctioned, or that the subject had even been discusssed in this House. Sure he was, that, when he voted for the act of 1816, referred to, he had no idea that he was giving any such power to the President of the United States. To employ the soldiers to repair barracks and other public works, was right and proper, because those objects were previously designated and erected by law. He would not leave it with the President to give what he pleased to the soldiers, but whatever should be given should flow distinctly from the Legislature. In this he agreed with the Speaker. The sum of $10,000 had been asked for a sufficient extra pay for all the objects mentioned; but now it was proposed to give this sum for roads alone, and leave the other objects without any. Mr. P. said, he would rather reverse the proposition, and should probably move such an amendment. He concluded by protesting against the surrender of so important a power to the Executive—a power, which, if it vested anywhere, belonged to this House, and which he wished to retain.

Mr. STORRS said, that he was absent from his seat, at the last session, when the question of internal improvement was discussed. Having been one of the committee who reported to the House the resolution which gave rise to that discussion, his opinion was well known. It was not his intention, however, now to enter into any particular examination of the general question in relation to the powers of Congress on that point, as the subject now under consideration did not, in his judgment, necessarily involve that question. The effect of adopting the amendment of the Committee of the Whole was merely to render that specific which, last year, was included in a general appropriation for the Quartermaster's department. The Committee of Ways and Means, of which the honorable gentleman from Connecticut (Mr. PITKIN) was a member, then reported to the House a general appropriation similar to this. No objection was made, on the passage of that bill, to the item, although perhaps it might have escaped his observation in the mass of estimates on which it was founded. Mr. S. entertained no doubt of the power of the President to employ the Army in the construction of roads, in time of

peace as well as in war. He could never assent to the doctrine, that in time of war the President was clothed with any new or extraordinary powers over private property or the jurisdiction of the States. A declaration of war conferred on him no authority whatever, except to execute it, like any other statute. The Constitution had defined his powers: to that only could he look for his authority. The Congress, by changing the state of our relations with a foreign Power, can confer nothing on the Executive which the Constitution has not granted. The doctrine in itself was fraught with dangerous consequences, and he protested against it as subversive of those salutary limits which were provided against the exercise of unlimited power. The question before the House is, whether the Congress shall prescribe the gross amount of the pay of the Army, or leave the appropriation to the distribution of the Executive, as has heretofore been done; whether he shall be suffered to determine the disposition of so much of this general appropriation as the amendment includes, and at his pleasure thus indirectly to fix the amount of the pay of the Army. It is otherwise, in substance, to authorize him to put his hand into the public Treasury and disburse the favor of the Government, unrestrained by any limits affixed by Congress. By passing the amendment, this limit would be definitively fixed. He had other objections to the expenditure of a general appropriation in this way by the President. The remark of the honorable Speaker, in the Committee of the Whole, had great force with him. It taught the Army to look to the President, and not to the House of Representatives, for support. Mr. S. said, that the tendency of this to alienate the affections of the Army from the House, and to confer them elsewhere, would lead to evils which it was now peculiarly proper to guard against. So long as, under the Constitution, this House was the only legitimate source of appropriation, it ought to be known that the dispensing of the public funds was at its disposition alone; that they should prescribe the amount, as far as practicable, which should be applied distinctly to every object; that they should determine the subjects of their favors and the extent of their rewards. This course ought not to offend those who approve of the exercise of the powers of the President in the construction of military roads. The adoption of the amendment is a sanction of the course he has hitherto pursued, and the appropriation is professedly in aid of those laudable efforts which he is now making to put the nation in a state of complete defence. There is nothing, therefore, in this course, on the part of the House, which indicates hostility to his views, or which should alarm his friends. It is rather an approval of his conduct in this respect, and as such he should be willing it should be construed. He hoped, for these reasons, that the House would concur in the amendment.

Mr. Mercer said, that Mr. Pitkin's arguments furnished a full reply to all his exceptions. He denied that any road made by the Roman people was a military road. He had heard of the Appian way, and other public highways of that gallant nation, but never of any military road. They might have been called so, as some of those in France were, because constructed by the army, to distinguish them from any others not made by the army. Mr. M. did not think the appropriation was improper as regarded the kind of roads to be made; it was not correct either that, in all past time, the appropriation for barracks, &c., pointed out where those were to be constructed; nor in all cases of fortification, because these, he argued, were something of a temporary nature, which could not be designated—barracks which surrounded troops, or a simple mound of earth, were properly fortifications. Mr. M. did not believe the War Department had committed any violation of the Constitution in the duties which it had prescribed to the Quartermaster, in constructing barracks, in repairing roads, encampments, &c., and how were these duties to be compensated if not by some appropriation? Mr. M. expressed great confidence in the capacity of the Secretary of War; although young in the duties of his office, he had discharged them with great ability; and he had done nothing in the subject under consideration which was not recognised and regulated by law. In exercising, however, the spirit of criticism on this or any other subject, Mr. M. did not mean to array himself in opposition to the Government; parties, he said, were broken up—were gone. Mr. M. proceeded to argue that the sum asked for by the Secretary of War for this purpose, so far from being extravagant, was, in his opinion, not enough—it ought to have been more. The public force ought to be kept constantly employed. In the mode of constructing fortifications, also, Mr. M. doubted the expediency of erecting them by contract, and adduced some examples to show that the former system was preferable in economy and faithfulness of execution. The order respecting the cultivation of vegetables, &c., for the use of the Army in garrison, Mr. M. highly approved. Returning to the immedate question, Mr. M. said, the object of the appropriation was perfectly legitimate; there was no army in the world which was not occasionally employed in making roads for their passage through the country. Was it proper to call out the people of a Territory to make roads where necessary for the passage of the troops? Some feeling had been excited, he said—something like triumph that the Executive had been acting improperly. He wanted no share of this triumph. He hoped the Executive would continue so to use the public force. Mr. M. added some further remarks illustrating the opinions he had now and before expressed on the subject: and, for reasons he had previously offered, wishing further time for a decision on this bill, he concluded by moving to lay it on the table.

This motion was negatived.

Mr. Mills did not think that Mr. Pitkin's arguments had been answered. His chief argument was, that if this power resides in the General Government at all, it does not reside in the Executive alone. He asked if it was contended

that the Army could be employed in making a road from post to post, where there was none? If not, where was the difficulty of meeting the views submitted by Mr. PITKIN? If the power was given to the President to make a road where he pleased, through a Territory or elsewhere, look, Mr. M. said, to the consequences of a difference of opinion on the subject between the Executive and the Legislature. Suppose the Legislature should deem it necessary to prepare for war with a foreign Power, Great Britain for instance, and that all their preparations should be directed to that point; then, suppose the Executive should be of a different opinion, and think such a course unwise. Having the power of designating where these public works are proper, and using the public force for them, he might take a very different point, and go in a direction towards a different nation, and thus defeat the object of the Legislature. This idea Mr. M. illustrated in various ways, and adduced several arguments against the propriety of stripping the Legislature of this important power, and conferring it on the Executive. It was giving him powers as Commander-in-Chief of the Army which he did not rightfully possess. Mr. M. in reply to Mr. STORRS, denied that the Commander-in-Chief had the same powers in peace as he had in war, and enumerated many acts that, in one state of affairs, would be legitimate, and in the other, would be highly improper and injurious. In war he might destroy private property, or even blow up a town, in carrying on hostilities against the enemy, but these and many other acts would not be tolerated in time of peace. It had been urged that this appropriation would test the opinion of the President, as to the power of constructing roads, &c. Whether, Mr. M. said, he wished to come in conflict with the President or not, on the question of internal improvements, he did not think it proper here, or that it would at all decide the great question whether the General Government have the power to construct roads and canals; and Mr. M. argued that a vote on this question would not commit any member on the other. The President himself, in his Message, had denied the general power, yet had he considered himself authorized to use the public funds in making particular roads by the Army. The vote, therefore, on inserting a small item in a military appropriation bill, could not be considered conclusive on the broad question.

Mr. LOWNDES submitted a few more remarks explanatory of the practice in reporting appropriation bills; and then observed that he thought Mr. PITKIN'S principal objections had been answered by Mr. MERCER. He thought there was no inconsistency in denying the general power of constructing internal improvements, and yet voting an appropriation for making any little road where there should be a temporary encampment, &c. There was, Mr. L. conceived, no inconsistency between the expressed opinion of the Executive respecting the general power, and the conduct of the Executive on this subject. The propriety of making specific appropriations for all objects, where it could well be done, he did not deny; but he was also apprehensive that it might be pushed to an improper extent. All appropriations could not be specific; but, after making them as minute as possible, and limiting the Executive to a certain extent, there would be always some discretion left him. It was proper, also, Mr. L. admitted, where it could be done, to designate and fix the place where the public money is to be applied; but this could not in all cases be done, and he mentioned instances in which this was left by law to the discretion of the Executive; and the present was one of those cases in which this must necessarily be done. Mr. L. concluded by admitting the necessity of strict vigilance in this branch of the Government towards the Executive; but the principle, as advocated by Mr. PITKIN, he thought, had the appearance of unreasonable jealousy, &c.

Mr. SMITH, of Maryland, replied to Mr. PITKIN at some length, principally in explanation and justification of the course pursued by the Committee of Ways and Means, and to establish the opinion that the President had the power legally to construct military roads, inasmuch as the regulations on the subject had been recognised by law.

Mr. PITKIN spoke briefly in reply to the gentlemen who had controverted his arguments.

Mr. TUCKER, of Virginia, made a few remarks to remove any imputation of inconsistency between the vote in favor of this appropriation, and the vote at the last session, on the general powers of the Government to make internal improvements. Ninety members had decided that the General Government had a right to apply the revenue to the purposes of internal improvement, upon the principle that, where you have revenue, you have a right to use it for the general benefit. The power of constructing military roads was equally indubitable: but it was a power in the exercise of which Congress ought to have a voice, and this appropriation placed it on its proper footing.

Mr. POINDEXTER rose for the purpose of referring the House to the vote of the last session, on the several resolutions reported by the Committee on Internal Improvement, and to apply the principle sustained on that occasion to the amendment under consideration. The only resolution touching this subject, which received the sanction of a majority of the House, at that time, is in the following words: "*Resolved*, That 'Congress has power, under the Constitution, to '*appropriate money* for the construction of post 'roads, military and other roads, and for the im-'provement of water courses." In giving an affirmative vote on this proposition, he was not governed by the opinion that the power to construct these improvements within the limits of an independent State of the Union, resided in the National Legislature. The power to appropriate money to any object which may be deemed important to the general welfare, is, and must of necessity, remain purely discretionary. Neither the convention who formed the Constitution,

nor any other body of men, could possess sufficient forecast to enumerate all the cases to which it would be proper and necessary, from time to time, to appropriate the revenues of the nation. The only safeguard placed around the Treasury is, that no money shall be drawn from it without the authority of law; and the concurrence of both Houses of Congress, and the President, in the propriety of a public expenditure, is a sufficient guarantee against an abuse of this discretion; for the prudent exercise of which they are responsible to their constituents. It was on this ground that he had given his assent to the Constitutional power of Congress to "construct post roads and military roads: provided that private property be not taken for public use, without just compensation." This resolution was negatived, as also that which relates to military canals, and roads necessary for commerce between the States. It is now proposed to vest the President alone with unlimited authority to *construct* military roads, without regard to State rights, or security of private property! A power which this House has solemnly decided, after much investigation, is not given by the Constitution to *Congress.* It will, if the amendment proposed by the honorable member from Kentucky prevails, be vested in the Executive, who is only a co-ordinate branch of the Legislature.

Sir, it has been asserted in the course of this discussion, that the present Chief Magistrate has assumed and exercised the power to construct and open military roads, notwithstanding the Constitutional objections communicated by him to the House, at the opening of the last session of Congress. This declaration is totally unsupported by any fact, to which reference has been had. With regard to the labor performed by the troops, in the neighborhood of Plattsburg and Sackett's Harbour, it was bestowed on a public highway, long since constructed and opened, under State authority. The fatigue duty done on it by the soldiers, was in obedience to a general law on that subject, and for the accommodation of the Army. No right was claimed or exercised, to construct the road, or alter its location, in any respect whatever. The other cases mentioned, are the roads leading from Georgia to St. Stephens, in the Alabama Territory, and from Columbia, in Tennessee, to Lake Ponchartrain: and those have been authorized by several acts of Congress, making appropriations for their completion. Mr. P. contended that there was not the smallest foundation for the charge which had been made against the President, of a usurpation of power, deemed by him to be constitutionally vested in the legislative department of Government. He considered the proposed appropriation, although small in amount, as involving a very important principle, the establishment of which might lead to very dangerous consequences: and he therefore expressed a hope, that the House would disagree to the report of the Committee of the Whole, and leave the question to be decided on a distinct proposition.

After a few additional remarks from Mr. TUCKER, explanatory of the votes of last session, &c. a motion prevailed to lay the bill on the table. And the House adjourned to Monday.

MONDAY, January 11.

Mr. SERGEANT, from the Committee on Roads and Canals, reported a bill, authorizing the subscription of stock in the Delaware and Chesapeake Canal Company; which was read twice and committed to a Committee of the Whole, tomorrow.

The SPEAKER laid before the House, a letter from William Lambert, accompanied with two hundred copies of Abstracts of Calculations, to ascertain the longitude of the Capitol in the City of Washington, from Greenrich Observatory, in England; which letter was ordered to lie on the table.

An engrossed bill, entitled "An act for the relief of Daniel Moss," was read the third time and passed.

MILITARY APPROPRIATION BILL.

The House having resumed the consideration of the bill to make appropriations for the support of the Military Establishment for 1819, and the amendment thereto reported by the Committee of the Whole, for making a distinct appropriation of $10,000 for extra pay to non-commissioned officers and soldiers employed in *the construction and repairs of* military roads, was immediately under consideration.

Mr. LINCOLN, of Massachusetts, said, that the darkness by which the subject under consideration was overshadowed, seemed to him to result from the want of a correct definition of the term "military roads." It is important, said he, to have one. Without it we cannot ascertain to what specific use the appropriation in the amendment of the bill may be applied, or whether it is or is not proper to make it.

An honorable gentleman from Virginia has informed us that a road becomes "military" by being constructed by military men. It is difficult to conceive how the nature of the object is affected by the capacity of the agent who acts upon it. If a work becomes military as resulting from the military power which produces it, then, had this Hall been erected by a corps of the artificers of the Army, it would have been a military work, the honorable Speaker the commandant of a fortress, and the maxim, now so apropos, "cedant arma togæ, cedant laurea linguæ," would cease to apply. How happens it, if the definition given is correct, that the Roman roads, which extended from the heart to the extremities of the empire, were not designated by the title of "military roads," although many of them were constructed by the imperial legions, although they were those by which the armies marched to the distant provinces, and through which the barbarians of the North passed to the gates of Rome, and made the queen of nations subsidiary to savages and the victim of robbers? That those roads were not so designated, we are informed by the gentle-

man before referred to, and I seek no higher authority.

Others have avowed the opinion that all roads are alike, and one as appropriate to the use of an army as another. To assert that there is no difference between a road constructed, if you please, by a military corps, applied only to the facilitating the transport of munitions of war, the passing of troops, and subserving their wants and necessities, and a road used only for the interchange of trade and the social concerns of the community in time of peace, is to advance a proposition, to the truth of which my mind refuses its assent; it is to deny the word "military," used to express the quality of the object with which it agrees, any force or meaning.

That the right of constructing a military road exists in the President of the United States, in time of war, is admitted. It must be a right absolute and independent, or it would be inadequate to answer the occasion, the imperious urgency of which alone can justify its exercise. It cannot, therefore, be derived from the Constitution, as it would be in derogation of those rights reserved to the States, respectively; neither, if it exists in time of war only, as is alleged, can it be traced to that source; for the Constitution is not calculated for any particular meridian or point of time; it is not now active and the next moment a mere dead letter, but is in force at all times, immutable, and, like truth, eternal.

Whence, then, is the right in the President to construct military roads derived? From the paramount law of human nature, the law of self-preservation; a law which justifies acts not only not authorized by the Constitution, but directly contravening its provisions. It exists as well in peace as in war, and would authorize the President to blow up the dwelling of the gentleman from Massachusetts, who adverted to that incident, as fully at the present moment as amidst the rage of battle, did the "common defence" and "general welfare" now require the sacrifice. It is a right not belonging peculiarly to him, but is common to all, and gives to the humblest subaltern the same privileges as to the commander-in-chief.

Having described the source and character of the power to be employed, let us endeavor to ascertain the nature of the effect produced. That the right of way through a country, to defend which is the object of the existence of an army, belongs to that army, cannot be denied without asserting that it must be considered as a motionless and inert mass. Having the right of way, it has also, as incident to it, that of furnishing to itself a military road as the means of executing it. This right results from the supreme law of necessity, and, of consequence, ceases when the exigency which required its exercise has passed away. The sovereignty of the local authority, and the ownership of the individual proprietor of the soil, for a time dormant, immediately revive.

To consider the right to be permanent, is to give the commander of an army the power to acquire territory at pleasure, and to constitute a military despotism, in principle as great, and in its exercise as fatal, as that of the Prætorian guards of Rome or the Janissaries of Turkey. It gives to the President a power in the highest degree dangerous. As the people have delegated to us only that portion of power which it was necessary for them to part with for the purposes of social order and civil society, so ought we not to sanction, in the other departments of the Government, the exercise of any more than is indispensably requisite for those purposes; for, if you grant power you will in vain legislate against its abuse; if you furnish temptations to avarice and ambition, they will pursue their objects to the heights of danger and the depths of perdition. In the present case, by authorizing the President to construct permanent military roads at his discretion, you put into his hand the means of corruption, the bribe by which he may seduce the States into a subserviency to his views, to enable him to establish himself as a first consul, a perpetual dictator, and a tyrant. Even should his favors not be accepted as the wages of corruption, is it not inconsistent with human nature that one, who perceives the eye of kindness beaming upon him, and benefactions showered upon his head by some superior being, should be able to suppress the emotions of gratitude and the disposition to be devoted to the interests of his benefactor?

The claim of authority, thus sanctioned, is also throwing the apple of discord among the States. Each member of our political family will consider its necessities and its rights equal. When one shall perceive that favors, in which it does not participate, are bestowed upon another, the harmony of the Union will be disturbed by jealousies, which, combining with other elements of discontent, may terminate in storms which may sweep the country with fatal fury.

Under the belief that exigencies may happen, which may require an expenditure of public money upon military roads such as I have described, I shall vote for the contemplated appropriation; but I protest against any of it being applied to defraying the expense of roads like that from Plattsburg to the St. Lawrence, which I do not consider to be any more a military road than this House is a barrack. I do not say this, however, out of disrespect to the President, by whose orders it was constructed; for, as on the one hand I am not disposed to join in the anthem, glory to the President in the highest, which will always be chanted by a full choir, on the other I hope I shall not be wanting in that respect, confidence, affection, and esteem, which belongs to the man who has devoted his life to the service of his country, and been one of its ablest statesmen and brightest ornaments; so long as he shall continue to be actuated by those patriotic feelings which I believe now to influence him, and those enlightened views which have for the most part characterized his Administration.

Mr. L. concluded by making some remarks to prove that the allowance of extra pay to soldiers on fatigue duty is sanctioned by law.

Mr. BEECHER, of Ohio, moved to amend the

resolution by striking out the words *in italic*, and inserting the words "*working on*" in lieu thereof. He explained the object of his amendment, by a number of observations, the substance of which was, that he did not believe it was ever intended that the President of the United States, in the exercise of powers granted to him by the Constitution, should be authorized to enter upon the property of individuals for the purpose of making roads, except where, in time of war, it became necessary to facilitate the movements of the Army. That the Government had a right of way for certain purposes over the property of individuals, he had no doubt; and that the best appropriation of the labor of soldiers, in time of peace, was to employ them in making or repairing roads, was agreed on all hands. He did not wish that the Executive should have unlimited authority in the allowance of extra pay for such services; at the same time he could see no objection to giving the authority to the Executive to employ the spare labor of the Army in making roads not interfering with individual right, &c.

Mr. PINDALL, of Virginia, opposed the motion to amend the appropriation clause. [The clause reported by the Committee of the Whole made an appropriation of $10,000 for the construction and repair of military roads, but the proposed amendment was a substitute, omitting the word military, and consequently looking to a discretion in the Executive to apply the money to roads other than military.] Mr. P. expressed the reluctance with which he must oppose any modification suggested by the gentleman from Ohio, as he was sensible that gentleman was and would continue to be a decided friend to the faculty of this Government for internal improvement, and even at that moment, Mr. P. said, he found himself pursuing the same object with the honorable mover of the amendment, for both wished the bill to assume a form which would unite the votes of all who affirmed the power of the General Government to construct roads and canals. It was indeed difficult to present the great question of internal improvement in a shape which would unite its friends. When particular objects of improvement are designated and proposed, many honorable members, who expressly declare that the Government has power to construct roads, will, however, vote against the measure, on the ground of the inexpediency of appropriating money to those particular objects. But when resolutions are proposed merely declaring in general terms that Congress has the power to make roads, other gentlemen who admit the truth of the declaration, vote against the resolutions, alleging the impropriety of legislating on what are called abstract propositions. Again, other gentlemen who conscientiously believe that the assent of the State governments was essential to the exercise of these powers of Congress, found themselves constrained to negative resolutions comprehending no salvo in relation to that topic. Thus it was that some awkward circumstance continually intervened to baffle every attempt to consolidate the strength of the majority in the House. He was convinced there was no risk of error in declaring that, whenever our good fortune should enable us to devise a measure, the expediency of which would be admitted by those who believed in the Constitutional power, it would be found that at least two thirds of the House were the friends of internal improvement, on which event the Presidential opposition would of necessity yield to the power of Congress.

Some gentlemen, the decided advocates of internal improvement, were now heard to object to the appropriation for military roads, because it was a mere appropriation, or setting aside a sum of money for a particular object, and asserted that, although Congress may make a law to authorize the President to open a road, no such law existed, and that no such authority could be implied from an appropriation bill, which only sought to make an arrangement to govern the accounts and moneys of the Treasury. Would not the objections of these gentlemen be strengthened instead of being dissipated by the amendment of the gentleman from Ohio? For if they affirmed that the President could make or repair no military road without an act of Congress, (exclusive of the appropriation bill,) they would of course be more hostile to the gentleman's amendment, which was founded on the supposition of the President's power to make not only military, but all other roads; hence it was evident that the proposed amendment would, in repugnance to the wish of its author, only serve to perplex or divide the friends of internal improvement. Mr. P. had no doubt of the power of the President to construct or repair military roads, without the previous sanction of an act of Congress, which would have become necessary, not to authorize the construction of the road, but to warrant the Treasury Department to disburse the money necessary for that object. Nor did this assertion of Executive power militate in the least against the power possessed by Congress to construct roads. On the contrary, the Presidential power, as Commander-in-Chief of the Army, to construct military roads, might admit of control by Congress, which could restrain or embarrass the exercise of the President's power by the exertion of its own Constitutional rights, of censuring or impeaching for abuse of power; or, by withholding supplies, or even by its right to pass laws for the government of the Army and the departments. The President wanted no law to enable him to make military roads; he could only want money to enable him to exercise powers purely Executive, which resulted from the Constitution and existing institutions, and which would remain until abrogated by Congressional discretion. Mr. P. lamented when he heard members with whom he had the honor to vote on the question of internal improvement at the last session, give notice of their intention to vote for striking out the item for military roads. The ground they now assumed was untenable. He had observed that the gentlemen who had taken part in the present discussion had expressed their wish to avoid debate on the question of the power

of the Government (Congress and the President) to construct roads; and yet the subjects were so connected that those who addressed the Chair found themselves in the incidental discussion of that great question. He would not discuss the topic so ably handled by others at the last session, except in reference to the relative powers of the President and Congress, in doing which he would address an argument exclusively to the friends of internal improvement, by reminding them of certain premises in which they all concurred at the last session, and showing that those premises, which conducted them all to the conclusion that the whole Government possessed power to construct roads, canals, &c., would now necessarily lead to the conclusion that the President without any new law had the power to construct and repair military roads.

Our friends, said he, had then insisted that the Government of the Union was vested, by the Constitution of the United States, with the control and direction of the armies and military force, with the power of removing that force from the interior to the frontier, and from one point to other places of destination on the frontier; that armies, military supplies, and munitions of war, could only pass or be removed by means of roads; which devolved on Government the necessity of opening roads when none were found, or of repairing such as were impassable. Mr. P. asked whether any gentleman denied to the President, as Commander-in-Chief of the Army, the right (continually practised) of removing detachments of the military force, with its ordnance, &c., from one place or garrison to others on the western or southern frontier, even where no roads are found? If such right existed in the President, the power to construct or repair military roads, by the same officer, would result of necessity, as, without it, the admitted right and duty of the President could not be exercised. He believed this subject was frequently obscured by the indiscriminate use of the term *power*, that carried with it an idea not easily distinguishable from property or right, and which rendered it desirable, to any one in quest of truth, to dismiss this equivocal word, and review the subject (if possible) as ranked under no particular denomination, or express its relations by other terms. True, he said, the Constitution did not express that the President should have power to open military roads; but was it not equally true, that some powers, in relation to some subjects, were vested by that instrument in the President? If gentlemen would select any one of those legitimate powers, which it was both the right and duty of the President to carry into execution, and, at the same time, imagine the utter impossibility of executing the power without incurring expenditures of labor or money, they must agree that the President may incur such expenditure, although not found expressed in the list of Constitutional powers. When the mind had found this result, it would seem idle to dispute of terms. Let it be called the power, or the necessity, or exigency of the President or Army, no misconception of terms should enhance or detract from the faculties of the Executive. Although the faculty of constructing military roads was made to result from a principle of necessity, it would constitute no ground of objection to its existence, for the President alone could judge of the necessity; nor was danger to be apprehended from any abuse of the power whilst this House retained its integrity and vigor. The military detachments, so frequently marched in the western wilderness since the foundation of the Government, in almost every expedition found it necessary to have roads made by the expenditures of the labor and money of the nation; yet, gentlemen could furnish no instance of laws being required to authorize these roads; they were opened or repaired by the mere authority of the President or of his officers; Congress had no concern with them until after the expense was incurred, when called on for appropriations. Nor could any instance be shown of refusal to make those appropriations. It seemed that the expenses of repairing roads had been defrayed from the appropriation of the Quartermaster's department; and that this course was justifiable would be manifest from an examination of the law, as the Quartermaster General was, when thereto required by the Secretary of War, to procure and provide means of transport for the Army, its stores, artillery, and camp equipage. Yet, the method now proposed of appropriating a certain sum expressly for the construction and repair of military roads, was preferable to the former practice, as a detail of each item of expense conveyed more information, and was consequently more satisfactory to the public than a complication of particulars under a head not so easily understood by our constituents.

Gentleman had complained that the Executive, by color of the extra pay and ration afforded to the soldiers while on fatigue in repairing military roads, had undertaken to raise the wages of soldiers without a law to warrant the measure. This complaint was, however, easily vanquished, while the argument in support of the Executive power to repair roads remained unanswered; for the Executive might employ artificers and laborers, who did not belong to the army, to repair these roads. The ordinary pay insured to the soldier by the contract of enlistment does not purport to be a compensation for labor on roads with the mattock; he would receive the pay appertaining to his character as a soldier, although he performed no labor in the construction or repair of roads. As the Executive, therefore, saves the expense of employing other artificers and laborers, by availing itself of the (otherwise idle) time of the soldier, and as the soldier thereby performs a service not compensated for by his wages as a soldier, it would accord with law and justice to make him a proper remuneration.

Mr. ALEXANDER SMYTH said, that he hoped the amendment offered by the gentleman from Ohio (Mr. BEECHER) would be rejected. He said that, should it be rejected, he would offer an amendment making an appropriation "for the

extra pay of non-commissioned officers and soldiers employed in opening and repairing roads, and constructing and repairing bridges necessary for the movement of the army, or any detachment thereof." Such an appropriation was now proper; as the House had struck $10,000 out of the appropriation for the Quartermaster's department; that the appropriation thus made would be in conformity to existing laws; the regulations of the War Department containing a clause in these words, which regulations have been adopted by law. By this means, said Mr. S., we shall avoid passing any new law, and we shall make the bill what an appropriation bill ought to be—a simple grant of money for carrying into execution existing laws. To insert in this bill a clause involving a great Constitutional question, seemed to him not to be a correct course of legislation.

The allowance of extra pay, said Mr. S., to soldiers engaged in necessary labor, has long been sanctioned by usage, and for some years past has been sanctioned by law. The allegation that the President has given extra pay to the soldiers, without authority by law, whereby the attachment of the soldiers to Congress, to whom they ought to look for their pay, may be transferred to the President, is without foundation.

An honorable member (Mr. Clay) who spoke some days since on this subject, seemed to suppose that the House and the President disagreed, and were at issue on the question respecting the power of Congress to make internal improvements. The honorable member was mistaken.

On referring to the Journal of the House at its last session, it will appear that there is a perfect and entire agreement in opinion between the President and the House.

At the last session, said Mr. S., a resolution was offered, declaring "that Congress has power, under the Constitution, to construct roads and canals necessary for commerce between the States." It was rejected—ayes 46, noes 120. Another resolution was offered, declaring that "Congress has power under the Constitution to construct post roads and military roads." It was rejected—ayes 82, noes 84. Another resolution was offered declaring that "Congress has power under the Constitution to construct canals for military purposes." It was rejected—ayes 81, noes 83. The only resolution adopted by the House, declared, "That Congress has power, under the Constitution, to appropriate money for the construction of post roads, military and other roads, and for the improvement of water courses."

The House has explicitly declared that Congress have not power to construct roads of any kind, but that it has power to make appropriations for such a purpose. The President has coincided with the House in both of those opinions. He has said, as this House have said, that Congress have not power to make internal improvements; while he has sanctioned appropriations of money made by Congress for such improvements.

The President's Message to Congress, at the last session, has been alluded to, and his communication of his opinion that Congress had not power to make internal improvements, has been spoken of with disapprobation. The House well know, said Mr. S., that it is the duty of the President, made so by the Constitution, "to recommend to the consideration of Congress such measures as he shall judge necessary and expedient."

The President's Message contained the following clause: "When we consider the vast extent 'of territory within the United States; the great 'amount and value of its productions; the con-'nexion of its parts, and other circumstances on 'which their prosperity and happiness depend; 'we cannot fail to entertain a high sense of the 'advantage to be derived from the facility which 'may be afforded in the intercourse between 'them, by means of good roads and canals.—'Never did a country of such vast extent offer-'equal inducements to improvements of this 'kind, nor ever were consequences of such mag-'nitude involved in them." Does not this pas-'sage show the President to be a most ardent advocate for internal improvement? What language could he have used more conclusively proving his friendliness to a system of internal improvement? The President then expressed with candor his opinion that Congress do not possess the right to establish a system of internal improvement; and then recommends a measure to the consideration of Congress. That measure is, that they should recommend to the States the adoption of an amendment to the Constitution, granting to Congress the right to establish a system of internal improvement. He then says: "In cases of doubtful construction, especially of 'such vital interest, it comports with the nature 'and origin of our institutions, and will contrib-'ute much to preserve them, to apply to our con-'stituents for an explicit grant of power."

I can find nothing, said Mr. S., in this Message, calculated to provoke this House to enter, as has been proposed, into hostilities with the President of the United States, concerning a system of internal improvement, or any other subject whatever. Yet an honorable member (Mr. Clay) has proposed, that Congress shall pass the bill rejected by Mr. Madison, a bill deemed unconstitutional by the President, and which this House, by its vote of last session, has also explicitly declared to be unconstitutional. That this unconstitutional bill, so to be passed, shall be sent to the President, and if he will not approve of it, that then we shall withhold a part of the supplies which we deem necessary and proper for the public service, and enter into hostilities with the President upon this subject. Sir, said Mr. S., I would call the particular attention of the House to this proposition. Let the House place themselves in the situation of the President, and consider how they would feel should another branch of the Government adopt a similar course towards them.

Suppose, sir, that the Senate should send you a sedition bill, and you should reject it as being

unconstitutional; suppose the Senate were then to lay your bills upon their table, and give you to understand that they would obstruct the wheels of Government until you passed the bill which you had declared to be unconstitutional. I ask in what terms you would speak of the Senate?

The President of the United States, in the presence of Heaven and of this nation, has sworn that he will preserve, protect, and defend the Constitution of the United States. And it is proposed that, unless he will violate this solemn promise, by approving a bill which in his conscience he believes to be unconstitutional, that the House of Representatives shall withhold a part of the necessary supplies. Sir, I will say no more on this subject.

Some gentlemen seem to be of opinion that whatever the President or any officer of the Government has a right to do, Congress may do the same thing by law, and that as the President, Commander-in-Chief of the army, by the labor of soldiers may open roads, therefore Congress may by law make roads. But, this conclusion by no means follows the premises. The President is, by the Constitution, Commander-in-Chief of the army; but Congress cannot by law command the army. The President may appoint ambassadors, and make treaties; but Congress cannot by law appoint ambassadors and make treaties. You have a right to raise an army; the President has by the Constitution a right to command it; this army must move from place to place, and occupy camps and cantonments. The Quartermaster General is charged to provide for those marches and encampments. Every one has a right to the means of performing his duties. Consequently the Quartermaster General may open and repair roads for the march of the army. But this furnishes no pretence for the claim on the part of Congress to make roads by law.

Those who have formerly contended for the self-evident propositions that the President might by the labor of the army make the road necessary for its movement, have been denominated "friends of Executive power." But none of them contended that permanent roads could be made and protected by the President. A right to make temporary roads, to facilitate its movements and its supplies, is all that was contended for on the part of the army.

By way of recommending permanent military roads, to be constructed by the army under the orders of the President, we are told by an honorable member (Mr. S. SMITH) whose opinions I respect, of the great advantages of such roads in time of war. I admit, that, to an ambitious conquering nation, military roads offer facilities in the invasion of their neighbors; but, to a peaceful nation, which wages only defensive war, they are pernicious. The Romans in their prosperity, while they were conquerors, constructed permanent military roads; and on those roads, in the decline of the Roman Empire, the Suevi, the Goths, and the Allemani, marched to invade Rome. France in her prosperity, while engaged under the great Napoleon in the conquest of the neighboring nations, made military roads; and on those roads the Russians and Austrians marched to the conquest of France. For what purpose do we require military roads? To make war against the Seminoles, or the Chippewas? I presume not. Or, is it to make war against Spain? Are we to make a military road to Mexico? I presume not. I do not know of any direction in which a military road can be wanting, except towards Canada; and I do not perceive the expediency of making demonstrations towards the conquest of Canada at this time. Sir, said Mr. S., should Great Britain at any time hereafter force us into a war, I would advise that the first step to be taken for the conquest of Canada shall be the passage of an act of Congress declaring, that the Canadas shall be admitted into the Union so soon as they shall have formed Republican constitutions. Should that measure be adopted, Canada will be conquered without a military road. The Government never seriously resolved on the conquest of Canada during the late war. That intention has been disavowed.

Sir, the amendment proposed by the Committee of the Whole, seems to me to mean something more than meets the eye. I apprehend it is a plan to commence a general system of internal improvement, by the means of soldiers. The honorable chairman of the Committee of Internal Improvement, (Mr. TUCKER,) my esteemed colleague and friend, has said that, provided he can have internal improvement, he is not particularly solicitous by what means it is obtained. I cannot agree with him. I deem it of great importance by what means this internal improvement shall be effected. The system, to be equal, must be general; it must pervade every part of the country; and I confess that I should greatly reget to see any part of the country filled with soldiers, engaged in making roads.

The first effect of such a system would be, to disgrace your army, by transforming the soldiers into laboring slaves, and the officers into overseers, armed with whips. While the army is employed in making roads necessary for its own movement, or in providing itself with necessaries, it will feel no degradation; but set them to work in making highways for the use of the farmers and the planters, and they will soon feel themselves dishonored. Then, indeed, you may dismiss from your service General Jackson, and every other gallant officer.

The second effect of such a system would be, to endanger the liberties of the people. Your little army of five thousand men will prove inadequate to the task of effecting a system of general internal improvement; the number must be greatly increased. The people, seeing the soldiers employed in making roads and canals, and finding great convenience and advantage from such works, the aversion to a standing army will be abated. You may presently have fifty thousand of those military laborers, who, finding themselves without liberty and without honor, will be fit instruments to effect the designs of ambition.

Suppose that only ten thousand such men had been employed in Maryland and Virginia, in making roads at the time of the contest whether Mr. Jefferson or Burr should be President, I ask you what would have been the consequence?

Let us adopt no measure, the effect of which must be to embarrass the President of the United States. Let us preserve the harmony of the different branches of the Government. And if we are to have a system of internal improvement executed under the authority of the United States, whether by powers already vested in the Government, or to be obtained by an amendment of the Constitution, let the system be carried into execution, not by military, but by civil power.

Mr. FULLER, of Massachusetts, said, that he had listened to the debate of the last session in relation to the several resolutions on the subject of internal improvements with the utmost attention, and that he, at the time, regretted to have been prevented by circumstances from expressing his sentiments on questions so interesting to the community. He had regretted it the more, because he differed considerably, on most of those questions, from those who admitted the Constitutional powers of Congress to make internal improvements generally, as well as from those who denied the existence of such powers altogether. He would, therefore, by leave of the Chair, advert to the interpretation of the Constitution which appeared to him to be the most natural and reasonable; and whatever powers were intended to be conferred on Congress he would be very far from narrowing by construction, while he was equally adverse to that "liberality" which, in a general expression, liable perhaps to ambiguity, could discern the delegation of almost unlimited powers.

In the 8th section of the 1st article of the Constitution, it is made the duty of Congress "to provide for the common defence." This power is clearly intended to be exercised, not only in time of war, but, from the very import of the word *provide*, is also intended to include *prospective* preparation in time of peace. It is therefore the duty of Congress, even when the nation is in profound quiet, to erect armories, arsenals, and forts, and to establish and fortify all such points, on our seacoast and frontier, as are most exposed to an enemy, or most advantageous to repel invasion. This power, said Mr. F., has never been questioned, and has been uniformly exercised; and the necessity of marching troops, and transporting provisions and munitions of war from the populous parts of the country, where alone they can be obtained, requires also the construction of suitable roads. Wherever these roads have already been constructed by the States or other local authorities, Congress can have no occasion to provide them; but on our extended frontier, in the North, West, and South, the case is far different. The mere purposes of civil intercourse will not probably, for half a century, induce or enable the scattered population of those vast tracts of country to make such roads, or other means of communication, as are indispensable in the mere preparation for a common defence. Yet a war with Great Britain, Spain, or the western tribes of Indians, instantly exposes our frontier in some or all of those points; and it would be a most unworthy dereliction of their duty, if Congress should neglect the obvious and early means of waging such wars successfully. Such wars are inevitable, and the country has, at this moment, its eyes upon us, approving the application of the revenue to extensive and substantial military defence. When war impends, or is actually raging, it will be vain to begin to provide against it; the revenues are speedily engrossed by more immediate objects, or reduced by the derangement of commerce, and the checks to national industry. "In peace provide for war," is the dictate of common prudence—it is also the dictate of our Constitution.

The construction of post roads, though not of superior or of equal necessity, is, perhaps, more clearly given by a subsequent clause of the same article of the Constitution; wherever they do not already exist, and the public convenience shall require the establishment of a regular, certain, and frequent intelligence, such roads may be constructed by the National Legislature.

But the sovereignty and exclusive jurisdiction of the States is considered by some gentlemen as an insuperable obstacle to the construction of roads by Congress, while they assent to the right to appropriate the public revenues for that purpose. Hence the first resolution, at the last session, declaring the right to appropriate for the construction of "military and other roads," passed by a considerable majority; while the second, asserting the right to construct "military," not including "other" roads, was negatived. Mr. F. said, if it is the right and duty of Congress to "provide" roads, whether in peace or war, then the States have no right to interpose in its exercise, any more than to arrest the march of national troops, or the collection of revenue, or any other usual and well recognised exercise of Constitutional power. In all these particulars the States, by agreeing to the National compact, conceded so much of their original sovereignty as the "common defence and general welfare" required to be intrusted to the National Government. If the first resolution, therefore, was established, the second was still clearer, for the mere right to appropriate money, without the right to secure the object, is preposterous and nugatory. Do gentlemen believe that the States, into whose treasuries it is presumed the money appropriated is intended to be paid, will be disposed to listen to the wishes or request of the National Government, and, very obligingly, make the roads, which may be thus humbly submitted to their discretion? Gentlemen need not travel back so far as to the records of Congress, and of the States, before the existence of the present Constitution, to learn whether the individual sovereign States will comply with the recommendation of Congress; or whether local and other considerations will not often lead to measures quite different. Surely, then, the appropriation of money for military defence must include the power to complete

that defence in all its parts, and the construction of military roads is not the least considerable.

The gentleman from Connecticut (Mr. PITKIN) has remarked, that a military road is an unintelligible phrase; that it is impossible to distinguish a military road from any other; from which he probably infers that, if Congress may construct military roads, they may also construct others of a different description. I cannot see the difficulty of discrimination, said Mr. F., in the same light with that gentleman. A military road appears to me as distinct and definite in its character as any expression whatever. The purpose for which a road is made, and its adaptation to the object, being entirely military, the epithet is properly attached to it; and its correctness is not diminished because the road may be conducive to civil and commercial intercourse. The Constitutional object of making such roads must be national preservation; but it must, indeed, be gratifying to consider how much the interests and social enjoyments of our fellow-citizens may be improved by thus facilitating their intercourse with each other.

There can be no doubt that, in time of peace, it is of great consequence to preserve in the army a system of discipline and temperate habits, which are indispensable to health and vigor. We are told, by military gentlemen, that the established usage in all armies exempts the soldiery from labor on roads and other public works, and that such employment is not even stipulated in the contract of enlistment. Perhaps it might be good policy to enjoin on recruiting officers to make such a stipulation in future; but in the present case we must provide for the existing state of things. The trifling gratuity of fifteen cents per diem, in addition to the wages, is sufficient, it appears, from the experience of past years, to induce the soldier willingly to engage in such labors. The labor thus obtained costs less than one-fifth the sum for which it could be purchased by any other means. The army is thus occupied usefully to the public, and the health and vigor of the soldier is rescued from being a prey to idleness and vice.

The gentleman from Virginia near me, (Mr. SMYTH,) thinks the occupation of the army, in opening and improving roads, is degrading, and likely to debase its spirit and character. Sir, in what pursuits have our soldiers been engaged previous to their enlistment, more worthy or dignified than in husbandry? In what more honorable pursuits can they now engage? Such employment, sir, will elevate, not degrade, their character. The hoe and the spade are merely transferred from the tillage of the earth to the improvement of its surface in the adjacent roads. The same gentleman, too, apprehends that, when the people have felt the benefit of the roads thus acquired, they will become reconciled to standing armies; and that we shall soon augment their number so much, for the sake of the public works, that they may endanger our liberties. If the argument requires an answer, I will merely remind the gentleman of the unconquerable aversion to a standing army, which is so universal, that at this moment a proposition is before the House to reduce the little remnant still retained of those who lately fought our battles. Nor am I, said Mr. F., by any means prepared to pledge myself against its reduction, though I am not aware of any point where a reduction can take place without injury to the service, however desirous gentlemen may be to reduce the public expenditure. No, sir, a standing army can never be popular in any country; its increase will be watched in ours with jealousy, and the benefit of its labors on military roads, on our frontier, must always be limited to small portions of our countrymen, whose voice can never drown that of the whole community.

The objection, that too much is left to the discretion of the Executive in locating the roads has been well obviated by the gentleman from South Carolina, (Mr. LOWNDES.) Whenever Congress may think proper to interfere, and to designate an important road, overlooked by the Executive, they can do so; or, when dissatisfied with roads designated by the Executive, the appropriation can be discontinued. Although, sir, I should have voted for the appropriation as it stood in the original bill, I am better satisfied with the amendment; not only because it designates clearly the amount and the purposes for which the money is to be expended, but also because the act of 1816, on the application of which to the regulations of the army it is stated that the expenditure has hitherto been made, is, to my mind at least, less unequivocal than could be wished.

Before closing my remarks, I cannot forbear asking the attention of gentlemen, who deny the power of Congress to construct any roads whatever, or to appropriate money for the purpose, to a prominent object of the proposed expenditure, the *discipline* and *health* of the army. Can the same object be attained in any less exceptionable manner? The tillage of gardens or other public lands in the vicinity of their several stations would be quite insufficient. The practice, in some countries, of employing the soldiery in labor for the neighboring cultivators, would be difficult, and perhaps endanger desertion. The improvement and construction of military roads is liable to none of these objections, and is therefore to be preferred, even for the well-being of the army. Is it not, then, consistent with the principles of these gentlemen to make the appropriation as the best and most economical system of preserving the army from the wasting effects of idleness, intemperance, and vice?

I hope, sir, the friends of the proposed amendment will find themselves supported by those who at first may have doubted, and that so salutary a measure may be found compatible with the principles of those who, on the general question, have held opinions quite opposite.

Mr. H. NELSON, of Virginia, next took the floor. In rising, he stated that he did not mean long to trespass on the time of the House on this occasion. But the vigilance of his honorable

colleague having so presented it as to afford an opportunity of discussing the subject, he asked permission to lay before the House a few remarks on it.

He did not mean, he said, to vote for the amendment of the honorable gentleman from Ohio, nor for the original proposition of the Committee of the Whole House. A strong argument against these propositions was derivable from the embarrassment in which the subject was placed: the floodgates of discussion were broken up, and the question which had agitated the House, and he might say the nation, at the last session, was brought into discussion on this paltry appropriation of ten thousand dollars, and the House was called upon to decide upon the constitutional powers of the House and the President of the United States. Mr. N. said he had no objection, if it became necessary, to decide on the constitutional powers of this House, if a case should be presented, and should be within the legitimate scope of inquiry. But he did object to this manner of throwing upon the President of the United States, prematurely and indirectly, a question involving his constitutional powers. It might be said that he objected, on this occasion, to a specification of the appropriations in the bill. But, Mr. N. said, he did not. Where they could be made, according to the established usage of the country, and in the exercise of the power of the Government to guard the Treasury, it was proper to make specific appropriations. As far, however, as he understood the usage of the country, it had never been the practice of the Government to make appropriations, except for objects defined by law. The combination of the two acts, legislation and appropriation, in the same bill, was a novel usage, and one which he hoped the House would not countenance. When a general appropriation embraced several known objects, no inconvenience resulted from the practice, nor any necessity for specification. He trusted this would be considered the case with regard to the appropriation for the Quartermaster General's department in the present bill, and that the ten thousand dollars, proposed to be excepted, would be permitted to remain within it. Pursuing the figure used by the Speaker, said Mr. N., we have hunted with success, and, having run down the game, I hope it may be permitted to retire to its covert. If we are so vigilant as to strain at this small item, what becomes of the watchfulness of the guardians of the public purse in regard to the remaining five hundred and forty thousand dollars for the same department, without a single specification of its objects? We have swallowed this bolus, said he, and now we strain at a gnat. He did not mean to censure the House for thus voting the appropriation in gross for the Quartermaster General's department; because he presumed every gentleman had had an opportunity of examining the estimates, and satisfying himself of the propriety of the appropriation. But he did consider it extraordinary that, after swallowing the larger items, this draught should nauseate. It was not, he said, the magnitude of this appropriation, nor the importance of any principle involved, that was at the bottom of this debate. It surely could not be to save ten thousand dollars, nor yet to make that specific which was already as much so as the remaining five hundred and forty thousand dollars of that item of expenditure. No, sir, said Mr. N.; it has been avowed that the object is to restrain the President in the exercise of a power as Executive Magistrate which he has denied to exist in the Congress of the United States, of which he forms a part. Where was the evidence that any such power had been exercised? The gentleman from Virginia (Mr. TUCKER) had said that a paragraph he had seen in a newspaper announced that thirteen miles of the road had been finished. If the gentleman was disposed to rely on newspaper authority for facts, as to the President, Mr. N. said he could have recommended him to a certan editor of a paper in Philadelphia, whose declarations, if viewed as evidence, would prove the President to have been anything but an honest man. Such authority, however, had no weight with him, and ought to have none with the House.

Mr. N. said he had no disposition to unite with gentlemen in throwing the responsibility of this decision respecting the question of internal improvement on the President of the United States. To do that, the bill reported by the chairman of the Committee of Internal Improvement would afford a fair opportunity; and he was not, therefore, disposed, in the incidental manner proposed, to say to the President, if you do not pass this bill with the enormous weight of the question of internal improvement upon it, you shall have no appropriation whatever for the support of the Army. Mr. N. said he wished to excite no unpleasant feelings, but he wished to rouse the attention of the majority of this House, who had decided, at the last session, that neither Congress nor the President had the power to make roads. He wished to persuade the House to examine this subject, and not indirectly to reverse that which at the last session they had pledged themselves to support. It was enough to say that it had been formally decided, by a majority of voices in this House, that no power does belong to Congress or to the Executive to construct roads and canals. On this question he was ready again to meet gentlemen, but he begged that he might not be challenged to meet them on this arena—it is too narrow, said he; let us have a fair field, such as the bill reported by the Committee on Internal Improvement.

Without intending to countenance the doctrine of Executive influence, Mr. N. asked whether it was liberal or candid towards the Chief Magistrate to embarrass him by presenting to him this question. The President had said, and the House had said with him, that Congress had not the power to make roads or canals; and it was now attempted, by the amendment of this bill, to present to him the dilemma of approving the bill and sanctioning the principle, or of stopping the whole appropriation bill. For what object? To

arrest the operations of the Army, and disband or dissolve it? If that is the object, said Mr. N., let it be done openly. Or, if the President has assumed improper powers, meet him manfully, and stop him in his career. The sum involved in this question being so small as to be no object, we are to presume that some other object is in view, and that is, as avowed, to check the Executive. What was the power which he had ever used to which exception was taken? If proper information was before the House, he believed gentlemen would be satisfied there had been no abuse of power in the cases referred to. For, although, said Mr. N., I deny most positively, and with all my strength, that the Government can make roads, commercial, agricultural, or of any other description, yet I have no doubt that, on an existing road, leading from one garrison to another, Congress may appropriate money to make those roads practicable for the transportation of munitions of war, and that the Executive may direct the application of the labor of the Army to the same purpose. It was a courtesy to the United States which he was willing to yield, as a mere courtesy, that they make roads for the transportation of public property, for the purpose of economizing the expenditure. It would be found, on proper examination, that this chimera of the exercise of power not belonging to the Executive, and by him denied to Congress, had no existence in fact. There was some apology, Mr. N. added, for warmth on this subject; for the charge now preferred against the Executive was also to be found on record in the report of the Committee of Internal Improvement, made at the last session, where it was said, in express terms that the same power had been exercised by the Executive which the Executive had denied to Congress. Before this charge was made, some better evidence ought to be produced than the mere report of a newspaper.

I have already said, observed Mr. N., that I would not, on this occasion, enter into a discussion of the general question of internal improvement. But, in this debate, we have had, also, in some measure, introduced the conduct of General Jackson and the Executive in relation to the Seminole war. As there seems to be some excitement on this subject, and some gentlemen have already given their opinion respecting it, I too, will give mine. My opinion is, that General Jackson ought to be sustained by the Government and people of the country; and, instead of voting a censure on that illustrious officer, he has, for his conduct, the thanks of my heart sincerely. With respect to this sickly humanity which rouses every feeling of sympathy, and even of indignation, to appease the manes of the executed miscreants, who, without mercy, and without feeling, buried their tomahawks in the brains and bowels of the helpless families on our frontier, it was not by such goblins as had been conjured up here that the man who rescued the soil of his country from pollution on the plains of Orleans was to be beaten down. The people of this country will never forsake him, from a mockery of humanity, for having obeyed the dictates of justice. I will not, said Mr. N., anticipate the possibility of a decision of the country against General Jackson, however the newspapers may speak, and the friends of editors scribble to excite a morbid feeling against him, by which, I trust, the generous and manly feeling of this country will never be subdued or misled. If forced to a discussion of the conduct of General Jackson, Mr. N. concluded by saying, instead of censuring that man, he should have his approbation and thanks for the energy and ability he had displayed in the conduct of the Seminole war.

Mr. TUCKER, of Virginia, said that he threw himself upon the courtesy of the House for a few moments of their attention, while he tendered to the gentleman from Virginia, (Mr. NELSON,) his profound acknowledgments for the favors he had received at his hands.

The gentleman, sir, said Mr. T., has, on the present, as on almost every other occasion, brought more of passion than of argument into the debate. He has addressed himself rather to the feelings than to the understanding; and, waiving the discussion of the matter of right, has met us by the overwhelming imputation of hostility to the Government. To me he has liberally imputed the design of hurling anathemas, and aiming the shafts of obloquy against the Executive for the violation of the Constitution—to all of us the desire of "embarrassing" that department, "by thrusting upon it" propositions which reduce the President to the necessity of deciding upon his Constitutional powers.

Sir, it has been somewhere said, with just severity upon the ill-directed efforts of misjudging zeal, "Oh! that mine enemy had a friend!" Surely, the indiscretion of friendship, which it implies, was never more forcibly manifested than in the conduct of that gentleman. If, as he has gratuitously and most erroneously supposed, the shafts of hostility have been aimed from any quarter at the distinguished gentleman who now fills the chair of the Executive, I submit to the House to determine whether it has not been the hand of that gentleman which has pointed the dart. Whenever a proposition has been produced, for exercising the power which we deem Constitutional—and when we have supported it by an appeal to the Executive acts, in our conception within the pale of its powers, the gentleman has never failed to assail us, by attacking those Executive opinions on which we relied for support. It is from him that we hear intimations of Executive "embarrassment" in the consideration of great Constitutional questions, on which that magistrate has already pronounced his opinions. The honorable member, is indeed, most singularly unhappy in the defence of the Executive. Is it true, as the gentleman has intimated, that on a bill containing an appropriation for making military roads, the President is likely to be "embarrassed" by this Constitutional question? Does the gentleman mean to be understood, that the Executive opinion has not been sufficiently weighed and deliberated, to enable

that department to decide with promptness and consistency on the questions submitted to it? If he does, while it furnishes, on the one hand, reason to lament that those who defend, should think proper to attribute "embarrassment" to the Chief Magistrate, it affords, on the other, ample grounds for the prosecution of a measure which will present him with a fair and Constitutional opportunity of explaining, in extenso, the doctrines of the Constitution.

Sir, it is in the same spirit that the gentleman has pronounced that we are now reiterating, on the subject of military roads, a charge of violation of the Constitution by the Executive, which was advanced in the report on "roads and canals," of the last year, of which I was—perhaps unfortunately—the author. There was no such charge in that report; on the contrary, in support of a power in Congress to provide good roads for necessary military operations, as necessary to the war-declaring power, the committee relied on the acknowledged exercise, by the President, of the right to make military roads, as necessary to the power of commanding the Army, or of carrying on a war. Affirming the right of the Executive, (at least to a certain extent,) they inferred the power in the Congress of the United States, to provide, in time of peace, for the means of conducting a war to a happy and prosperous issue. They denied that the Constitution of the United States could have intended that this nation should ever be plunged in the trying scenes of war, without every necessary power for waging it with effect.

And we are now, it is said, pressing this charge once more upon the Executive. Who are engaged in this meritorious enterprise? If the gentleman is desirous of expelling *me* from the fold, by a frequent and entirely gratuitous imputation of views inimical to the Executive, will he place in the same hostile array the distinguished gentlemen with whom, on this, as on former occasions, I have had the honor to act? Will he include a large majority of this House, who a few days past, in committee, have united with me in voting for this proposition? Is it, indeed, contended, that the President has but a minority in this House, and that a large majority are engaged in thwarting his views, and "thrusting upon him" propositions, with a desire of embarrassing him in the discharge of his official functions? No, sir; such are not my objects; such, I feel authorized to say, are not the objects of those with whom I act. Their objects are legitimate and fair, as I shall be able to establish before I shall conclude.

But I am told that, before I venture to charge upon a high officer of the Government an act which violates the Constitution, it behooves me to come here better prepared than with newspaper evidence of the fact; and the gentleman has obligingly recommended to me a newspaper in Philadelphia, from which to draw my future anathemas. I have as little knowedge of its editor as that gentleman. The gentleman has been pleased to style me his friend. [Here Mr. N. said Mr. T. might disclaim the title.] Mr. T. said, he had not disclaimed it; but I leave it to the gentleman's reflections to determine by what sentiments of friendship such remarks have been urged upon me. Sir, they have been improperly introduced into the debate; they have nothing to do with the question, and could have been suggested by no friendly disposition.

But we are told that we had other objects in view besides those which appear on the face of the proposition; we have the Cumberland road bill in view. True, we are not inattentive to it. We wish to present *this* appropriation in such a shape, that, if it meets support, *that* may also find it. The object in the variety of propositions which have been and will continue to be submitted on the subject of roads, is fair and legitimate. The subject is one on which a deep and growing interest is felt; and though it may be delayed or impeded by casual interruptions, the plan of national improvement must and will go on. Prompted by a desire to promote them, a majority of the House have manifested by the passage of former bills a wish to present the subject fairly before the President, that, if he approves those which we pass, it may be discovered how far he believes we can properly go; and if he rejects, he will, according to the directions of the Constitution, furnish his reasons in detail; thus clearly exhibiting his view of our Constitutional powers, and enabling us to proceed in their exercise as far as may consist with his opinion. Is this not desirable, both to us and to him? Is it not calculated to put an end to this never ending discussion as to our powers? Is it not fair and liberal to the Chief Magistrate to afford him an opportunity of distinctly defining his views of the Constitution, and of terminating these speculations as to the character of his opinions? I have heard it hinted, indeed, that the Cumberland road bill of the last session was intended to "entrap the President into an inconsistency." It is a poor compliment to the Executive Magistrate to suppose he was to be entrapped by a bill which contained but a single section, and the object of which was so distinct and definite. It was not framed, sir, with any such view. The public service required it. The Treasury Department suggested its necessity to provide for the fulfilment of contracts theretofore made by the Executive. It was moreover hoped, that, if rejected, we should have the reasons of the President; if approved, we might infer a more favorable opinion than the generality of the expressions in his first Message to Congress permitted us to hope for.

But, sir, I not only referred to the newspaper evidence of the National Intelligencer to prove that roads had been made, but I produced other evidence, from the Executive department, if the gentleman had deigned to attend to it. It was the report of the Secretary of War made at the last session upon a call of the House for further information as to the roads constructed under the direction of the President. By this document, it appears that several important roads had been

constructed under the authority of the President, (without any specific appropriation by Congress,) and by the labor of the soldiery, to whom an extra compensation was allowed by law. Here then is evidence of the highest authority that roads have been constructed by the Executive department, the expense of which have been paid out of sums appropriated to general objects, without specifying roads. Sir, I have in this attributed no breach of the Constitution to the Military Department. On the contrary, in reply to the honorable Speaker, some days past, I remarked, that "the fault was in ourselves:" that we had voted for large appropriations without specification, though with an understanding that part of the sums appropriated were for the use of roads—under which understanding the War Department had acted. I am now anxious to put a stop to a procedure which seems to me not perfectly consistent with the provisions of the Constitution in relation to appropriations.

Sir, if we were again to pass this appropriation bill, with a lumping sum, out of which the War Department may make roads without any specific appropriation, there might then, indeed, be some plausibility in the imputation of an attempt to entrap the Chief Magistrate. By dividing the appropriation as we propose, he cannot but perceive that there is a sum set apart for military roads; a fact that might well escape attention, if in what the gentleman calls "the bolus" of $550,000 was covertly included this "contemptible sum," this "gnat" which he so much despises.

But, after all, what does this contested clause propose? Nothing more than that we should appropriate specifically, for work on military roads, the sum of $10,000, instead of leaving the work to be done, as heretofore, without a specific appropriation. We now authorize the work to be done. Before, it was done without any specific authority. We now appropriate the money specifically. Before, it was drawn from the Treasury under a general appropriation. In this consists all the difference between the state of things heretofore and that which we desire to introduce. Thus the attack upon the President consists in supporting a proposition in consonance with his acts, which the gentleman who supports him most zealously opposes!

I understand the gentleman as alleging that a vote in favor of this proposition would be inconsistent with the vote of a majority of this House at the last session of Congress. In this, sir, he is clearly mistaken. The first resolution on which the vote was taken at that time was in these words: "That Congress has power under the 'Constitution to appropriate money for the con-'struction of post roads, military, and other roads; 'and for the improvement of water-courses." This passed by a vote of 90 to 75.

And what is the proposition now under consideration? It is a clause in the appropriation bill to appropriate $10,000 to the construction of such roads for military purposes as may be deemed important.

The proposition now is in direct correspondence with the right affirmed then; and it will be extraordinary indeed, if, after an affirmance of the right by so large a vote, the appropriation should be rejected when none can deny its necessity.

Sir, I shall not undertake to examine the course of the gentleman himself. I am willing to extend the courtesy which I expect from others; and though I should find it vain to attempt to reconcile what seems to be the conflicting character of his opinions, I am willing to believe that he has some mode of explaining their apparent inconsistencies which is at least satisfactory to himself.

Mr. MILLER, of South Carolina, said, he did not think it important in any point of view that the amendment proposed by the gentleman from Ohio should be adopted. The amendment would not change the principle reported by the Committee of the Whole, which was nothing more than making an appropriation, to enable the Executive to use the soldiers of the United States in working on roads. All the gentlemen who have spoken on this subject (said he) seem to think no substantive power or law should be created by the appropriation bill. I answer, this clause in the appropriation bill does not give any additional power in relation to working on roads, but merely is a grant of money to enable the Executive to do that which the Constitution authorizes him to do; namely, to employ the soldiers of the Army of the United States as the commander of any army may, as commander of an army, employ the same. It seems to be established, by evidence of unquestionable character, that the soldiers of the Army have been employed in working on roads. This the honorable gentleman from Virginia (Mr. NELSON) has denied. The report and letter of the Secretary of War seem to me to be conclusive as to the fact, that the soldiers are thus employed. The only question that remains for determination is, will Congress, who, by the Constitution, is the only authority by which the army can be raised and paid, allow an additional compensation to the soldiers, while thus employed, under Executive direction, in working on roads? This involves two questions: first, the power of Congress to make this appropriation; and, secondly, the expediency of exercising it. The Constitution gives to the President a right to command the Army of the United States. Congress has the right to raise and support an army. It follows, that after an army is raised, the President is to command it, according to the existing laws in force, and according to the universally acknowledged rights of a commander. Now, I take it to be universally acknowledged, that the commander of an army may employ the labor of the army in working on roads, barracks, or fortifications, either with or without their consent. This arises out of the nature of his command; the soldiers are to submit to such regulations as the President shall adopt for the government of the Army. He can direct their movements, and has a qualified right to employ their labor in whatever way

the benefit of the Army, or the interest of the nation, may require. There can be but little doubt but what the President may employ the Army of the United States, constitutionally, in working on roads. If he can do so, the next question is, would it be expedient to encourage their employment in this way, by giving a premium of fifteen cents per day to the soldiers thus employed? The sum, thus to be employed, is too small for much evil to grow out of it, were we to suppose it improperly applied. This we have no right to suppose will be the case. We are daily compelled to submit greater and more important funds to the discretion of the President; and yet no fears upon the subject. We must presume he will use those powers which the Constitution has clothed him with, for the benefit of the country.

Look at many items of this bill, and you will see appropriations made upon various subjects, which imply a discreet application by the President. Thus the sum for the survey of the waters, &c., west of the Mississippi—where is the power in the Constitution for the President to effect this object, except he derives it from his character as commander of the Army? And yet nothing is apprehended as to the misapplication of this fund. I would ask if the President can, constitutionally, employ the Army in working on military roads? Can there be a more economical plan than to pay the soldier fifteen cents, when the same labor would cost one dollar by contract with private individuals in most places? The gentleman from Virginia (Mr. NELSON) seems to think that the President will find it difficult to remove his objections against the powers of Congress to apply its funds to internal improvement, but it is now too late for such a supposition. Without any other than a general appropriation for the Quartermaster's department, under which head this item was embraced, the Executive has thus employed the soldiers; and surely now, because the same money is given in the same manner, except specially instead of generally, he will not refuse to sign the general appropriation bill, which contains nothing more than it did last year. If the President had not by his own acts shown his construction of the Constitution in relation to his own power as commander of the Army, there might be some ground to suppose, from his Message of the last Congress, that part of the appropriation would be exceptionable to him—but when he has availed himself of the appropriation made last year, thus to employ the Army, he will not be likely to refuse to sign a bill making an appropriation for the pay of the Army, when constitutionally employed by himself, for that purpose. Upon this part of the subject, the only difficulty seems to be in this, that the President, in his communication to Congress at the last session, intimates his opinion, that Congress have not the right by virtue of their powers of taxation to employ their own money, as any legislative body may employ their money, when, in the application of the money put at the disposal of the President, he has assumed, as a correct construction of the Constitution, that, by virtue of his rights as Commander-in-Chief, he can employ his army as any other commander may. But, this is no reason for our not legislating upon a specific proposition, in which, as far as there has been any expression of opinion, the executive and legislative branches of the Government all concur.

Before I conclude, I will notice a distinction taken by the gentleman from Connecticut, (Mr. PITKIN,) who supposes the President may, during war, as Commander-in-Chief, use his army in making roads, but not during peace. This distinction does not exist in the Constitution. That instrument declares that the President shall be Commander-in-Chief of the Army, &c.; there is nothing said about peace or war—he is, therefore, commander during peace as well as during war; and whatever any commander may do as commander, he may do in time of peace. By a declaration of war, new duties are imposed, but his character as Commander-in-Chief is still the same. Being, therefore, of opinion, that we can, constitutionally, make the appropriation, and that it will be expedient to do so, I shall vote for a concurrence in the amendment made in the Committee of the Whole.

Mr. BARBOUR, of Virginia, rose to state to the House some reasons which seemed to him to be conclusive against concurring in the amendment of the Committee of the Whole, then under consideration.

He said that the amendment went to appropriate ten thousand dollars for extra pay to soldiers while engaged in working on, and repairing, military roads. The question, as to the power of Congress upon this subject, had been so much discussed at the last session, that he believed the subject, and the patience of the House, had been alike exhausted. He should not, therefore, at this time, make a single remark in relation to it, except to state the fact, which was sufficient for the purposes of his present argument, that there was great diversity of opinion among the members of this House how far that power extended. Some gentlemen, said he, are of opinion, that Congress can construct roads; others that they cannot *construct*, but may *appropriate money* for their construction; while others think that they can do neither. Some think that the power belongs to Congress; others that it appertains to the President, as Commander-in-chief of the armies of the United States, to make the necessary military roads for the passage of the troops, and the transportation of munitions of war. Some think there ought to be a specific appropriation, while others contend that it had better remain as a part of the item for the Quartermaster's department; in short, said he, there is so much diversity of opinion among us, that it might be said, without a figure, that we agreed in nothing but to disagree. This is the character of the amendment. Let us now, for a moment, examine the kind of bill to which it is proposed to be added; it is, sir, the military appropriation bill, containing provision for the pay, subsistence,

and all the incidental expenses of the Military Establishment for the present year; about not one item of which is there the least difficulty or question, as to principle, except in relation to the one now under consideration. No, sir. As to all the other provisions of the bill, the only question which has arisen has been one of quantity—a question of more or less—how many dollars shall we appropriate to this or that object of expenditure? He would ask the House, then, whether it could be correct to complicate with a bill, as to which we all agreed, or, if we disagreed, our opinions might be easily compromised, and thus terminate in an act of legislation, one single principle, so much contested, as the subject of the proposed amendment? He would ask the House to look at the consequences to which it would lead. It would coerce a very large minority of the House finally to vote against a bill, which, in all its provisions but one, they not only approved, but which might be considered an act of legislation of course; inasmuch as, if we kept up an army, it must be paid and subsisted.

As it respects the President, he would ask whether it was not in effect introducing into Congress the system which at one time prevailed in the British House of Commons, and which had been technically called *tacking?* When that House wished a redress of grievances, it attached a provision therefor to the supply bill for the year; then tendered the alternative to take both or neither. Sir, said Mr. B., if the President should, as some suppose, reject this bill upon the ground of this appropriation, what then would follow? He believed, and he referred to the vote of the last session, when we were almost identically the same members, in support of his opinion, that there would not be found a Constitutional majority to pass the bill. Let us, then, refuse to concur in the proposed amendment; let us pass this necessary bill, and there is yet a plain and obvious mode by which gentlemen can attain the object which they have in view. It has been said that it is desirable that the opinion of the President should be expressed directly upon this question. I am desirous, too, that both the President and Congress should express a direct opinion on the question; and this, sir, is the mode which I propose.

Let the subject-matter of this amendment be introduced into a substantial and independent bill, or incorporated, as an amendment, into a bill upon the subject of internal improvement, just reported by the chairman of the Committee on Roads and Canals; then the question will be discussed and decided upon its own merits; and this affords an answer to an objection which was urged in argument. It was said that the money used to pay for work on military roads had hitherto been drawn from the item for the Quartermaster's department, and, if we struck out this specific appropriation, it would be left in a doubtful state. Mr. B. said he thought there could not be a possible difficulty. When this bill was first reported, the item for the Quartermaster's department did contain $10,000, intended for working on roads. We have, however, by a vote in the Committee of the Whole, diminished that item precisely by the amount of $10,000, and avowedly with a view to present it in the shape of a specific appropriation; now let us strike this specific item from this bill, and then present it in either of the ways which have been pointed out; the result will be, that both departments of the Government will have decided directly upon the question, and the opinion of Congress cannot be mistaken. Under this view of the subject, he earnestly hoped that the proposed amendment would not be concurred in.

After some further remarks from Mr. RHEA against the amendment, the motion of Mr. BEECHER to amend, and several other motions to amend were successively negatived, and the main amendment reported by the Committee of the Whole (to insert a specific appropriation for defraying the expense caused by soldiers working on roads) was concurred in—yeas 90, nays 75, as follows:

YEAS—Messrs. Abbott, Anderson of Pennsylvania, Anderson of Kentucky, Bateman, Bayley, Beecher, Butler of Louisiana, Campbell, Colston, Crawford, Cushman, Davidson, Ellicott, Ervin of South Carolina, Fuller, Gilbert, Hall of Delaware, Harrison, Hasbrouck, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Holmes, Hopkinson, Hostetter, Hubbard, Irving of New York, Johnson of Kentucky Jones, Kinsey, Lawyer, Lincoln, Linn, Little, Livermore, Lowndes, McLane of Delaware, McLean of Illinois, W. P. Maclay, Marchand, Marr, Mercer, Middleton, Miller, Robert Moore, Samuel Moore, Morton, Murray, Nesbitt, Newton, Ogden, Palmer, Parrott, Patterson, Pawling, Peter, Pindall, Porter, Quarles, Robertson, Rogers, Savage, Schuyler, Sergeant, Seybert, Silsbee, Simkins, S. Smith, Ballard Smith, Speed, Storrs, Stuart of Maryland, Tallmadge, Tarr, Taylor, Terrell, Terry, Trimble, Tucker of Virginia, Walker of Kentucky, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Adams, Allen of Massachusetts, Baldwin, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Bellinger, Bennett, Bloomfield, Blount, Boden, Boss, Burwell, Claiborne, Cobb, Cook, Crafts, Cruger, Darlington, Desha, Drake, Earle, Edwards, Floyd, Folger, Gage, Garnett, Hale, Hall of North Carolina, Hunter, Huntington, Johnson of Virginia, Kirtland, Lewis, W. Maclay, McCoy, Mason of Massachusetts, Mason of Rhode Island, Merrill, Mills, Jeremiah Nelson, H. Nelson, T. M. Nelson, Ogle, Orr, Owen, Pegram, Pitkin, Pleasants, Poindexter, Reed, Rhea, Rice, Richards, Ringgold, Ruggles, Sampson, Scudder, Settle, Shaw, Sherwood, Slocumb, Alexander Smyth, J. S. Smith, Southard, Stewart of North Carolina, Strong, Townsend, Tucker of South Carolina, Upham, Walker of North Carolina, Whitman, Williams of Connecticut, and Williams of New York.

The bill was then ordered to be engrossed and read a third time to-morrow.

TUESDAY, January 12.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to enable the people of the Alabama Territory, to form a constitution and State government, and for the admission of such State into the

Union, on an equal footing with the original States;" in which they ask the concurrence of this House.

Mr. Wilkin, from the Committee on Pensions and Revolutionary Claims, to which was committed the bill from the Senate, entitled "An act for the relief of Aquilla Giles," reported the same without amendment, and it was committed to a Committee of the Whole.

Ordered, That the several orders of the day, which precede the bill for the relief of Adam Kinsley and Thomas French, be postponed until to-morrow.

The House resumed the regular order of the day, and went into a Committee of the Whole on the bill for the relief of Kinsey and French.

Some discussion took place on the merits of their case, as well as on that of Charles S. Leonard, for whose relief it was proposed, by Mr. Rich, to add a section to this bill, comprehending the said Leonard in its provisions. This was finally agreed to in Committee, and subsequently by the House, and the bill ordered to be engrossed.

The Speaker communicated to the House a letter from the Secretary of the Treasury, transmitting a statement of the debts, credits and funds of the banks of the District of Columbia, rendered in obedience to a resolution of this House of the 7th instant.

On motion of Mr. Taylor, the Committee on the Public Lands were instructed to inquire into the expediency of extending the time for issuing and locating military land warrants for services rendered during the war of the Revolution.

On motion of Mr. Herbert, the Secretary of the Treasury was instructed to report to the House a statement of the debts, credits, and funds of all the banks in the District of Columbia, not embraced in the terms of the resolution of the House a few days ago.

The Speaker laid before the House a letter from the Secretary of the Navy, transmitting the annual report of the Commissioners, with sundry statements in relation to the Navy Pension Fund, which was ordered to lie on the table.

The Speaker laid before the House another letter from the Secretary of the Navy, transmitting sundry papers, being copies of letters and extracts of letters to the commanding naval officers, which contain all the instructions which have issued from the Navy Department in pursuance of the act of Congress prohibiting the importation of slaves, passed on the 2d day of March, 1807, in obedience to a resolution of the House on the 4th instant.

SEMINOLE WAR.

Mr. T. M. Nelson, from the Committee on Military Affairs, delivered in the following report:

The Committee on Military Affairs, to whom was referred that part of the President's Message, of the 17th November, 1818, which relates to the proceeding of the court martial, in the trial of Arbuthnot and Ambrister, and to the conduct of the war against the Seminole Indians, report:

That after a perusal of the various documents submitted to Congress, on the subject of the Seminole war, they find much difficulty in separating the responsibility of the commanding officer to his Government, from the obligations of the United States to Spain. But, as the occupation and capture of Pensacola and St. Marks are subjects of negotiation and correspondence at this time, between the two Governments, and as the Committee on Foreign Relations will probably consider this part of the President's Message more immediately connected with their branch of the subject, your committee will confine themselves, in this report, to the trial and execution of Alexander Arbuthnot and Robert C. Ambrister.

On the 26th April, 1818, a general order issued at headquarters, Fort St. Marks, by Major General Jackson, signed by Colonel Robert Butler, Adjutant General, detailing "a special court martial, to meet at 12 o'clock, A. M., for the purpose of investigating charges exhibited against A. Arbuthnot, R. C. Ambrister, and such others, who are similarly situated, as may be brought before it."

Your committee do not deem it necessary to attach to their report the proceedings of that court, as every member of the House has been furnished with several copies, to which reference can be made.

Your committee can find no law of the United States, authorizing a trial, before a military court, for such offences as are alleged against Arbuthnot and Ambrister, (except so much of the second charge as charges Arbuthnot with "acting as a spy," of which part of the charge the court found him "not guilty;") nor, in the opinion of your committee, does any usage authorize, or exigency appear from the documents accompanying the report of the trial, which can justify the assumption and exercise of power by the court martial, and the commanding General, on this occasion. It is admitted, as a maxim of the law of nations, that, where the war is with a savage nation which observes no rules, and never gives quarter, we may punish them in the person of any of their people, whom we may take, (belonging to the number of the guilty,) and endeavor by this rigorous proceeding to force them to respect the laws of humanity. Wherever severity is not absolutely necessary, mercy becomes a duty. In vain has your committee sought, among the documents on the subject of the Seminole war, for a shadow of necessity for the death of the prisoners arraigned before the court. The war was at an end, to all intents and purposes—the enemy's strongholds had been destroyed—many of them killed or taken prisoners, and the remainder, a feeble band, dispersed and scattered in every direction. The Spanish fort of St. Marks, which it was supposed, (and no doubt justly,) had protected them, was also in our possession, and so entirely was the war considered to be terminated, that the Georgia militia, under General Glasscock, had returned to their homes. Then where was the absolute necessity which alone could warrant a departure from the exercise of that clemency, of which the United States has heretofore so justly boasted?

Your committee find, in the general order of the 29th April, in which General Jackson orders the execution of Arbuthnot and Ambrister, this remarkable reason, intended as a justification of the executions, principally of Ambrister, but applying to both Arbuthnot and Ambrister: "It is an established principle of the law of nations, that any individual of a nation, making war against the citizens of another nation, they

being at peace, forfeits his allegiance, and becomes an outlaw and a pirate." It may be asked by what system of interpretation the offences charged could be considered as piracies, which imply, in common acceptation, offences upon the high seas, of which the court could not assume cognizance; and it is equally difficult to understand the propriety of the application of the term "outlaw," to the offenders—a term, which applies only to the relations of individuals with their own governments. It will not be pretended, that Lafayette, who volunteered his services in the cause of America, in the war which established our independence, forfeited his allegiance, became an outlaw, and subjected himself to an ignominious death, had he fallen into the hands of the English. Or can it be believed that one voice would be heard in justification of Spain, if she were to execute such of our countrymen as she may make prisoners, while fighting in the armies of the South American Patriots? And if these cases should not be considered of such a nature, as to warrant a resort to so severe a measure, while they occurred with a people in a state of revolution, and considered by the parent countries to be in a state of rebellion, much less could these men (Arbuthnot and Ambrister) be considered liable to it, who were acting with a Power, acknowledged and treated as sovereign and independent by us.

Your committee beg leave to call your attention particularly to the case of R. C. Ambrister, who, after having been subjected to a trial before a court which had no cognizance or jurisdiction over the offences charged against him, was shot by order of the commanding General, contrary to the forms and usages of the army, and without regard to the finding of that court, which had been instituted as a guide for himself.

Your committee must here, in justice to their own feelings, express their extreme regret, that it has become their duty to disapprove the conduct of one who has, on a former occasion, so eminently contributed to the honor and defence of the nation, as has Major General Jackson; but the more elevated the station, the more exalted the character of the individual, the more necessary is it, by a seasonable, yet temperate expression of public opinion, through the Constitutional organ, to prevent the recurrence of incidents at variance with the principles of our Government and laws.

Nor can your committee forbear including in their strictures the court martial who sat on the trial of Arbuthnot and Ambrister. A court martial is a tribunal invested with limited jurisdiction, having for its guidance the same rules of evidence which govern courts of law; and yet Arbuthnot is refused by the court martial, before whom he was on trial for his life, the benefit of the testimony of Ambrister, who had not been put upon his trial at that time, and whose evidence would have been received by any court of law as legal, if not credible. Many other exceptions might be made to the evidence recorded in these proceedings: particularly to the question put to the witness Hambly, viz: "Do you believe the Seminoles would have commenced the business of murder and depredation on the white settlements, had it not been at the instigation of the prisoner, (Arbuthnot,) and a promise, on his part, of British protection?" Answer: "I do not believe they would, without they had been assured of British protection." A leading question is expressly forbidden to be used by a court martial, by Macomb on Martial Law, and of which the court must have been apprized, as it is a work common in the army, and usually referred to by every court martial when in session; and the question was calculated to elicit an expression of opinion and belief from the witness, rather than a statement of facts, upon which alone could the court act. Hearsay evidence, in a case of life and death, your committee will venture to assert, was never before received against the accused in any court of this country, and yet, on the face of the record of the proceedings of the court martial, hearsay testimony is admitted, which had been received from an Indian, who, if present, would not have been allowed to give evidence himself.

After mature deliberation, your committee beg leave to submit the following resolution:

Resolved, That the House of Representatives of the United States disapproves the proceedings in the trial and execution of Alexander Arbuthnot and Robert C. Ambrister.

Mr. JOHNSON, of Kentucky, also of the Military Committee, submitted a paper drawn up in the shape of a report by that committee, which, by a majority of one vote, that committee had refused to accept, and the said paper was read as follows:

"The committee to whom was referred so much of the President's Message as relates to the Seminole war, and the proceedings in the trial of Alexander Arbuthnot and Robert C. Ambrister, report:

That General Jackson, in a short, though sanguinary war, with the Creek nation of Indians, brought them to terms of peace; and in the Summer of 1814, a treaty was concluded with them, wherein they ceded to the United States a territory embracing several millions of acres of land; the effect of this cession was, the cutting off the Indian establishments between the settlements of the United States in Georgia and Alabama, and the Spanish territory. This object being obtained, future peace and safety to our citizens, in that quarter, were confidently anticipated; but, contrary to these just expectations, it was discovered that a hostile disposition was still entertained by the Seminole tribe of that nation, aided by fugitive negroes, and instigated by foreign incendiaries. It having been represented to the Government, that murders had been committed on our defenceless citizens, General Gaines was ordered, in the Summer of 1817, with a considerable force, to take a station in that section, for their protection. General Gaines was directed to keep within the territorial limits of the United States, and abstain from every attempt to cross the Florida line; but to demand of the Indians the perpetrators of the crimes thus committed, in order that punishment might be inflicted upon the guilty, without involving the innocent, and without a general rupture with these deluded savages. The fact of such murders having been ascertained, attended with aggravating circumstances of rapine and cruelty, General Gaines, in conformity with his orders, made the demand. The savages, through the deceptive representations of foreign incendiaries, were led to believe that the strength of the United States was not sufficient to subdue them; or, if their own forces were incompetent to sustain the conflict, they would receive assistance from the British. These promises, made by these unauthorized agents, were predicated upon a pretence, that the United States had bound themselves, by the Treaty of Ghent, to restore the lands which the Indians had ceded, previously to that Treaty, at Fort Jackson; and that the British Government would enforce its observance. Under this influence, they not only refused to deliver the murderers, but repeated

their massacres whenever opportunity offered; and, to evade the arm of justice, took refuge across the line, in Florida. In this state of affairs, in November, 1817, Lieutenant Scott, of the United States Army, under General Gaines, with forty-seven persons, men, women, and children, in a boat on the Appalachicola river, about a mile below the junction of the Flint and the Chatahooche, was surprised by an ambuscade of Indians, fired upon, and the whole detachment killed and taken by the Indians, except six men, who escaped by flight, (one of whom was wounded.) Those who were taken alive on this occasion, were wantonly murdered by the ferocious savages, who took the little children and dashed out their brains against the side of the boat, and butchered all the helpless females, except one, who was afterwards retaken. General Gaines was not yet authorized to cross into Florida, to enforce a compliance with his demand for the delivery of the murderers, while the Indians were collecting in large numbers upon the line, which they seemed to think a perfect safeguard, and from which they continued their predatory incursions, as opportunity permitted. A letter from the Secretary of War, of the 9th December 1817, authorized General Gaines, in case the state of things should continue, and it should become impossible, by any other means, to prevent their depredations, to exercise a sound discretion as to crossing the Florida line, to break up their establishment; and, on the 16th of the same month, the Secretary of War, by letter, directed to General Gaines, fully authorized him to cross the line, and attack the Indians within the Spanish territory, should they still refuse to make reparation for depredations already committed—unless they should shelter themselves under a Spanish fort, in which case he was directed to notify the Department.

Intelligence being received by the War Department of the massacre of Lieutenant Scott and his companions, General Jackson was directed, by letter of the 26th December, 1817, to repair to Fort Scott, and take command of the forces in that quarter; with authority, in case he should deem it necessary, to call upon the Executives of the adjacent States for such additional force as he should deem requisite; in which he was referred to the previous orders given to General Gaines, and directed to concentrate his forces, and adopt the measures necessary to terminate a conflict, which had been avoided from considerations of humanity, but which had now become indispensable, from the settled hostility of the savage enemy. In January following, the Secretary of War, in a letter to General Gaines, says, "The honor of the United States requires that the war with the Seminoles should be terminated speedily, and with exemplary punishment for hostilities so unprovoked." Under these orders, and in this critical state of affairs, General Jackson, with that zeal and promptness which have ever marked his career, repaired to the post assigned, and assumed the command. The necessity of crossing the line into Florida was no longer a subject of doubt. A large force of Indians and negroes was making that territory their refuge, and the Spanish authority was either too weak or too indifferent to restrain them; and to comply with orders given him from the Department of War, he penetrated immediately into the Seminole towns, driving the enemy before him, and reduced them to ashes. In the council-house of the King of the Mickasukians, more than fifty fresh scalps, and in an adjacent house upwards of three-hundred old scalps, of all ages and sexes, were found; and in the centre of the public square a red pole was erected, crowned with scalps, known by the hair to have belonged to the companions of Lieutenant Scott.

To inflict merited punishment upon these barbarians and to prevent a repetition of these massacres, by bringing the war to a speedy and successful termination, he pursued his march to St. Marks, when he found, in corroboration of previous information, that the Indians and negroes had demanded the surrender of that post to them; and that the Spanish garrison, according to the commandant's own concessions, was too weak to support it. Here he ascertained that the enemy had been supplied with the means of carrying on the war, from the commandant of the post; that foreign incendiaries, instigating the savages, had free communication with the fort for carrying on their intrigues; councils of war were permitted by the commandant to be held by the chiefs and warriors within his own quarters; the Spanish store-houses were appropriated to the use of the hostile party, and actually filled with goods belonging to them; munitions of war were furnished them, and property, known to have been plundered from our citizens, purchased from them by the commandant, while he still professed friendship to the United States. General Jackson, therefore, had no hesitation to demand of the commandant of St. Marks the surrender of that post, that it might be garrisoned with an American force; and, when the Spanish officer hesitated to deliver it, he entered the fort by force, though without bloodshed, the enemy having fled, and the garrison being too weak to make opposition. Convinced of the necessity of rapid movements, in order to the ultimate success of the expedition he immediately marched his forces to Suwaney, seized upon the stores of the enemy, and burnt their villages.

Having thus far effected his object, General Jackson considered the war at an end. St. Marks being garrisoned by an American force; the Indian towns at Mickasuky and Suwaney destroyed; the two Indian chiefs, who had been the prime movers and leaders of the savages, one of whom had commanded the party that murdered Lieutenant Scott and his companions, and the two principal foreign instigators, Arbuthnot and Ambrister, being taken and executed, General Jackson ordered the Georgia militia to be discharged, and was preparing himself to return to Tennessee. But he soon learned that the Indians and negroes were collecting in companies west of the Appalachicola, which would render it necessary for him to send a detachment to scour the country in that quarter. While preparing for this object, he learned that the Indians were admitted by the Governor into Pensacola, and enjoyed free access to that town; that they were collecting in large numbers, 500 being in Pensacola on the 15th of April, many of whom were known to be hostile, and had just escaped from the pursuit of our troops; that the enemy were furnished with ammunition and supplies, and received intelligence of the movements of our forces from that place; that a number of them sallied out, and murdered eighteen of our citizens, settlers upon the Alabama, and were immediately received by the Governor, and by him transported across the bay, that they might evade the pursuit.

These facts being ascertained by General Jackson from unquestionable authority, he immediately took up his line of march towards Pensacola, at the head of a detachment of about 1,200 men, for the purpose

of counteracting the views of the enemy, and to execute his orders from the War Department, by terminating the war speedily, and with exemplary punishment for hostilities so unprovoked. On the 10th of May he crossed the Appalachicola at the Ochesee village, with the view of scouring the country west of that river; and, on the 23d of the same month, he received a communication from the Governor of West Florida, protesting against his entrance into that province, commanding him to retire from it, and declaring that he would repel force by force, provided he should not obey. This communication, together with the evident indications of hostility in the Governor, who had been well advised of the object of General Jackson's operations, determined the measures which he pursued. Accordingly, he marched directly to Pensacola, and with but the shadow of opposition took possession of that place the following day, the Governor having fled to Fort Carlos de Barancas, which post, after a feeble resistance, was also surrendered to General Jackson on the 28th; by which the Indians and fugitive negroes were effectually deprived of all possible means of continuing their depredations, or screening themselves from the arm of justice. Thus gloriously terminated the Seminole war, a war reluctantly entered into, but urged by dire necessity, to protect from the tomahawk and scalping-knife of the most ruthless savages our peaceful frontier settlers, who, from decrepit age to helpless infancy, for more than two years had been exposed to their cruelties—a war in which our citizens and soldiers, with their usual fortitude and valor under their persevering and determined commander, endured long and difficult marches, submitted to painful privations, subdued a brave and merciless enemy, without suffering one defeat, or betraying a solitary mark of dismay to tarnish the lustre of their country's glory. A variety of circumstances convinced General Jackson that the savages had commenced this war and persisted in their barbarities under the influence of some foreign incendiaries, more criminal than the uncivilized natives. Alexander Arbuthnot, who avowed himself a British subject and resided among the savages as an Indian trader, was taken at St. Marks, to which place he had withdrawn as danger approached, and was living as an inmate in the family of the commandant. It appearing that he had been a zealous advocate for the pretended rights of the savages, and in this respect the successor of the notorious Colonel Nichols, of the British colonial marines, in the late war with Great Britain; that he had repeatedly written in their behalf to the Spanish Governor of St. Augustine, the Governor of the Bahamas, the British Minister in the United States, and to Colonel Nichols, endeavoring to procure aid from both those Governments against the United States; that he had repeatedly advised the Indians not to comply with the Treaty of Fort Jackson, assuring them that the lands ceded to the United States by them in 1814 were to be restored by virtue of the treaty of peace with Great Britain; General Jackson ordered him to be tried by a court martial, consisting of thirteen respectable officers, with Major General Gaines president. The court was directed to decide upon the fact of his guilt or innocence; and, if guilty, what punishment should be inflicted. Upon satisfactory testimony he was convicted of inciting and stirring up the hostile Creeks to war against the United States and her citizens, and of aiding, abetting, and comforting the enemy, supplying them with the means of war, and by the court sentenced to be hung. Robert C. Ambrister, late a Lieutenant of the British marine corps, and with the hostile Indians and fugitive negroes, the successor of Woodbine, of notorious memory, was taken near the mouth of Suwaney river. It being well known that he had been a leader and commander of the hostile Indians and fugitive slaves, General Jackson also directed him to be tried by the same court martial. Upon satisfactory evidence, he was convicted of having aided and comforted the enemy, supplying them with the means of war, by giving them intelligence of the movements and operations of the Army of the United States, and by sending the Indians and negroes to meet and fight against them; and upon his own confession, as well as the clearest evidence of having led and commanded the Lower Creeks in carrying on the war against the United States, was by the court sentenced to be shot. One of the members requesting a reconsideration of the sentence, it was agreed to; and, on a revision, the court sentenced him to receive fifty stripes on his bare back, and be confined with a ball and chain to hard labor for twelve calendar months. General Jackson approved the sentence in the case of Arbuthnot, and in the case of Ambrister he disapproved the reconsideration, and confirmed the first sentence. They were both executed accordingly. In relation to these transactions, questions of the first magnitude present themselves, which the committee have deemed it their duty to investigate. Was General Jackson justifiable, after marching his army across the line, into the territory of Spain, in taking possession, by force of arms, of the Spanish posts, St. Marks and Pensacola? Had he the right to punish Alexander Arbuthnot and Robert C. Ambrister?

From the facts submitted, it is perfectly evident that the Spanish authorities in Florida did not retain that neutral character which was necessary to render its territory sacred; but, by their own acts, either of hostility or imbecility, they made that territory the seat of war. Independent of the solemn obligations of treaty, whereby Spain engaged to keep the Indians within her territory at peace with the United States, no principle is more firmly established by the laws of nations than this, that a nation at war has the right to pursue the hostile army into the territory of a neutral nation, and to make that territory the seat of war, when either the weakness or partiality of the neutral nation shall suffer the belligerent army, retreating into its territory, there to rally, collect strength, and provide supplies, to enable them to renew the conflict, and especially when munitions of war have been supplied, either by the citizens or authorities of the neutral nation.

But, in the consideration of this subject, it should never be forgotten that Spain was bound, by the solemn stipulations of treaty with the United States, herself to have fought these battles; or, if too weak to have done so, at least to have made common cause with the United States against these lawless tribes of savages. The United States have never recognised the Indians, within her territorial limits, as nations absolutely independent; hence it has ever been considered the duty of the Executive, when they have been guilty of murders and depredations upon our citizens, either in plundering parties or in the more formidable aspect of Indian armies, to order against them the military force of the country, or call into service the militia, as the case may require, to check their barbarities and to punish their crimes.

In accordance with this principle, the Executive has ever acted since the commencement of the present Government. Repeated and bloody depredations upon our southern frontier, in which peaceful husbandmen, defenceless women, and innocent children, were made the victims of savage ferocity, not only rendered it necessary to put into operation the military force of the nation, but the sheltering of the Indians beyond the limits of the United States gave occasion for the orders to General Jackson to pursue them beyond these limits. If Spain regards the Indians in the same light, it was a duty no less incumbent upon her by the laws of nations than by treaty, to have repressed their lawless depredations; and, in her agents' failing to do so, if, through neglect, they made themselves parties in the war; or, if through weakness, they forfeited the right of sovereignty in that territory where they failed to maintain it. But, if Spain regards the Indians as communities absolutely independent, then the territory, by right of occupancy, belonged to the Indians, and not to Spain, and the invasion was of the enemy's territory. Had the commandant of the Spanish post, at St. Marks, done his duty in withholding from the enemy supplies, and in denying them a refuge within the reach of his own fort, the necessity of interrupting his garrison would not have existed; nor is it presumed that any attempt would have been made by General Jackson to possess himself of that post. And it is also presumed that his orders to respect the Spanish posts were predicated upon this supposed state of things. But as the object of the entrance into Florida was the reduction of the Indian force—to bring the Seminole war to a speedy and successful termination, which was exhausting the blood and the treasure of the nation, it was a duty which he owed to his country to effect that object. Any result short of this would have only increased the evils which it was his duty to correct; and this could not be effected while Spanish fortifications were appropriated to their defence, and yet regarded as sacred by him. To have retired with his forces under such a combination of circumstances, which would have confirmed the erroneous impression entertained by the Indians and by the Spanish authorities, of the sacred character of their places of refuge and of succor to our ferocious enemy, would have perpetuated the war, and given it the character of permanency, which the honor of the United States required should be speedily concluded, and with the most exemplary punishment. The commandant at St. Marks himself acknowledged that his command was at the mercy of the Indians and negroes; he ought, therefore, to have hailed the approach of General Jackson, with his American forces, as a deliverer, and to have co-operated with him in the common cause, when he was assured that the object was a military occupation, for the express purpose of putting an end to the Seminole war, and not for conquest. But the facts present this subject yet in a much stronger light to the committee. The Indians received not only shelter, but comforts and munitions, and all the facilities for carrying on the war which a Spanish army could have received from that post. Did this conduct, on the part of the Spanish commandant, result from a hostile disposition? If so, he became a party in the war. Or was it the effect of imbecility, as his professions of great friendship would imply? If so, the act of garrisoning St. Marks with an American force, bears no character of hostility to Spain, but was warranted by the law of nations—by the treaty with Spain, and by the first law of nature—self-protection. Had the Governor of West Florida maintained the neutral character which was confidently expected, and which it was his duty to have done, the Seminole war had here ended, and our flag would not have been unfurled in that territory. The Indian establishments at Mickasuky and Suwaney broken up—their villages burnt—their supplies cut off—St. Marks occupied by our troops—their power in East Florida was entirely annihilated.

In the firm conviction that the war was ended, General Jackson had ordered the Georgia militia to be disbanded, and was upon the point of returning himself with the Tennessee and Kentucky volunteers, when he learned that the object of the campaign was not yet entirely accomplished.

The vanquished enemy, crossing into West Florida, where the authorities of Spain proved as imbecile as in the eastern province, renewed their depredations, by their incursions into the adjoining territory of the United States, and committing murders upon our frontier settlers. Every circumstance, which not only justified the act, but which rendered it an imperious duty for him to enter the Spanish territory of East Florida, was equally applicable to the act of his crossing the Appalachicola, to break down the power of the enemy in West Florida. But the conduct of the Governor, taken in connexion with the circumstances which induced the entrance into Pensacola, rendered its occupancy by General Jackson, if possible, yet more palpably necessary than that of St. Marks. Well apprized of General Jackson's object, that he had not entered the Floridas in hostility to Spain, but to do that which Spain was bound to do, both by treaty and by the laws of nations, to give security to our own citizens, within our own territory, by destroying the power of the savage foes, the Governor of Pensacola, in equal violation of the laws of neutrality and of humanity, succored those enemies, supplied them with munitions of war, sheltered and conveyed from the hand of justice those of them who were returning from the bloody fray: and when General Jackson was executing the righteous mandates of an injured and indignant nation upon them, the Governor commanded him to depart from the territory, threatening to oppose force by force, should he not comply. Thus circumstanced, what should General Jackson have done? Should he have been induced, by the unprovoked and gasconading menaces of a foreign Governor, to retrace his steps? Or, should he have remained stationary, until he could have despatched a messenger to the Executive for instructions how to act? This would have ill become an American General, whose movements were sanctioned by the sacred laws of nature and of nations, and by the solemn stipulations of the foreign Prince, as well as by the authority of his own Government.

Should he have left it in quiet possession of a savage foe? This would have defeated the whole object of the war. There was but one course, in the opinion of the committee, which he could pursue, consistently with the honor of the nation and the safety of its frontier citizens. The Governor of West Florida, by his own act, had become a party with the savages in this war; or had, at least, by his imbecility, forfeited the right of sovereignty within the territory; and the occupancy of the Spanish posts in that province, by General Jackson, was, in the opinion of the committee, a sacred duty which he owed to himself, to his

army, to the Government, and to his country. While this nation scrupulously regards the dictates of justice in her intercourse with all nations, civilized and savage, it is a duty which she owes to her own character and to the safety of her citizens, to assert her rights and avenge her wrongs. In relation to these movements, it appears to your committee that the Executive has sanctioned the act of General Jackson, in the occupancy of those posts, by requiring that condition which the laws of nations and the treaty with Spain justify, in order to the restoration of St. Marks; and if Pensacola is not held subject to the same condition, this does not imply a relinquishment of the right, but should be regarded as the evidence of an amicable disposition towards Spain.

The committee now enter upon the other point; that of the trial and execution of the foreign instigators—Arbuthnot and Ambrister—a subject of more delicacy and tenderness, as it involves the lives and liberties of individuals; yet of equal magnitude, and, in the opinion of the committee, of equal clearness. In ancient times, when barbarism more generally prevailed, and even polished nations seemed unconscious of the ties of humanity, which ought ever to bind the whole family of mankind in tenderness and affection, the practice obtained of putting to death the soldiers and even the citizens of a vanquished enemy, by the sword, and even by the public execution, or of holding prisoners of war in slavery for life, and entailing bondage upon their posterity. But the progress of civilization, aided by the benign influence of Christianity, has, in modern days, produced a radical change, highly honorable to the civilized world.

In consequence of this principle, it follows, that although, when one nation enters into war with another nation, all the citizens of those nations may be considered, in some respects, as enemies to all the citizens of the other; yet they have not a right, in all cases, when they meet, to act in hostility to each other; because women, children, and all others who are exempted from bearing arms, and those employed in rural and other peaceful occupations, are not the proper objects of hostility; nor is it admissible to take the lives of those who fall into the power of their enemies, after they have surrendered; because such act is now unauthorized by the laws of nations, and ever has been a violation of the laws of humanity. So, when armies meet in the field of battle, the soldier who lays down his arms and asks for quarter, is entitled to his life; and the same with garrisons and whole armies; if they offer to capitulate, in cases of great extremity, it is an established principle of the laws of nations, universally acknowledged where civilization prevails, that their lives cannot be justly taken, unless their gross violation of the rules of civilized warfare render it necessary to inflict death as a punishment for their crimes. But death, in such cases, is never the righteous fate of unsuccessful war; much less are peaceable citizens, unarmed, pursuing their lawful avocations, subject to death, or any other acts of hostility calculated to injure them, either in their persons or effects; because such citizens do not offer injury. But, from this general principle and universal practice among Christian nations, another principle arises, as universally acknowledged and equally consonant to the laws of nature and nations, that when a nation, either savage or civilized, departs from these rules, and grossly violates the laws of nations and of humanity, retaliation, or reprisals, are always justifiable, often useful, and sometimes essentially necessary, to teach the offenders to respect the laws of humanity, and to save the effusion of blood.

In such cases, where the guilty persons can be taken and identified, the punishment ought to fall exclusively upon them. Yet reprisals are not, necessarily, even confined to the persons of the guilty; but the laws of war justify the punishment of the offending nation, in any of the persons of the enemy. This nation, ever regarding mercy as her delight, has heretofore abstained from the exercise of this power, though the principle was recognised in the case of Captain Asgill, in the Revolutionary war, and by President Madison, in which it received the sanction of the Legislature, in the late war. When at war with savages, who respect no rule, and are governed by no laws, whose known mode of warfare is indiscriminate murder of all ages, sexes, and conditions, it is a well established principle that their crimes may be lawfully punished in the persons of any of their people; and the citizens or subjects of any civilized nation, by engaging in their warfare, either in personal hostility or by instigating, aiding, and abetting them, thereby identifying themselves with the savages, belong to their nation during the continuance of such engagements, and are, by the true and acknowledged principles of the laws of nations, subject to the same treatment. When reprisals shall be made by inflicting retaliatory punishment upon foreigners thus identified with savages, it is justifiable upon the principle of reprisals alone, and not because they become outlaws and pirates; for the laws of nations justify the citizens or subjects of one nation in entering the service of another nation; and, during such service, they are considered as parts of the nation which they serve, subject to the same treatment, in all respects, as if they were its natural citizens or subjects.

It was upon this principle that the Marquis de Lafayette, Barons Steuben and De Kalb, and General Kosciusko, entered the American service in the Revolutionary war, which was never considered as a just occasion for war, by Great Britain, against France, Prussia, or Poland; nor yet as a cause for regarding them in the character of outlaws and pirates. But, had these distinguished men fallen into the hands of Great Britain, the laws of war would have entitled them to the same tenderness, and subjected them to the same conditions, as native Americans. The same principle is equally applicable to those who enter into the service of the savages.

The universal principle of savage warfare, elicited by their general practice, is that of the most cruel and aggravated murder; not only of their enemies taken in arms, but also of peaceful unarmed citizens, helpless females, and tender infants. If instances have been known wherein they spared the lives of persons falling into their power, these instances have been too few in number, compared with the massacres which they have committed, desolating whole settlements, and murdering whole garrisons, to give an opposite character to their general practice.

The desolation and ruin of the Wyoming settlement, in the Revolutionary war, and the recent massacres at Fort Mimms on the river Raisin, in perfect accordance with their general history, from the commencement of our national existence, furnish sufficient demonstration of this fact.

Alexander Arbuthnot was taken as a resident among the savages, with whom he had identified himself, by acting as their agent, exciting them to the war, aid-

ing, abetting, and supplying them with the means of carrying it on. Robert C. Ambrister was taken in their actual service, as a leader and commander of their forces; by which, as well as by aiding, abetting, comforting, and supplying them, he was also identified with the savages. Agreeably to these principles of the laws of nations, the committee are fully of opinion that General Jackson, as commander of the army, had the right to exercise upon them the law of retaliation, without the intervention of a court martial. However cautiously this rule should be exercised, and desirable as mercy always is, whenever it can be exercised with safety, this godlike virtue has its bounds, beyond which its exercise would be a perversion of justice; and it is presumed that the repeated murders which had been committed upon our citizens, the many bloody trophies of their cruelties found at Mickasuky, and their persisting in hostility against the repeated warnings and threats which had been held out to them, bore conviction to the mind of General Jackson, that the exercise of the law of retaliation had become necessary to the future safety of his fellow-citizens.

But he chose to submit the case to the investigation and decision of a court martial, composed of distinguished officers, by whom Alexander Arbuthnot was condemned to be hung, which sentence was confirmed and executed. By the same tribunal Robert C. Ambrister was, in the first instance, condemned to be shot; but, upon reconsideration, they changed the sentence to that of corporal punishment and confinement to hard labor. The reconsideration was disapproved by Gen Jackson, and the first sentence confirmed and executed. On this last point the committee are of opinion, that it would have been more correct for General Jackson, after submitting the case to a court martial, not only to examine the facts as to his guilt, but to determine the punishment to be inflicted, to have acquiesced in their final and only legal decision as a court. But in this the committee are satisfied that General Jackson did not transcend the power warranted by the laws of retaliation—the prisoner's own confession, and the evidence produced, going to establish the facts which justified its application. And though the principles of national law, involved in this war, would have authorized a more extensive sacrifice, even on the persons of the innocent, yet the committee deem it a matter of great felicitation that punishment fell upon the guilty alone; and that the object is effected with so limited an example of justice. Under this view of the whole subject, the committee can discover much which merits applause, and little that deserves censure; and, from the incalculable benefits resulting to the nation, from the faithful and distinguished services of General Jackson, and the officers and men who served under his command, in terminating finally the Seminole war, are of opinion that they are entitled to the thanks of their country.

The report having been read—

Mr. Cobb, of Georgia, rose to make a motion, the object of which was to give to the report of the Military Committee, as well as to the substitute presented by a member of that committee, a direction which should insure to it a discussion, as full as was desired, at the present session. For this purpose, he moved to refer them to a Committee of the Whole on the state of the Union. These papers, he said, involved principles of great consequence, on which in some measure depended, as he believed, the character of the nation; they also necessarily involved important questions as to the laws of nations, and as to the Constitution of our own country, and ought to have a deliberate consideration.

Mr. Floyd, of Virginia, was as desirous as the gentleman from Georgia of a deliberate discussion of the subject of these reports; but, if they were referred to a Committee of the Whole on the state of the Union, a motion to go into which was always in order, the House might be taken by surprise, or brought into the discussion entirely without notice, at the motion of any gentleman who wished it. He therefore wished the papers should be referred, as in ordinary cases, to a Committee of the Whole.

Mr. Strother, of Virginia, agreed, with the gentlemen who had preceded him, that the report should be so disposed of as to insure a full examination of its merits. The subject, he said, was one of considerable interest and excitement, though he was not under the impression that it was one of great magnitude, nor that it carried in its bosom the fate of the nation, as the gentleman from Georgia seemed to suppose, which depended on far other considerations. The best course to pursue in regard to these papers, Mr. S. thought, would be to lay them on the table. Though not of momentous consequence, he said, yet the decision on them was calculated to implicate the character, and perhaps the happiness, of the illustrious individual whose proceedings it was proposed to censure. He would, in regard to any proposition involving the happiness or reputation of any individual, conspicuous or obscure, act with great deliberation. He was therefore opposed to referring this matter to a Committee of the Whole on the state of the Union, thus putting it in the power of any individual to call it up when he pleased, and to precipitate the House into a discussion unadvisedly and unprepared. He was for not hastily acting on a proposition to censure a man who had given celebrity to the arms of his country, and thrown a brighter lustre on the national character.

Mr. Poindexter, of Mississippi, said he hoped that the House would never agree to a report, in affirming which the House would be required to forget the wrongs inflicted on us by foreign nations, to overlook the inhuman deeds committed on the frontier of Georgia, and to turn its attention to the laudable object of destroying the reputation of one of its most distinguished citizens. It was not in the point of view in which the gentleman from Georgia had regarded the question; it was not from any regard to the savages of Florida, and their allies, British refugees and Spanish agents, or from a wish to crush that man by the strong arm of power—that man who had so much merited the thanks of his country, that he wished a full and early discussion of the subject. He did not wish it, he said, to be referred to a Committee of the Whole, or to lie on the table and be forgotten. He was not willing that any such report as that from the Military Committee, calculated to ruin the reputation of a man

who had rendered so signal services to his country, should be considered as representing the opinion of this House. He was not willing, therefore, that it should remain for a moment on the table, but should undergo a full discussion as early as practicable; which would be insured by referring it to a Committee of the Whole on the state of the Union.

Mr. MERCER, of Virginia, while he congratulated the House on the dignified report which the Military Committee had presented to them, was disposed, in the proceedings on this subject, to act with all necessary deliberation. The only objection he had heard to the proposition to refer the subject to a Committee of the Whole on the state of the Union, was, that it might be called up at any time; this objection, he said, might be entirely obviated by naming a day when it should be called up; and, if a day were not named, the House would always have it in its power, if it chose, to refuse to go into Committee if moved for at too early a day. He should deplore, Mr. M. said, perhaps more than any member of the House, that this should be referred to an ordinary Committee of the Whole, and that the whole session should pass off without an expression, on the part of the House, of its opinion on this subject. With respect to the character of General Jackson, though he would not unnecessarily arraign it, Mr. M. said, he looked, in the view which he took of the importance of this question, to higher objects—to the character of this House and of this nation.

Mr. SMYTH, of Virginia, hoped that the motion of the gentleman from Georgia would prevail. He presumed that the gentlemen adverse to General Jackson were none of them desirous of precipitating the discussion, or taking any advantage, by surprise, of those who approved of his conduct. He supposed that by Monday next every gentleman who desired to take a part in the discussion would be prepared, and that that day would be agreed on. He said he should, when the discussion came on, attempt to show that all the proceedings of General Jackson were justifiable by the law of nations.

Mr. DESHA, of Kentucky, wished the papers to lie on the table, that the members of the House might have an opportunity of examining them; but, if referred to any committee of the House, he wished the substitute as well as the report to be referred—and that, in their publication, they might go together, that the world should see and understand the views of both sides of the House.

Mr. JOHNSON, of Kentucky, suggested the propriety of a concurrence, on all sides of the House, in the commitment of the report and the amendment to a committee, as proposed. If for no other reason than that the Speaker might wish to participate in the debate, he should approve of that course. The subject had excited considerable sensation, and he hoped every opportunity would be given to members, on all sides of the House, to express their opinions. To debate it now was to take up the time of the House to no useful purpose whatever.

After some further remarks from Messrs. FLOYD, COBB, and STROTHER, in support of their respective opinions, and some conversation on a point of order, the question on referring the report of the Military Committee to a Committee of the Whole on the state of the Union was carried without a division.

On motion of Mr. DESHA, the paper offered by Mr. JOHNSON, of Kentucky, as a substitute, was then referred to the same committee; and

Mr. TALLMADGE gave notice that, if no one else did, he should, on Monday next, move to go into a Committee of the Whole on this subject.

MILITARY APPROPRIATION BILL.

The bill making appropriations for the support of the Military Establishment for the year 1819, was read the third time; and the question on its passage was decided, by yeas and nays, in the affirmative, by a vote of 107 to 57, as follows:

YEAS—Messrs. Abbot, Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Barber of Ohio, Bateman, Bayley, Beecher, Bloomfield, Boss, Butler of New Hampshire, Butler of Louisiana, Campbell, Clagett, Crawford, Cushman, Darlington, Davidson, Ellicott, Ervin of South Carolina, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hall of North Carolina, Harrison, Hasbrouck, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Holmes, Hopkinson, Hostetter, Hubbard, Hunter, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Lincoln, Linn, Little, Livermore, Lowndes, McLane of Delaware, McLean of Illinois, W. P. Maclay, Marchand, Marr, Mason of Massachusetts, Mercer, Middleton, Miller, Robert Moore, Samuel Moore, Morton, Murray, Nesbitt, Newton, Ogden, Ogle, Palmer, Parrott, Patterson, Pawling, Peter, Pindall, Porter, Quarles, Rich, Robertson, Rogers, Ruggles, Savage, Sawyer, Schuyler, Sergeant, Settle, Seybert, Silsbee, S. Smith, B. Smith, Speed, Spencer, Storrs, Strother, Stuart of Maryland, Tallmadge, Tarr, Taylor, Terrell, Terry, Trimble, Tucker of Virginia, Walker of Kentucky, Wallace, Westerlo, Whiteside, Wilkin, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Adams, Allen of Massachusetts, Ball, Barbour of Virginia, Bassett, Bellinger, Bennett, Blount, Boden, Burwell, Cobb, Cook, Crafts, Cruger, Culbreth, Desha, Floyd, Folger, Garnett, Hogg, Huntington, Johnson of Virginia, Lewis, W. Maclay, McCoy, Mason of Rhode Island, Merrill, Mills, J. Nelson, H. Nelson, T. M. Nelson, Pegram, Pitkin, Pleasants, Poindexter, Reed, Rhea, Rice, Richards, Ringgold, Sampson, Scudder, Shaw, Sherwood, Slocumb, J. S. Smith, Southard, Stewart of North Carolina, Strong, Tompkins, Townsend, Tucker of South Carolina, Walker of North Carolina, Whitman, Williams of Connecticut, Williams of New York, and Williams of North Carolina.

[The ground of the opposition to this bill is the clause it contains, specifically appropriating ten thousand dollars for extra pay for the soldiers' work in the repairs and construction of roads; this provision being considered to involve the principle of the Constitutional power of the General Government to make roads within the several States. Had this clause been excepted, it is supposed the bill would have passed *nem. con.*]

MILITARY ESTABLISHMENT.

The House then resolved itself into a Committee of the Whole on the bill "respecting the Military Establishment."

[The *first* section proposes to add to the corps of engineers one Brigadier General, one Lieutenant Colonel, two Majors, two Captains, four First and four Second Lieutenants; and to give the same pay and emoluments to that corps as to those of the corps of ordnance. The *second* section provides that the corps of heavy artillery shall consist of four regiments, and of four additional Colonels, and that promotion in that corps shall be governed by the same rule as in the infantry. The *third* section provides that the Quartermaster's department shall, besides the chief of that department, consist of six Majors and two Captains. The *fourth* section provides that, in case of allowance by law to officers for servants and forage, certificates of the servants having been employed, and the forage used, shall not be required. The *fifth* section provides the pay of the Commissary General, and authorizes the addition, to the officers under him, of two Deputy Commissaries, taken from the line, with the rank and pay of Majors of Ordnance. The *sixth* section proposes to allow the Surgeon General the same pay as the late physician and surgeon general, and in a small degree raises the compensation of regimental and post surgeons. Section *seven* provides for the privilege of franking to the heads of the Staff departments, and allows two clerks to each of the offices of Chief of Engineers and of Ordnance, of the Commissary of Subsistence, and of the Medical Department.]

Mr. Williams, of North Carolina, with a wish to try the principle of the bill, to which he was wholly opposed, moved to strike out the first section of the bill.

On the suggestion of Mr. Johnson, of Kentucky, a letter from the Secretary of War to the Military Committee was read, recommending the adoption of the provisions of the bill, as necessary to equalize the standing of different corps, and for the purpose of enforcing economy in the public expenditure.

Mr. Desha supported the motion of Mr. Williams, and went into an examination, section by section, of the provisions of the bill, which he disapproved as generally unnecessary, but some parts of them more so than others. He particularly denied that economy would be promoted by a bill which proposed so great an increase of expenditure.

Mr. Johnson, of Kentucky, observed that he was always anxious to satisfy the inquiries of any gentleman on every subject which had been investigated by the military committee, and by them reported in the form of a bill. In the proposition before the Committee, the sole object was to perfect the most rigid system of economy in every branch of military expenditure. No new system, said Mr. J., is now proposed. But a small modification in the staff department of the army, in perfect harmony with the general system already established, it is believed, will prove highly beneficial in effecting the object contemplated, by producing the highest degree of responsibility. Heretofore the laws of the United States, in relation to the Military Establishment, have effectually imposed responsibility upon agents employed for the disbursement of money, while they have in a great measure failed to carry that responsibility to the articles purchased. The bill regulating the staff, passed at the last session, introduced the principle upon the present system. The experience of one year has proved its utility, but disclosed imperfections in its detail, which the present bill is designed to correct. The various branches of the staff department are placed under the direction of men highly distinguished for honor, honesty, industry, economy, capacity, and experience. The present bill goes to effect the object of imposing upon them that rigid responsibility for property intrusted to them, which will not only secure the proper application of the more costly articles of military equipment, such as cannon and small arms, but to render them accountable for every cartridge, flint, and screw; and if the perfecting of this system will incur a direct expense to the country of a few thousand dollars, it is reduced to an absolute certainty that it will prove ultimately of a great saving, probably in a more than tenfold ratio to the expense. In vain, said Mr. J., shall large sums of money be expended in the purchase of ordnance stores, quartermasters' stores, commissary stores, and medical stores, unless this property shall be preserved uninjured, and applied exclusively to the public service. Many thousands of dollars, during the late war, and even before that period, were lost, forever lost to the nation, for want of this system.

The gentleman from New York, said Mr. J., has expressed an anxiety to know why we retain in service such a large proportion of officers, for the military peace establishment, compared with the rank and file of the army? In reducing the war to the peace establishment, it will be recollected that we retained only the usual number of officers to each company, battalion, and regiment, and it is not known that any supernumeraries are retained. Experience has pointed out a certain organization, in which no radical change has been introduced; no increase of officers of the rank and file of the army has taken place. The staff is independent of the rank and file, and should always be so organized as that a war would effect no derangement or embarrassment in the system. The experience and extensive knowledge of that gentleman, upon a moment's reflection, will suggest to him that the staff of the army must be more extensive in its arrangement than the mere rank and file. It must embrace the vast extent of our maritime and territorial limits, which now extend from Maine to Orleans, from Orleans to St. Peters, on the river Mississippi, near the falls of St. Anthony, Mackinac, and Green Bay, in the North, and from Boston to the Yellow Stone, nearly two thousand miles up the Missouri. This

vast frontier is necessarily embraced by the military department of the Government; and such posts have been and are about to be established as will not only secure us from invasion and predatory incursions, but which give practical demonstration of the power and utility of the War Department, under judicious and faithful management. It was upon this principle that the United States retained ten thousand men, rank and file, independent of the staff of the army, the general staff, the ordnance department, the engineers, the national armories, and the military academy. The duties of the staff embrace also the preparations made in time of peace, for defence, in permanent works, fortifications, arsenals, magazines, and military stores of all descriptions, in every part of this vast and growing Republic, and a sudden increase of our military force to fifty or a hundred thousand men would require no other increase of the staff of the army than such officers as would be attached to each corps for the duties of the camp and the field. Without this general and permanent staff, we should experience great disorder, even in time of peace; and in the event of war, complete derangement and confusion.

The first section of the bill provides, said Mr. J., for an increase of the number of officers of the engineer corps, and places them upon an equality with those of the ordnance department. The utility of this measure will appear obvious to the Committee, if gentlemen will take into consideration the vast importance of that corps, their laborious services, and the benefit derived to the country from the faithful discharge of their duties. It must always be composed of scientific officers. Their duty embraces a military survey of the whole United States. No nation should be destitute of the most intimate knowledge of its own territory, its vulnerable points, its strongholds, and everything necessary to prepare it for defence in every quarter; and no nation can possess this knowledge in such a degree as to be able at all times to make the most advantageous arrangements, without an able and well organized engineer corps. They have been advantageously employed for some time past in surveying the seaboard, and are now extending their views to the rivers and lakes; and it is contemplated to employ them upon the waters of our Western frontier, where their services are highly important at the present time. But the present number is found quite inadequate to the duties required. The prospect of the benefit to be derived to the country from their services is truly flattering, if this provision of this bill shall meet the sanction of the Legislature. In addition to the military advantages which constitute the leading object of the measure, they will furnish information to the civil department, for roads, canals, bridges, and such other improvements as shall become objects of public attention, either to the General Government or to State authorities. Their discoveries will tend to disclose the hidden treasures of the New World. Their researches will advance the knowledge of the natural history of the United States; give us a more extensive acquaintance with the geography of our own country, which is yet in its infancy, and continue to extend this useful and necessary branch of knowledge, till we become familiarly acquainted with the regions of the Rocky Mountains, in the wilderness of the West. While thus enriching the nation with the knowledge of its own territories, their services will prove essentially beneficial, in pointing out from time to time the most suitable points for military establishments, to secure us from the influence of foreign emissaries upon the Indian tribes within our limits, to protect from depredation our frontier settlements, so rapidly extending by clouds of emigrants from the overflowing States of New England, who seek in the Western wilderness comfortable abodes for themselves and their posterity.

The modification proposed by the bill in the Quartermaster's department, is to increase the number of deputy quartermasters general, from two to six, with the rank and emolument of majors of infantry; and to reduce the assistants from sixteen to twelve, whose rank and pay are equal to that of captains in the infantry. This will cause a small increase of direct expense to what is now incurred under the present system, but will still fall very far below the expense incurred under the former system. Before the present arrangement, the annual expense of this corps was 27,096 dollars; under the present system, it is only 13,068 dollars, and with the proposed modification it will not exceed 17,000 dollars. Experience has suggested the necessity of this modification. In the important branch of public expenditure confided to this department, the interest of the nation requires that men of capacity and experience in business should be employed; and it is found that the mere pay and emoluments of a captain are not sufficient inducements to command the services of such men as ought to be employed at the most important points, on whom such high responsibility devolves, and on whose ability so much depends.

The bill, said Mr. J., goes to provide a direct increase of pay to the medical staff; the necessity of which is also founded upon experience. It is scarcely necessary to touch upon the importance to the whole army of this branch, and the utility of its commanding the service of scientific and skilful practitioners. Unless some further inducements shall be held forth, to retain in the service such men of the medical profession as are calculated for real usefulness, the army will be continually suffering from resignations and changes of the most injurious kind. The present system is calculated to prevent untaught, pretended physicians from obtaining appointments; but the compensation allowed is not sufficient to invite their continuance, after a sufficient experience to enable them to pursue a private practice to advantage. It is well known that the most learned of that highly respectable profession require a series of practice to render them highly useful, either in the army or to the community; and, owing to the inadequacy of the compensa-

tion, resignations are become so frequent that it seems as if the army were only designed for the first school of experience, and with no other benefit than to supply the country with a sufficient number of experienced practitioners in medicine and surgery. The health of the army is vitally important to all its objects; and it is but just to the soldier, as well as beneficial to the country, that the medical department should be well arranged and well supplied. To induce a continuance in the service, after qualified by experience for greater usefulness, it is now proposed to allow a small increase of pay after a certain period of faithful service; which increase will be of no considerable account to the United States, but will probably prove an eventual saving of many thousands of dollars beyond the direct amount of expense. The frequent resignations which have taken place in the medical staff have rendered it necessary often to employ citizen physicians, involving an expense considerably beyond the amount of the additional pay now proposed; so that it is confidently believed the proposed modification unites the most perfect economy with the best service to the country. Other parts of the bill, Mr. J. said, would scarcely need explanation, and he would not detain the Committee by going over them; but, if any gentleman should desire it, when they were taken up by sections he would willingly give any information within his power. The leading object of the bill, said Mr. J., is to combine economy with utility, to the greatest possible extent, so that one shall not overpower the other; but that both may harmonize in the advancement of the interest and safety of the nation.

Mr. Colston, of Virginia, was in favor of the recommitment of the bill to the Military Committee, with a view to examine into the practicability of effecting some reduction in the Staff of the Army. He acknowledged that an increase might be necessary in some of the departments of the Army, but he was of opinion that a correspondent reduction in others could and ought to be made.

Mr. Harrison, of Ohio, supported the views which Mr. Johnson had taken of the bill, and elucidated, by various facts and arguments, the expediency of the provisions of the bill.

Mr. Desha acknowledged that he had been rather inattentive to the principles of the bill, but when he heard his colleague (Mr. Johnson) say that it was calculated to economize, the expression roused him—believing that that gentleman, in consequence of his extreme liberality in relation to the military, (arising from the natural goodness of his heart,) had measurably laid aside the word economy. He therefore had requested time to examine the provisions of the bill more particularly, and he now, without hesitation, pronounced the substance of every section of the bill to be the reverse of economy. Mr. D. said he would go through the bill section by section, examine its provisions, and attend to their bearings; and he had no doubt but he could convince the House that it ought not to pass. The first section related to the corps of engineers; the corps as it now stands consisted, he believed, of twenty-two officers, that is, one colonel, one lieutenant-colonel, two majors, six captains, six first and six second lieutenants. The duty of the engineers is to fix on eligible sites for erecting batteries, or fortifications, direct their construction, and to direct the artillery; he knew it was important to have skilful engineers, and it is acknowledged the present engineers were of that character, and he believed the number amply sufficient. He contended that batteries or fortifications was not the defence we rely on; you must rely for defence on the yeomanry of the country, it is their activity and zeal in the cause of liberty, that will deter foreign despots from attacking you, or encroaching on your rights; yet a few fortifications may be necessary, and how many will you want to erect in a season, certainly not more than five or six; one skilful engineer will only be wanting to fix on the site of a fortification, and superintend its construction. You will want, perhaps, three or four topographical engineers to be engaged in surveying and examining your coasts and waters; then you still may have about one half on furlough, independent of the number necessary to superintend the Military Academy. You contemplate by this bill, adding fourteen to the present number; that is, one brigadier general, one lieutenant-colonel, two majors, two captains, four first and four second lieutenants. And what do you want with a brigadier general to command thirty-five men dispersed over the country, as they must be, if they are employed in the line of their duty? In addition to this, the bill contemplates giving to the corps the same pay and emoluments that you give the corps of ordnance, which is raising the pay nearly one-fourth. This is economizing with a vengeance to it!

The second section contemplates organizing the corps of heavy artillery into regiments, instead of battalions, as it now stands. He recollected the arguments in favor of forming the artillery into battalions were, that in consequence of their being dispersed over the country, so that there would not be even a major's command at any one point, there was no necessity of forming them into regiments; will not the same reason hold good now; are they not more dispersed now, than they were at the time of their organization into battalions? They certainly are; because your posts have been increased, you scarcely will have at any one post more than a captain's command: then, he asked, where is the necessity of reorganizing them into regiments, unless it is to make room for more officers, and that of a higher grade? The bill contemplates adding four colonels to the corps. You have now in the corps of heavy artillery, agreeable to the last Army Register, four lieutenant colonels, four majors, thirty captains, thirty-two first lieutenants, sixty-four second lieutenants, and fifteen third lieutenants, making one hundred and forty-nine officers. Is not this number amply sufficient? He thought more than sufficient: but now you are about to add more officers of a higher grade, and we are

told this is economizing. He said, by this kind of economy the people would soon have empty pockets.

The third section relates to the Quartermaster's department, and perhaps is as little objectionable as any part of the bill; but this is so far from going on the principles of economy, that it raises the pay of all the officers attached to the department nearly one-fourth higher than it is at present—by making the pay and emoluments of the officers of the corps the same as the officers of the corps of ordnance of equal grade. As the law now stands, officers of the army are bound to make it appear that they actually kept the servants they are allowed in service, before they could receive pay for them; but, by the fourth section of this bill, they are not bound to give a certificate, consequently it is now considered as an emolument attached to office. According to existing regulations, a major general is entitled to four servants, and a brigadier to three; if this bill passes, one servant will probably be kept by each; then you add twenty-four dollars to the pay of the major general and sixteen to the brigadier. Agreeable to the existing law, officers who exercise their functions on horseback, are entitled to a certain number of horses, according to grade, and are allowed eight dollars per month for forage for each horse, but gets pay for none only those he actually keeps in service, and is bound to certify to the number kept. Agreeable to this section, the officer is not to certify to the number of horses actually kept in service, which is also to be considered as an emolument attached to office. Agreeable to existing regulations, a major general is allowed seven horses, a brigadier general five, a colonel four, and other officers according to grade; neither of those officers will require more than two horses in time of peace—then there is thirty dollars more added to the pay of the major general; this, with the twenty-four in the case of the servants, makes fifty-four dollars per month; add this to the two hundred dollars, his monthly pay, and it makes two hundred and fifty-four dollars per month—and so on to other officers, according to grade, and still my colleague says this bill is economizing.

The fifth section relates to the Commissary's department. I was opposed to the adoption of this measure last session, not that I was pleased with the contract system, as I knew it had defects, but I believed it might have been so amended as to have been a cheaper mode of supplying the Army, and equally safe as to certainty of supplies in time of peace, than the one adopted; which, it appears, as I anticipated, will not answer well without bolstering, but as it is shortly to go into operation, I am willing that it should have the necessary props, if they are not of too expensive a character, agreeable to the law as it stands, exclusive of the head of the department. The President of the United States has the power of appointing as many assistant commissaries as he may think proper, who are to be taken from the subalterns of the line, with twenty dollars per month addition to their pay in the line. This bill contemplates appointing, in addition to the officers now authorized, two deputy commissaries, with the brevet rank, and the pay and emoluments of majors of ordnance, and allowing the numerous assistants that will necessarily be wanting, to be taken from the citizens, with the pay of fifty dollars per month, and two rations per day which makes the pay equal to sixty-two dollars per month. He believed the system at first to be an expensive and improvident one, and he had yet seen no cause to change his opinion. If this is adopted, it will be abundantly more expensive; yet we are told that the whole bill goes on the principles of economy; and in addition to the officers he had mentioned, the head of the department is to be a brigadier instead of a colonel.

The sixth section relates to the surgeons of the Army. A regimental surgeon is now allowed forty-five dollars per month, and three rations per day, equal to sixty-three dollars per month, By this bill they are to have fifty dollars per month, and four rations per day, equal to seventy-four dollars per month. A regimental surgeon's mate is now allowed thirty dollars per month and two rations per day, equal to forty-two dollars per month. Agreeable to this bill they are to have forty dollars per month and three rations per day, equal to fifty-eight dollars per month. A post surgeon is now allowed forty dollars per month and two rations per day, equal to fifty-two dollars per month. And agreeable to this bill they are to be allowed forty-five dollars per month and three rations per day, equal to sixty-three dollars per month. If the pay of the surgeons is too low, let it be raised openly, and not in this indirect way. If we act correctly, praise will be our reward instead of censure. The people, who are virtually the governors in this country, ought to know what we are about. If the pay is too low, let us say so, and raise it openly; but indeed gentlemen, who were favorable to raising their own pay, cannot, in justice, refuse to raise the officers' pay, because the same difficulty attaches to them that did to us—the depreciation of paper money; but whatever is done, ought to be done openly, and not by way of sidewing. We now come to a part of the section that looks a little singular indeed. We are afraid to trust this subject with subsequent Congresses, but undertake to provide for this class of officers as long as they live. Does it not show a great degree of vanity or arrogance in us to pass a provision of this kind? That each regimental surgeon and surgeon's mate, &c., shall have an additional allowance of five dollars per month and one ration per day at the expiration of the period of every three years, which is an addition of eleven dollars per month; but lest it should be thought we were running wild, a proviso is added, that in no case shall the pay and emoluments of an assistant surgeon general exceed those of a colonel of ordnance, which is about one hundred and sixty-two dollars per month; those of a regimental surgeon, of a colonel of infantry, which is about one hundred and forty-seven dol-

lars per month; those of a post surgeon, of a lieutenant colonel of infantry, which is about one hundred and fourteen dollars per month; and those of a surgeon's mate, of a major of infantry, which is about ninety-eight dollars per month. Here is economy with a vengeance! Are we to empty the people's pockets, and bankrupt the nation, in bolstering up the military? Is everything in this Government to bend to the military?

The seventh section gives the liberty of franking to the engineer, quartermaster, ordnance, commissary of subsistence, and medical departments, and gives each of the heads of them two clerks with the same salaries that are allowed to the two clerks in the adjutant and inspector general's office. Here you have a number of separate departments to which you attach high pay and privileges, as well as clerks to do all the labor, leaving only the responsibility to the heads, and yet we are told this is all for the purpose of economizing.

Although the eighth and last section has rather an innocent appearance, it is extremely mischievous in its operation. It assigns one of the subalterns as a conductor to each regiment of infantry, with an addition of ten dollars per month to his pay in the line. The additional pay is no object; but his duty is to receipt and account for all ammunition, implements, and all military stores furnished the regiment. By this regulation you take the responsibility from the colonel of the regiment, and place it on a subaltern officer. It is now the colonel's duty to attend to this business; he is also responsible for the whole; you by this regulation not only relieve him from the labor, but from the responsibility. Can this conduce to the welfare of the service? He apprehended not. Mr. D. said he had gone through the bill; in doing which, his object was to show its different bearings; gentlemen would judge whether it is calculated to economize or not; for his part, he thought it an extravagant and expensive measure. It is calculated to raise indirectly the pay of officers considerably, which, if necessary, let it be done openly, that the people can understand it. It is calculated to increase your staff considerably, which is unnecessary, as we have already the largest staff in the world, according to the number of the Army. Our Peace Establishment is but ten thousand men, and we have a staff sufficiently numerous for one hundred thousand men. It removes responsibility from high officers, where it ought to rest, and places it on subordinate officers, which cannot conduce to the welfare of any corps, and, instead of its being calculated to economize, it will prove extravagant throughout. We have now the most expensive army in the world according to its size. To think of ten thousand men costing annually about six millions of dollars; is it not alarming? and by the adoption of this bill you increase the expense considerably. The Secretary of the Treasury has told you that we will shortly have to resort to loans or internal taxes to meet the demands. This would not be a desirable state of things; had we not better retrench our expenses, in order to ward off this difficulty, than to adopt a bill calculated to increase expenses?

The question was then taken on striking out the first section of the bill, and decided in the affirmative—73 to 52.

The Committee then rose.

Mr. MERCER, of Virginia, expressed his desire that the further consideration of this subject should be delayed until the House should have received the information it had called for, of the strength, &c. of the Army; and,

On motion of Mr. JOHNSON, of Kentucky, the bill was ordered to lie on the table.

WEDNESDAY, January 13.

Mr. RHEA reported a bill to provide for the payment of the pensions of persons under guardianship to their guardians, which was read twice, and ordered to lie on the table.

Mr. ROBERTSON, from the Committee on Private Land Claims, made a report on the petition of Nicholas Jarrott, which was read; when Mr. R. reported a bill for the relief of the said Nicholas Jarrott, which was read twice, and committed to the Committee of the Whole, to which is committed the bill confirming certain claims to land in the Territory of Illinois.

Mr. MIDDLETON, from the committee on that part of the President's Message which relates to the illicit introduction of slaves into the United States, reported a bill, in addition to the acts, prohibiting the slave trade; which was read twice, and committed to the Committee of the Whole to which is committed the report made at the last session upon the subject of the colonization of the free people of color.

The Committee last mentioned were discharged from the further consideration of the petition of "The New York Society for promoting the Manumission of Slaves, and protecting such of them as have been or may be liberated," and the petition was referred to the Committee on Foreign Affairs.

On motion of Mr. PINDALL, the Committee on Military Affairs were instructed to inquire into the expediency of allowing a further time to the guardians of the minor children of deceased soldiers, to relinquish their claims to bounty lands for five years' half pay, as provided by the second section of the act, entitled "An act making further provision for military services during the late war, and for other purposes," approved the 16th of April, 1816.

On motion of Mr. CROWELL, the Committee on Public Lands were instructed to inquire into the expediency of authorizing by law the friendly chiefs and warriors of the Creek Indians to sell to the United States all their right and claim to such lands as have or may be reserved and located for them in the Alabama Territory, in obedience to the first article of the treaty of the 9th of August, 1814, making the reservation, and the law of Congress authorizing the location.

On motion of Mr. HERRICK, the Committee on Roads and Canals were instructed to inquire

into the expediency of providing by law for the appointment of commissioners to survey, lay out, and mark a road from the west bank of the Ohio river, opposite the point where the Cumberland road strikes the same, through St. Clairsville to Columbus; from thence to the western line of the State of Ohio, in a direction to St. Louis, in the Territory of Missouri.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the relief of Doctor Mattrom Ball," with an amendment. They have also passed a bill, entitled "An act further to suspend, for a limited time, the sale or forfeiture of lands, for failure in completing the payment thereon;" in which amendment and bill they ask the concurrence of this House.

The amendment of the Senate to the bill for the relief of Doctor Mattrom Ball was read, and concurred in by the House.

The bill from the Senate, entitled "An act further to amend, for a limited time, the sale or forfeiture of lands, for failure in completing the payment thereon," was read the first and second time, and referred to the Committee on the Public Lands.

The bill from the Senate to enable the people of the Alabama Territory to form a State government, was twice read and committed.

The engrossed bill for the relief of Adam Kinsley, Thomas French, and Charles L. Leonard, was read the third time, passed, and sent to the Senate for concurrence.

The bill for the relief of Benjamin Poole; the bill for the relief of the heirs of Thomas Turner, deceased; and the bill for the relief of Henry Davis, severally passed through Committees of the Whole, and were ordered to be engrossed for a third reading.

The bill authorizing the payment of a sum of money to the officers and crews of gunboats 149 and 154, was taken up in Committee; the blank filled with $5,482, and the bill ordered by the House to be engrossed.

The House then went into Committee of the Whole on the bill for the relief of Kenzie and Forsyth. The bill provides payment for a number of horses and mules which had been employed by the garrison at Fort Dearborn, to remove their baggage and supplies at the time of the evacuation.

Mr. SCOTT moved an amendment to provide payment for a quantity of whiskey and powder, belonging to individuals, destroyed with the fort. This amendment was opposed by Messrs. RICH and STORRS, and advocated by Mr. SCOTT. The amendment was rejected, and the original bill ordered to be engrossed for a third reading.

The Committee proceeded to take up the bill for the relief of John B. C. Lucas and Clement B. Penrose (allowing them additional compensation as land commissioners in Louisiana.)

This bill created also considerable discussion; after which the Committee rose and reported the bills to the House; the former of which was ordered to be engrossed for a third reading; and the latter, after much additional discussion of its merits, was indefinitely postponed.

Mr. SERGEANT presented a petition of Isaac W. Norris, administrator of Joseph Summerl, late of the city of Philadelphia, praying to be allowed and paid the drawback on a quantity of merchandise, exported in the year 1816, by the late firm of Summerl and Brown, which is withheld, in consequence of their not taking the necessary oaths within the time prescribed by law, owing to a mistake on the part of a clerk in the custom-house.—Referred.

SALE OF PUBLIC LOTS IN WASHINGTON.

The House, on motion of Mr. COBB, proceeded to the consideration of the bill reported at the last session, explanatory of the act for the sale of certain public lots in the City of Washington, [authorizing the sale of the open space between the square and the Pennsylvania avenue, so as to extend the lots sold to the line of the avenue.]

The question before the House was, on concurring in certain amendments reported by the select committee, not affecting the object of the bill, and which were concurred in.

Mr. COBB, then, succinctly explained the object and the operation of the bill, dwelling briefly on the utility of the change proposed, in enhancing the value of the ground to be sold, without producing any inconvenience or injury to individuals; the great convenience which would result from bringing the improvements up to the line of the Pennsylvania avenue, instead of diverging therefrom, as would be the case without this alteration. He read the contract with the original proprietors, and argued to show that the contemplated sale would not contravene that contract; that the question involved in the sale, for private purposes, of the public reservations of ground in the city, was settled by the act which heretofore passed, directing the sale, &c.

Mr. SMITH, of Maryland, opposed the bill with much earnestness, arguing that it would be a violation of the contract with the original proprietors; that it would be highly inexpedient to cut up and sell these public reservations, they being necessary to the health, comfort, and convenience of the citizens, as well as the beauty of the city, and were intended to be kept open for these purposes. He viewed the plan as originally adopted, in the nature of a compact between the Government and the purchasers of lots in the city, which could not rightfully be departed from. He cautioned the House against the effects of intrigues, which were frequently carried on by individuals, merely to improve the value of their own propriety, or injure that of others; remarking, that if any change were once made in the plan of the city, that half the time of the House would hereafter be taken up in attending to similar subjects, and illustrated his opinions by reference to proceedings of a like nature in Baltimore. He himself was among the first purchasers of lots in this city, and was deeply interested in it. His purchases were predicated on the belief that the plan of the city would never

be altered. The plan he thought the most admirable one that was ever laid—one great excellence of which was the open spaces left by the public reservations, one of which it was now proposed to sell, which were so much wanted in all large and compact cities, and the great benefit of which, Mr. S. believed, would be hereafter felt here, as he had no doubt it would, in time, become a great city, and a place of great business. The original proprietors, Mr. S. believed, had entered their protest against these sales, and had got the court to stop the sale under the former act; and a court of justice, he hoped, would never permit Congress, or any other power, to deprive individuals of their right.

Mr. Herbert went into a minute investigation of the subject to prove (as well as he could be heard) that the bill, as amended, was inconsistent with the original contract with the proprietors of the soil; and he read many documents to establish his arguments. He was in favor of such a course as would leave the original proprietors at liberty to seek a remedy in a court of justice.

Mr. Barbour wished the bill to be laid on the table, as some questions appeared to be involved in it which ought not to be decided hastily. He wished to give these questions more reflection; though, from the hasty view he had taken of these reservations, it appeared to him that they were intended for public uses; and, though he believed the plan ought not to be changed, yet if it were, and these reservations were applied to private purposes, it would present a question of some difficulty; but in its decision, he did not think the interest of the purchasers of lots entered into the question at all, as they bought under the ordinary chances and contingencies. Mr. B. moved that the bill be laid on the table.

Mr. Cobb replied, that the House had had time enough to make up its opinion on the subject, as the bill had laid on the table a part of the last session and the whole of the present, and hoped it would not again be laid by.

The question was carried, to lay the bill on the table, by a large majority.

Thursday, January 14.

Mr. Smith, from the Committee of Ways and Means, reported a bill supplementary to, and to amend the act, entitled "An act to continue in force an act further to provide for the collection of duties on imports and tonnage, and for other purposes," passed the 3d day of March, 1817; which was read, and committed to the Committee of the Whole, to which is committed the bill to reduce the duties on certain wines, and to declare free of duty books printed in foreign languages.

The Committee of Commerce and Manufactures were discharged from the further consideration of the resolution instructing them to inquire into the expediency of fixing a standard of weights and measures.

Mr. Bloomfield made a report on the petition of Lieutenant Bartlett Hinds, which was read; when Mr. B. reported a bill for the relief of the said Lieutenant Bartlett Hinds, which was read twice, and committed to a Committee of the Whole.

The Speaker laid before the House a report of the Secretary of War, made in obedience to a resolution of this House, of the 18th of April last, instructing him to report a plan for the application of such means as are within the power of Congress to the purpose of opening and constructing such roads and canals as may deserve and require the aid of Government, with a view to military operations in time of war; and, also, a statement of the works of the nature abovementioned which have been commenced, the progress which has been made, and the means and prospect of their completion; which was ordered to lie on the table.

On motion of Mr. Johnson, of Virginia,

Resolved, That the President of the United States be requested to inform this House, (unless the communication of the information be, in his opinion, incompatible with the public interest,) whether any application has been made by any of the independent Governments in South America to have a Minister or Consul General accredited by the Government of the United States, and what was the answer given to such application.

Mr. Johnson, of Virginia, and Mr. Settle were appointed a committee to present the said resolution to the President.

Mr. Rhea, from the Committee on Pensions, made a report unfavorable to the petition of Benjamin Simmons; but, on motion of Mr. Hubbard, and after debate, the report was reversed, and the committee instructed to report a bill for the relief of the petitioner.

The engrossed bill for the relief of Benjamin Poole was read a third time.

[This bill proposes to indemnify Benjamin Poole, an assistant assessor in one of the collection districts of New Hampshire, for the amount of a judgment given against him in the Supreme Court of the State of New Hampshire, in consequence of his having levied a tax on the property of a clergyman, under sanction of the opinion of the attorney of the United States, of the district court, and of the Attorney General, that the real property of clergymen was liable to the direct tax.]

Considerable debate took place on this bill, principally on the nature of the judgment, which, it was contended by Mr. Mills and others, had been rendered on a case made up without a trial of the facts by the jury, in such a manner as to authorize Congress to interfere. This objection was answered by Messrs. Clagett, Livermore, and others; and the bill passed without a division.

The Speaker laid before the House, a letter from the Secretary of the Navy, transmitting sundry papers and statements, showing the different places in which provision is made for the accommodation of seamen, under the several laws relating to navy and marine hospitals, the number of persons, as near as can be ascertained, annually

accommodated at each, and the expense attending the same; transmitted in obedience to a resolution of the House, of the 17th of April last; which was ordered to lie on the table.

The engrossed bills for the relief of Henry Davis; for the relief of Kenzie and Forsyth; authorizing the payment of a sum of money to the officers and crews of gunboats numbered 149 and 154, were severally read a third time, and passed.

The bill for the relief of the Marquis de Vienne, and that for the relief of M. Poirey, both aids de camp of the Marquis Lafayette during the Revolutionary war, passed through a Committee of the Whole, and, after a few remarks from Mr. HARRISON, in their favor, were ordered to be engrossed for a third reading.

ORGANIZATION OF THE MILITIA.

The House then resolved itself into a Committee of the Whole, on the bill, reported at the last session, for the organization and discipline of the militia of the United States.

The bill was read through, when the Committee rose, reported progress, and obtained leave to sit again.

NEW YORK CIRCUIT COURTS.

The House then, in prosecution of the orders of the day, resolved itself into a Committee of the Whole, on the bill to alter the time of holding the circuit courts in the southern district of New York, and for other purposes.

This bill passed this House at the last session, was sent to the Senate, and passed by that body with amendments; and, in this state, presented to the House a new question, under the rule which continues the business of the last session over to this.

It was contended by Mr. CLAY, that it was for the House to proceed to act on the bill, without reference to what might in this respect be the rule of the Senate; and by Messrs. LOWNDES, NELSON, TAYLOR, and PITKIN, that this bill, having actually passed both Houses, except in regard to an amendment, could not be considered as comprehended within the rule.

The discussion resulted in the Committee's rising, leave to sit again being refused, and the bill being indefinitely postponed, by a vote of 55 to 51.

FRIDAY, January 15.

Mr. BARBER, of Ohio, presented a petition of Phœbe Champe, widow of the late John Champe, a sergeant major, in Lee's legion of horse, in the Revolutionary war, and who was employed by General WASHINGTON, in a highly important and secret service, and which is particularly detailed, in the 30th chapter of "Lee's Memoirs of the War, in the Southern Department of the United States," praying for a pension and for a grant of land.—Referred.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, reported a bill for the relief of Samuel B. Beall; which was read twice, and committed to the Committee of the Whole, to which is committed the bill for the relief of Samuel Gibbs.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill for the relief of John D. Carter; which was read twice, and committed to the Committee of the Whole to which is committed the bill for the relief of John Wilmot.

Mr. COLSTON, from the Committee for the District of Columbia, reported a bill supplementary to the act, entitled "An act to authorize and empower the President and Managers of the Washington Turnpike Company, of the State of Maryland, when organized, to extend and make their turnpike road to or from Georgetown, in the District of Columbia, to the line thereof;" which was read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. POINDEXTER, from the committee to which was referred the bill from the Senate, entitled "An act further to suspend, for a limited time, the sale or forfeiture of lands, for failure in ompleting the payment thereon," reported the same without amendment, and the bill was ordered to lie on the table.

Mr. SOUTHARD, from the Commlttee on Indian Affairs, made a report, which was read; when, Mr. S. reported a bill providing for the abolition of the Indian trading establishments of the United States, and providing for the opening of the trade with the Indians, to individuals; which was read twice, and committed to the Committee of the Whole to which is committed the bill to prohibit the Choctaw tribe of Indians from settling or hunting on the lands of the United States west of the Mississippi.

Mr. SOUTHARD also reported a bill to authorize the President of the United States to select such tribes of Indians as he may think best prepared for the change, and to adopt such means as he may judge expedient in order to civilize the same; which was read the first and second time, and committed to the Committee of the Whole last mentioned.

On motion of Mr. PINDALL, a committee was appointed to inquire into the expediency of providing, by law, for delivering up persons held to labor or service, in any of the States or Territories, who shall escape into any other State or Territory; and that the said committee have leave to report by bill; and, Messrs. PINDALL, ANDERSON, of Kentucky, and BEECHER, were appointed the said committee.

On motion of Mr. NEWTON, the committee appointed to inquire whether it be expedient to make any amendment in the laws which regulate the coins of the United States, and foreign coins, were instructed to inquire, also, into the expediency of fixing the standard of weights and measures.

On motion of Mr. WHITMAN, the Committee on Military Affairs were instructed to inquire into the expediency of authorizing the sale of such military sites, owned by the United States,

as have become, or have been found to be useless for military purposes.

The Committee of the Whole, to which is committed the bill, explanatory of the act, entitled "An act for the final adjustment of land titles, in the State of Louisiana and Territory of Missouri," were discharged; and the bill was ordered to be engrossed and read a third time.

Engrossed bills of the following titles, to wit: An act making provision for the claim of M. de Poirey, and An act making provision for the claim of M. de Vienne, were severally read a third time and passed.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a statement of moneys paid to the army for extra labor upon roads and other objects of fatigue duty, for the year ending the 1st October, 1818, so far as the accounts have been received including the extra issues of whiskey, rendered in pursuance of the resolutions of this House, of the 6th and 7th instant; which was ordered to lie on the table.

TERRITORIAL ORDINANCE.

Mr. SERGEANT offered for consideration the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of enacting a general ordinance, whereby the fundamental principles of civil and religious liberty shall be guarantied to the inhabitants of the Territories exterior to the original limits of the United States, and made the basis of all Governments hereafter to be established therein.

Mr. LOWNDES said, that the resolution was rather obscure in its terms, so that its scope was not easily understood. He thought, however, he could perceive what the object of it was. He wished, however, that it might be permitted to lie on the table for the present, to give an opportunity to examine it.

Mr. SERGEANT said he had no objection to the resolution's lying on the table for the present, if any gentleman desired it. With respect to the allusion of the gentleman to the object of it, Mr. S. said, the gentleman was right. He had a particular object in view, which he did not mean to have concealed from the House, but which he did not think it necessary to express more distinctly than he had done in the resolution.

The resolution was ordered to lie upon the table.

INSTIGATING INDIAN HOSTILITIES.

Mr. CAMPBELL, of Ohio, submitted for consideration the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of punishing as spies white men who may be found instigating the Indians to hostilities, or fighting with them, against the United States.

Mr. STORRS objected to this resolution, that it presented a question, to be settled by the law of nations, and not by Congress. It would be a proper question to be settled in a Congress where all the nations of the earth were represented, but it was one not to be taken into consideration here. Our rules and articles of war prescribed the mode of trial of spies, and that was the only way in which Congress could legislate on the subject.

Mr. CAMPBELL said, his object was to institute an inquiry into the propriety of the punishment of white men found fighting with the Indians. It was well known that two men—he knew not what countrymen to call them—Arbuthnot and Ambrister by name, had been considered as outlaws, being found in that situation. On this subject he would not express an opinion; but it was necessary, even if he were an Indian, that every person accused of crime should have some sort of a trial. His sole object was to institute an inquiry into the subject.

Mr. MILLS said, it was very seldom that he should desire to arrest the progress of any proposition for inquiry into any matter; but this motion embraced a question, respecting which no inquiry could be necessary. In addition to the remarks of the gentleman from New York, he stated another objection: if we pass it, said he, we could not object to other Governments, the British, Spanish, &c., legislating on the subject. It was well known that, in our wars with Great Britain, we had employed Indians on our side. This legislation would, to use a vulgar adage, be a game that two can play at, and we might, by passing laws on this matter, subject ourselves to a species of retaliation which would not be at all agreeable.

Mr. NELSON said, he considered this question as already before the House; as, on hearing it stated, the case of General Jackson occurs to every man. Under that question, the power of the Government and the law of nations on this subject, would be fully discussed. To adopt the proposition now before the House, would be, in fact, to pronounce an opinion without inquiry. He was, therefore, opposed to the resolution, because its adoption would be to prejudge a case prepared and set apart for discussion.

On the question being taken, the resolution was negatived by a large majority.

ORGANIZATION OF THE MILITIA.

The House then resolved itself into a Committee of the Whole on Mr. HARRISON's bill to provide for the organization and discipline of the militia.

Mr. BASSETT moved an amendment, as a substitute to the bill, which consisted of upwards of twenty sections, embracing a system different from that of the bill.

Mr. HARRISON delivered a speech of considerable length, in support of the bill, and on the importance of Congress acting on the subject.

Mr. SIMKINS said that the present thinness of the House admonished him that this, although a most important, was not a favorite subject, with this body. He agreed with the gentleman from Ohio, (Mr. HARRISON,) that whenever banks were brought up, or even private claims, in some instances, the undivided attention of the House was given, and when General Jackson and the Seminole war were broached, there was a silence as profound as if the very breaths of members

were suspended; while upon this one, the most important of all subjects, there could be but little attention attracted. This might arise from a constant effort, for a series of years, without any success, in framing an efficient system for the due organization of those who must be relied upon to fight the battles of the country. But, Mr. Chairman, I appeal to the House, said Mr. S., whether the difficulty of the subject is any reason why it should not be at last effected, provided it is of that immense and indispensable importance for which I contend.

Will the House think it amiss, said he, if I call back their attention to the situation of the country at the commencement of the last war? After the Revolutionary war, our citizens had got so completely immersed in commerce, agriculture, and everything else, except a due organization of the militia, and keeping alive that spirit so essential in a republic, that this military spirit and military knowledge were nearly extinct. What were the consequences? They were written in characters of blood in every encounter with the enemy in the fight of the late war, and the innocent blood then spilt, and treasure wasted, would be, it would seem, sufficient to impress upon this, and all future Congresses, a solemn admonitory lesson as to the necessity of an efficient militia.

The Secretary of War was required, by a resolution of this House, at its last session, to report the *number*, *state*, and *strength* of the militia of the several States—and what was the result? Why, that several of the States could not give an account of even their numbers! So great is the lethargy, and fatal, I fear, will be the consequences of this indifference.

Many honorable members of this House seem to be so much opposed to, and jealous of standing armies, that they will hardly vote money for the due organization and efficient regulation of our small one. Yes, this jealousy seemed to exist, to our small though brave army, *nominally* of 10,000, though not more than 6 or 7,000 men, stationed at the numerous forts, and scattered over a territory of two or three thousand miles of seacoast, and from two to three thousand miles in breadth. How then can it be reconciled that those members, so jealous of a standing army, are not among the first to give us an *efficient* militia? They are not the first in the ranks to give us that well regulated, armed, and organized militia, which not only renders a standing army unnecessary, but, I hesitate not to say, which must be the *strength* and *defence* of this great and rising Republic—the basis upon which the liberties of this happy people must rest. A due cultivation, Mr. Chairman, of this military spirit and knowledge diffused among the people will, as the gentleman from Ohio has said, oppose, more strongly than anything else, that influx of riches and luxury which more than anything else threatens to enervate us, and overwhelm and overthrow the fair fabric of our liberties.

Can we, then, Mr. Chairman said Mr. S., justly feel disinclined to the great work contemplated in the present bill, seeing that the *common defence* of the country is emphatically made our duty by that Constitution which we have all sworn to support? In vain has this sacred instrument not only given us the liberty, but made it our solemn duty to provide for the common defence, for calling out, arming, and disciplining the militia, if it is never to be attended to. Although I do not like the bill of the gentleman from Virginia (Mr. BASSETT) so well as that now before the House, and introduced by the gentleman from Ohio, because it seems to me to possess more difficult complication in its classification; yet, there are features in both of which I am extremely fond. They, in the first place, provide an *uniform* system, a matter of great importance; they next provide for calling out the militia by the President of the United States, when public exigency may require. In the third place, they enable the President, by the militia, effectually to repel invasion, not by halting at the *precise line* of the United States, as they most injuriously and fatally did during the last war, upon the borders of Canada, but repelling it, by compelling them, under exemplary fines and forfeitures, to follow the enemy into other countries, until a due and disabling chastisement was inflicted. Another and a fourth great object, contemplated by both bills, is to put *arms*, under due regulations, into the hands of such class of the militia as from youth and other circumstances may be best calculated to defend our country.

There is one feature in the bill, introduced by the gentleman from Virginia, which I would wish to see introduced, if it can be *constitutionally* done, into the bill now before the House. It is that part which contemplates the encampment, disciplining, and training of a certain class of the militia, for a certain number of days in each year, and at the expense of the United States. It is denied by some that the Constitution gives this power. Although I am unskilled in construing this instrument, yet, I can hardly believe that the Constitution which gives us the power of organizing, arming, and disciplining the militia, and governing them while in the United States service, could have been intended to deprive us of the power, a concurrent power with the States, so to discipline or train them as to make them fit for duty. However, without entering minutely into the Constitutional question, I conjure Congress to go as far towards the great object proposed, as may be clearly consistent with the Constitution. If we cannot make a system, even approaching to perfection, let us do all we can. Let us not legislate upon many other things, and leave untouched our greatest duty. Let us not follow the shadow, utterly disregardful of the substance.

Mr. Chairman, said Mr. S., I am no military man, and sorry I am that I cannot afford assistance on the details of the bill. I rose principally to draw the attention of Congress, if I could, to this hackneyed but interesting duty. I am not

vain enough to believe I have fully, if at all, succeeded. I cannot, however, take my seat without bringing again to the attention of the members of this Congress, that if it is intended to preserve to future ages our liberties, commit the defence of our country to a class of young men inspired by the spirit of liberty and trained to military duty. Dispersed over the whole Union, they will be identified with its habits and interests, will be free from all the vicious habits and corruptions of a standing army, and will forever remain the sure basis of your freedom. In speaking freely of the indifference which seemed to me to pervade this House on this subject, I attack the motives of no member. My views may be the dictate of a mistaken zeal or enthusiasm, essaying to do what may be impracticable. If so, I shall at least have the great consolation of having done, as far as I could, my duty, not only to my immediate constituents, but to the nation at large.

Mr. Bassett then spoke at some length in support of his amendment.

Mr. Harrison and Mr. Bassett spoke alternately twice or thrice, in support of their respective opinions.

The question was at length taken on Mr. Bassett's proposed amendment, and decided in the negative.

Mr. Harrison then suggesting that he had several amendments to offer to the bill, the Committee rose, and obtained leave to sit again.

Saturday, January 16.

The Committee on Foreign Relations was discharged from the further consideration of the petition of the New York Society, for promoting the manumission of slaves, and protecting such of them as have been, or may be, liberated; and it was referred to the Committee of the Whole, to which is committed the bill in addition to the acts prohibiting the slave trade.

Mr. Pindall, from the committee appointed yesterday, reported a bill to provide for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory; which was read twice, and committed to the Committee of the Whole, to which is committed the bill in addition to the acts prohibiting the slave trade.

Engrossed bills of the following titles, to wit: An act explanatory of the act, entitled "An act for the final adjustment of land titles in the State of Louisiana and Territory of Missouri;" and An act supplementary to the act, entitled "An act to authorize and empower the President and Managers of the Washington Turnpike Company, of the State of Maryland, when organized, to extend and make their turnpike road to or from Georgetown, in the District of Columbia, through the said District to the line thereof;" were severally read the third time, and passed.

A message from the Senate informed the House that the Senate have passed the resolution "for the distribution of Seybert's Statistical Annals, and directing Pitkin's Commercial Statistics to be deposited in the Library," with an amendment, in which they ask the concurrence of this House. The said amendment was read and concurred in by the House.

BANK OF THE UNITED STATES.

Mr. Spencer, from the committee appointed on the 30th of November last, to inspect the books and examine into the proceedings of the Bank of the United States, to report thereon, and to report whether the provisions of its charter have been violated or not, made a detailed report thereon; which was read and committed to the Committee of the Whole on the state of the Union. The report is as follows:

The committee appointed to inspect the books, and to examine into the proceedings of the Bank of the United States, with directions to report thereon, and to report whether the provisions of its charter have been violated or not, respectfully report—

That, under the leave granted by the House, the committee repaired to Philadelphia, and there personally inspected the books of the bank; and, as a further means of examining its proceedings, they interrogated, on oath, the president, the cashier, all the directors of the bank whose attendance could be obtained, and several of its clerks and officers. Examinations also have been made at the offices at Baltimore, at Richmond, and at the City of Washington, in order to obtain specific information upon certain subjects on which the books of the parent bank were necessarily deficient. From these inquiries, conducted with great labor, and the committee trust with great care, they have collected a mass of information which they now submit to the House, and which will be referred to in the course of this report. This information consists of tables, statements, and extracts made by the committee from the books of the bank, or by them compared with those books and verified; and of the testimony of witnesses, and of letters from the president of the institution.

The committee are aware that, from these sources of information, various important inferences may be drawn, and upon them the most interesting opinions may be predicated; it has been their intention, however, to go no further than was required by the resolution of the House; to avoid speculative opinions on general subjects; and to confine themselves to what they deemed practical objects of inquiry, which they settled among themselves previous to entering upon the investigation. These objects seemed to divide themselves into two classes: those which related to the general management of the bank, and the conduct of its officers, and those which were connected with the question of a violation of its charter. As to the general management of the concerns of the institution, among the points of inquiry which appeared to be most immediately interesting, were those which related to the refusal of the bank and its offices to pay its notes in specie at any other place than that where they were made payable, and to the practice of selling drafts on each other.

It appears that the directors of the bank, on its first institution, and up to the 28th of August, 1818, strenuously endeavored to redeem its notes at all its offices, indiscriminately, north of the city of Charleston. On the 7th day of January, 1817, it commenced operations by discounting notes on pledged stock, and to stock-

holders only, and by the issue of its bills. The officer then at the head of the Treasury Department had repeatedly urged the commencement of operations, with the laudable view, as it appears, of hastening the redemption, by the State banks, of their notes in specie. Vide letters from the Secretary of the Treasury to the president of the Bank of the United States, 15th August and 29th November, 1816, marked I. II.

Efforts on the part of the Treasury to induce the local banks to that measure, appear to have been abortive, until the Bank of the United States made certain propositions which induced negotiations between it and the State institutions, which finally resulted in a compact contained in the resolutions of the board of directors of the 31st January, 1817, herewith submitted, and marked III.; and in order to exhibit how far the bank complied with its compact, a statement of the loans made and of notes issued up to the 20th February, 1817, is submitted, marked IV. It can be necessary only to refer to the state of the paper currency of the country at this period. The notes of the State banks were variously depreciated—some as much as twenty per cent., while others were at a premium. The excessive issue of paper by the local banks had caused an unnatural and artificial depreciation of such paper, which required only time, and moderate but steady reductions to restore, not to a uniform par, but to its true value. Under these circumstances the Bank of the United States had, on the last of February, 1817, (vide statement marked V.,) $8,848,000 due to it from the State banks at Philadelphia, New York, and Baltimore. With such a credit constantly accumulating by the transfer of the Treasury funds, and by the payment of the second instalment in the notes of the State banks, it was in the power of the United States Bank to have coerced the local institutions into a moderate and reasonable reduction of their circulating notes. An attempt to do so was made by the compact, III.; and, although the Bank of the United States appears to have been anxious to effect the object, it did not persevere in this design. By its subsequent acts it improvidently afforded a temptation, to the Western banks particularly, to extend their circulation of notes, by insisting on its branches paying out their own notes in preference to those of the State banks; and on their delivering drafts on the eastern cities, whenever it could be done, to prevent the remittance of their own notes. The branch notes, and the drafts issued in consequence of these instructions, were swept away by the facility of remittance thus unwarily given, as well as by the ordinary balance of trade. A vacuum in the circulation was thus produced, which could be supplied only by the local notes, which were readily received by the offices of the Bank of the United States, and were retained by them as a fund upon which interest was charged to the State banks. The letter of the president, marked VI., exhibits the course pursued by the bank in this respect.

The Bank of the United States received from the Treasury the notes of the local institutions, in many cases as special deposites, to be paid out in similar bills. From April, 1817, to this time, the amount so received appears, from statement VII., to be $2,752,750, of which $87,341 continues on hand, leaving $2,665,409 as the amount voluntarily assumed by the Bank of the United States. The committee have not found any evidence of the bank having attempted to oppress the State banks, either by wanton demands of specie, or by the rejection of their notes. Much complaint has indeed existed, but in the instances which have come to the knowledge of the committee, the State banks have been in the wrong, and some of them at the westward have refused the most equitable propositions of the bank, and have met its demands for its just dues with complaints and reproaches. It was not intended to trouble the House with any of the various letters which have passed on that subject, but as the president of the bank transmitted a letter from the office at Charleston, exhibiting the conduct of the local banks in that place, it is presented to the House, marked VIII.

The committee are of opinion that, instead of conducting with the alleged rigor towards the State banks, the Bank of the United States is liable to the more serious charge of having increased the amount of notes in circulation, by its acceptance of them in those places where it was known they would not be redeemed in specie, and by making them, in the manner beforementioned, the only circulating medium in that part of the country. The forbearance of the bank towards the State banks is vindicated on the ground of its being the only means to induce the resumption of specie payments. This effect, if really owing to that cause, has been proved to be but temporary, and experience has shown that at the same time, or soon after the refusal of the Bank of the United States to receive the notes of its offices, many of the State banks began to suspend and evade their specie payments.

So long as the notes of each office were payable at all the others, and the office issuing them was not exclusively liable for their redemption, the discounts at those places, against which there was a balance of trade, became larger in proportion to their indemnity against demands. As the notes of the offices were rapidly carried off, the payment of these discounts were necessarily made in the notes of the local institutions; and thus it was one inevitable effect of the old system to increase the debts of the State banks to the offices of the Bank of the United States at these places. The demands of the bank were suffered to accumulate improperly, instead of being gradually reduced as specie was required at other offices, and in small quantities that would not have been felt. Their reduction was not insisted upon sufficiently early; and, when the bank began to call for specie, its demands were so considerable as not only to expose the local banks, but the citizens in their vicinity, generally, to very severe pressure.

By substituting the credit of individuals for the payment of the second instalment, which will be presently stated, instead of coin or notes of State banks, the Bank of the United States in a great measure deprived itself of the early and prompt check which the possession of those notes would have afforded, to the more extensive increase of local paper. In July, 1817, the debts due from the State banks were reduced to $3,972,000, while the notes of the Bank of the United States, in circulation, amounted to $4,754,000; by which it might have been subjected to embarrassments arising from the calls of the local institutions. The committee think it evident, from this result, that the bank did not exercise, with sufficient energy, the power which it possessed, and might have retained, but rather afforded inducements to the State banks to extend the amount of their circulating notes, and thus increased one of the evils it was intended to correct.

In answer to an inquiry addressed by the committee on this subject to the president of the bank, they were

furnished with his views, and a letter from the office at Boston, marked IX, and were referred to a report of the committee of directors on the 28th of August, 1818, marked X. These documents exhibit the reasons of the bank for adopting the resolutions of that date, by which the notes of the offices were refused acceptance. In the letter of the Boston office much stress is placed upon the large accumulation of paper and drafts at Boston, issued by the Southern and Western offices. And this became an important object of inquiry. The books of the parent bank do not furnish information respecting the drafts made by, and upon, the offices, excepting those which were made on it. And the committee have not ascertained their amount, except at the offices in Baltimore and this city. From the local situation of Baltimore, the statements obtained at that office, marked XI, XII, may be considered as furnishing sufficient proof of the correctness of the opinion expressed by the Boston office. To the office at Boston, its debt fluctuated between $34,000 and $215,000, until May last, since which it has been indebted to Baltimore $500 to $57,000. Its debt to the office at New York has varied from $100,000 to $1,947,000, and, until October last, it has generally owed that office more than $1,500,000. At that time the New York office was brought in debt to Baltimore $97,278; its debt in November last was $10,948. The explanation of these extraordinary reductions of the Baltimore debts is given from the circumstances of Treasury drafts on the North being delivered directly to the Baltimore office, or sent to it through the office at this city; and by a check on New York for more than a million, given by the parent bank in payment of foreign bills of exchange, hereinafter mentioned. The Baltimore debt to the parent bank has varied from $1,500,000 to $9,000,000, and has generally exceeded $6,000,000. Notwithstanding their heavy debts to New York, Boston, and Philadelphia, the drafts of the Baltimore office on those places continued uninterrupted, and excessive in amount; that office was originally supplied with notes to the amount of $872,000, and had returned to it from Philadelphia $1,697,000, in its notes, and yet it is stated by the teller, that it never had a sufficient quantity of notes to meet its demands; that they did not remain twenty-four hours in the office, but were constantly remitted to the North with the drafts which it issued. And there can be no doubt, on a comparison of the statements referred to, connected with these facts, that the drafts from Baltimore, given for the proceeds of notes discounted, were unwarrantably large, and much more than the balance of trade required.

In a letter of the president, dated June 27, 1817, he observes, "the directors considering (among other things) the low state of the specie and individual deposites at your office, and the magnitude of your discounts and those at this bank, as well for Baltimore as this place, and the very inadequate and disproportioned amount of discounts to which the office at New York has been restricted in consequence of the daily and excessive drafts from your office and this bank, which has become the subject of just animadversion," direct that the then amount of discounts should not be exceeded. The same language is held in other letters, (XIII, XIV,) but it terminated in unavailing remonstrances; the Baltimore office continued its drafts and its discounts, and drained the specie from the Northern offices. And such was the want of firmness or of foresight in the parent board, that, after finding its repeated remonstrances disregarded, it never removed one of the offending directors, and took no effectual step to control them, until the adoption of the general resolutions of August 28, 1818, forbidding the offices to draw on each other. The effect of these excessive drafts on the Northern offices was to compel the constant remittance of specie there to cripple them in all their operations, to limit their discounts to a trifling amount, to cause the revenue paid there, and which would itself have been a capital for business, to be drawn Southward, thus compelling them to deny to the debtors of the Government any indulgence or accommodation in their payments; to bring those offices into debt with the State banks, to produce a general depression of credit, and a severe pressure for money. Those places were, in fact, made tributary to Baltimore; and all their means and energies were required to supply its extravagant issues.

A sudden reduction of the Baltimore debt to the Northern offices appears to have taken place in March and April last, and within a few months past those offices have been brought in debt to it. This is accounted for by the cashier of that office, by saying that it arose principally from Treasury drafts, and by the sale of foreign bills of exchange. Drafts were given in some instances, and to considerable amounts, directly to Baltimore on the Northern offices, and, in other instances, such drafts went through the office in this city. It is not to be presumed that these drafts were given by the Treasury with a knowledge of all the circumstances, or with a view to draw the revenue collected at the North to Baltimore, merely to aid that office in paying its debts. Yet such was the effect, and, although it enabled Baltimore to continue its large discounts, it impoverished the Northern offices, and the cities where they were established were made to feel the pressure. The Baltimore debt to the parent bank will be found to have regularly increased with the reduction of its debts to the other offices, until it remitted $1,007,000 in bills of exchange on London; which remittance is connected, by the testimony of J. W. McCulloch, Esq., with the negotiation explained in the letter of the president, XV. The loan which resulted from that negotiation was on pledge of stock that had been pledged at Baltimore; the bank assumed it and received the bills of exchange, and paid for them, by giving a check on the New York office for the amount, at the time the Baltimore office was indebted to the parent bank more than $6,000,000.

It might have been supposed that the pressure of the Baltimore office upon those more north, was owing to its being pressed by the Southern and Western offices. The fact will however appear from the table XI, that until September last it was indebted to the office at Lexington, that the debts of Cincinnati, Chillicothe, and Louisville to it were small in amount, and that the only office which has constantly owed it is New Orleans, and that office not to a large amount until lately.

From these facts it would seem to result that the embarrassments of the Bank of the United States, in receiving the notes of all its offices, did not arise so much from the fair and ordinary balance of trade, which might have been calculated and provided for, as from the excessive discounts granted at some of the offices, particularly Baltimore and Philadelphia, and the drafts consequent upon those discounts which were made upon the other offices. From the corres-

pondence of the bank with its offices, it is obvious that this was the opinion of the directors and the officers; it is distinctly assigned as one of the grounds for refusing the notes of the offices in the report of the committee, X, and it is more strongly urged in the letter of the Boston office, submitted and adopted by the president, IX, and is eloquently enforced in several of his letters.

This committee is not prepared to say that an uniformly equal currency could have been maintained under the most auspicious circumstances; they are inclined to the opinion that such an attempt would be hopeless, but they consider its abandonment at the time as having been produced by the causes before stated. The efforts of the bank to meet the payment of its notes at all its offices north of Charleston, were certainly great, and particularly at New York and Boston, as will appear from the resolutions marked XVI, and the account of specie remitted XVII. The relinquishment of the attempt was involuntary and reluctant.

From the testimony of the cashier and tellers of the bank, the teller of the Bank of North America, and of the cashier and teller of the office at Baltimore, it will appear, very satisfactorily, that the conduct of the bank and that office in adopting the new system of refusing the notes of the branches, was perfectly fair and equitable; that the bank and the Baltimore office promptly paid and received all the notes of the other offices which had paid out previous to the change of the system, whenever application was made for the purpose, and that in no instance have they refused to do so. Injury probably was suffered by those who had received the depreciated notes in the usual course of business, but the committee cannot perceive how the bank could have changed its system in any manner less injurious to itself and less inconvenient to the public than that which was adopted.

From this change of system, which placed the notes of the offices on the same footing with those of the local banks in their vicinity, resulted a greater difference in the exchange between the different parts of the Union. The offices at New Orleans, Savannah, and Charleston, had never been included in the plan of equalizing the currency. They had always been left to their own discretion in receiving or refusing the notes of the other offices. In May, 1817, the offices at Charleston and Savannah were authorized to draw on those at the North at a premium. In April, those at Lexington and Cincinnati were authorized to purchase bills on the Eastern and Northern cities. In December, 1817, the Southern offices were authorized to draw at a premium on those at the North. In October and November, 1817, the Western offices were authorized to draw at a premium on Philadelphia and the offices south of it; and it appears that the offices at Lexington and Cincinnati, before February, 1818, were in the practice of drawing on the Eastern cities. These facts show that the bank, and most of the offices, sold drafts upon each other long before the adoption of the resolution of the 28th of August, 1818, refusing the notes of the offices; and establish that, while the bank was attempting to equalize the currency, by the payment of its notes at all its offices north of Charleston, it was at the same time selling drafts between those offices at a premium. A system of domestic exchange was adopted by the bank on the 18th of July, 1817, marked XVIII. It contains some provisions which appear exceptionable; but as the plan never was acted upon, it is not deemed necessary to notice them. It has been impracticable for the committee to ascertain the amount, or the rates of the drafts, sold by and upon the offices. On examination of the books of the parent bank, it appears that drafts were sold by it on Charleston, New Orleans, and Savannah, within a few days of each other, at very different rates; on one day at one per cent., and on another day at five per cent. on the same office. It would be in vain to attempt to account for these fluctuations.

However dangerous to the community may be the power of selling drafts, in the hands of an institution whose resources may be adequate to the control of domestic exchange, according to its interest or caprice, yet the committee cannot entertain a doubt that the bank possesses the power. Excepting the fluctuations before noticed, the rate of premium has not hitherto been extortionate, in any instance which came to the knowledge of the committee. The proceedings of the bank and its officers, and the reasons and views entertained by them, are exhibited in the report XVIII, in the letter of the president XIX, and in the extracts from the correspondence XX.

Various opinions are entertained on the expediency of the bank's selling drafts. While many suppose that it would consult its own dignity and interest, in refraining from the practice, and would receive an equivalent for the loss of premium in the confidence and support of the commercial community, by delivering its drafts gratuitously, when it was convenient to draw at all; others contend that the system of gratuitous drafts would open an avenue to favoritism, and, at all events, would expose the bank to the charge in a greater degree than if it sold its drafts. Without expressing any opinion upon these subjects, upon which the community is much divided, and to which the attention of the committee has not been particularly directed, they content themselves with observing, that if drafts are sold, they ought to be at fixed, known, and permanent prices, not exceeding the expense of transportation of specie, on the fair *agio* of business: the want of these fixed prices in the bank and its offices, appears to your committee censurable.

Connected with the subject of exchange, is that of dealing in the notes of the State banks. In a letter of the President to the Charleston office, which had received the sanction of the board of directors, marked XXI, an opinion in favor of the legality and propriety of such purchases is expressed. No evidence, however, has been obtained, that they have actually been made. The practice, in the opinion of the committee, would be highly improper and dangerous, and contrary to the spirit, if not the words of the 9th fundamental article.

Among the resolutions of the directors, are two on the subject of discounts, on a pledge of stock, marked, XXII and XXIII, passed the 18th and 27th December, 1816. These resolutions obviously contemplate only discounts to the stockholders, and one avowed object was to facilitate the payment of the specie part of the second instalment, which was ten dollars on a share, and to be paid by the 23d, January, 1817. The loans were to be confined to the proportions of the coin part of the second instalment, on the shares which had been subscribed at the places where offices were then in operation—New York, Boston, and Baltimore. The total amount of these loans to pay the specie part of the said instalment on the 20th of February, 1817, at Phil-

adelphia, was $199,921 37, and at Baltimore, at that date, was $138,320 00.

The committee have not obtained information of the amount at New York and Boston, but they are informed by the officers of the bank, that the discounts at those places were to a very trifling amount, if any. The committee can see no reason to justify these premature efforts, to aid the payment of the second instalment, before it fell due, and before the experiment was made to ascertain how much could be paid in specie. Those efforts do not appear to have been very successful; for $839,085 only were paid during the month of January, 1817, while $1,078,319 was paid after that period, the greatest proportion in May and June, as will appear from an abstract prepared by the committee, and now submitted, marked XXIV.

The amount paid by checks, also, appears from that abstract, the most, if not the whole, of which were to draw the proceeds of notes discounted for the purpose. And it appears, that in many instances, particularly in one related in Mr. McEuen's testimony, hereinafter referred to, and in another referred to in the President's letter of May 27th, 1817, marked XXV, that the directors did not confine themselves to the amount prescribed in the resolution of the 27th December, that is to the proportion of the coin part of the second instalment, but discounted to the full value of the stock, which was paid for by the proceeds of the same discounts; and the discount, the payment of the second instalment, the payment of the price to the owner, the transfer and the pledge of the stock, were, as it is termed, simultaneous acts. All the discounts on stock, after the 20th February, 1817, were made at the par value of the shares, which enabled the discounter not only to pay the whole of his instalments, including the specie part, and the funded debt part, but also to draw out of the bank the amount which might have been paid in on his shares. It is alleged, in justification of those discounts, that specie bore a very high premium, and that the bank could not have commenced business, unless that mode of obtaining the specie payment had been adopted. With respect to the price of specie, it appears to have been six per cent. at Philadelphia, on the 6th January 1817, and about the same price at Baltimore; and that it had been much higher. Admitting, however, that the price would have been much enhanced, in consequence of its being understood that the coin payment on the second instalment would be rigidly exacted, yet the committee cannot perceive the justice of enabling some of the stockholders to evade that payment, and the consequent loss of the premium on specie, while the majority had been compelled to incur the same loss, in order, strictly, to comply with the law and their engagements; particularly unjust was it to those who resided at such a distance from the bank that they could not avail themselves of the privilege granted. And the injustice appears the greater, when it is known, that the expense of the specie afterwards imported by the bank, in order to supply the deficiency produced by the evasion it had authorized, was assessed equally upon those stockholders who had neglected to pay, upon those who had already, at considerable loss, furnished their quota of coin, and upon the Government. Seven millions was the whole sum required to be paid in coin—the specie part of the first instalment, amounting to $1,400,000 was paid: of the $2,800,000, which was to have been paid at the second instalment, it is impossible to say what amount was actually paid in coin.

The statement before referred to, marked XXIV, will show the payments in coin at Philadelphia; and abstract marked XXVI, will exhibit the nominal payments on all the instalments, of which $13,872,610 was paid by the stockholders in funded debt, (exclusive of the $7,000,000 subscribed by the Government,) instead of $21,000,000 which were required by the law; and $14,100,167 was paid, as stated in the abstract, in coin. But, in that abstract, a check on the bank, or on other banks supposed to pay specie, is deemed a payment in coin; and as the payments on the second instalment continued to be made and received for six months and more, after it was due, and as, during that time, large discounts on stocks were constantly made, it is obvious that the abstract cannot be relied on as exhibiting an actual amount paid in specie. Nor, on the other hand, could the whole amount of the discounts on stock be considered as having been applied to the payment of the second instalment. By statement marked (B) referred to in the cashier's answer, and by this committee marked XXVII, it appears that the discounts on the 30th July, 1817, on pledged stock, amounted to $8,046,932: of this amount, a part was applied to the payment of the third instalment, and a part was drawn out of the bank by the discounters. A large portion of it, is believed, however, to have been used to pay the second instalment. Of the $2,800,000, which was to have been paid at the third instalment, it is believed that a very trifling amount was paid in coin, and as little of the funded debt, but that nearly the whole of both was paid by the proceeds of notes discounted on the pledge of stock. The total amount of specie imported from Europe by the bank, since its institution to this time, appears, by statement marked XXVIII, to be $7,311,750 53, the expense of which, including interest, premium, and $20,000 paid to the agent for going to London, amounts to $525,297 38. The contract made for a part of that specie, and the authority to Mr. Sergeant, the agent, are submitted, marked XXIX, XXX. To the reasons urged by the officers of the bank, that such was the scarcity of specie, that it could not have been obtained, and that, without facilitating the payments by making discounts, the bank could not have gone into operation—the committee observe that they are at a loss to perceive how the simple act of discounting could make the specie more plenty; that, if it was not actually in the bank at the time of making those discounts, the checks of the discounters could not be considered as equivalent to specie.

The amount of specie in the Bank of the United States, in January, 1817, was $1,724,109—$324,000 more than the coin part of the first instalment, and which may fairly be presumed to have been received for the second instalment. If then the checks of stockholders founded upon discounts were equivalent to specie, they were by them authorized to draw out of the bank the very coin which had been paid in by other stockholders, in order to pay it into the bank again, for their own benefit, and to complete the payment of the specie part of the second instalment—an operation of more potency in creating specie than was ever ascribed to the fabled finger of Midas. The general statement in February, 1817, shows that the total amount of bills discounted was $2,930,067—making an excess of $1,205,958 of discounts over the specie in the bank. From which it would result, that the checks for the proceeds of those discounts were not in all cases equivalent to specie. As to the difficulty of the bank going into operation without those discounts being made, to facilitate the payment of the second

instalment, it is not perceived how that measure removed the difficulty; for it is obvious that it did not add a single cent to the specie in the vaults of the institution. What other difficulty than the want of specie the bank had to encounter is not known, as all other obstructions seem to have yielded almost without an effort.

The effect of these discounts was, very obviously, to enable those who had made large purchases to retain their stock without paying for it, and to derive a benefit from its probable advancement in price. Had the bank rigidly required the payment of the instalment, the large stockholders must have sold that portion of their shares which their real means did not enable them to hold; or, if the bank had not exacted the instalments, and had not afforded the means of substituting credit for payment, the stock would not have advanced materially in price, and the large holders of it would have had no inducement to retain it. In either event, a more equal diffusion of the shares would have been the consequence, and it would have reached the hands of solid capitalists, who would have held only what they could pay for. It is believed that the loss of the dividends, and the liability to pay interest on the instalments due, would have been sufficient to compel even the stockjobber to sell. Although if those discounts had not been made the immediate profits of the bank would not have been so large, yet it would not have had an unwieldy capital to manage: it could have proceeded gradually, growing with the growth and strengthening with the strength of the nation, as it emerged from the evils of the flood of paper issued by the local institutions. The bank could have felt its way, and increased its means with the increasing demands of the country. Such a cautious proceeding would have enabled it to render invaluable service in checking the issues of State banks, and bringing them to the alternative of avowed bankruptcy, or to the permanent resumption of specie payments. The evil of the country was the immense amount of bank notes and credits. The Bank of the United States increased it by its credits to stockholders. That course did indeed enable the directors to declare a large dividend, but that the apparent prosperity was temporary and fallacious, is demonstrated by the recent dividend of two and a half per cent.

It might have been supposed, as it has been urged, that the discounting on stock was the only means in the power of the bank to enforce the payment of the second instalmrnt. It is believed that the engagement on the part of the stockholders could have been enforced without difficulty by the courts of law. Decisions to that effect have been made in the States of Pennsylvania, Massachusetts, and New York. And when the stockholder's note was taken without an endorser or any other collateral security but the pledge of the stock, it is not perceived how his legal liability was increased. In the sale of the stock pledged there was indeed a prospect of indemnity, which depended however wholly on the price of shares in the market. The same circumstances that prevented the actual payment of the instalment would have interposed, it is presumed, to obstruct the liquidation of the note in lieu of it. And in the emergency which would have compelled the bank to reduce its discounts, it would most probably require a good price for the stock; and the very necessity of the times which would force an unusual quantity of it into the market, would probably defeat the object of security. In fact, a large part of the amount thus discounted was not paid at the maturity of the notes, (vide statement XXVII,) but was renewed. Of the still larger proportion which appears from that statement to have been paid, it is wholly impossible to determine what part was converted into notes, on personal security, or what part resumed the new shape which was given to notes discounted on pledged stock after the 20th February, 1817. It ought to be remarked that many persons, after finding the disposition of the board, obtained discounts, who were perfectly prepared to pay, and would have paid their instalments, if the inducements to credit had not been offered to them.

Had the bank resorted to its remedy through the courts to obtain the payment of the second instalment, it would probably have obtained something from the stockholders—it could have lost nothing—and at all events would have saved the dividends upon the delinquent stock. But by taking the note of the owner it admitted that the instalment was paid, and abandoned the means of coercion given by the charter in withholding the dividends, and obtained nothing. It did not increase the responsibility of the stockholder, while it exposed the bank to the certain loss of the dividends, and to the chance of loss if the stock should be forced into the market in large quantities.

The committee are of opinion that the resolutions, and the practice of discounting beforementioned, were incorrect; that they were particularly objectionable, from their partial operation in affording facilities to some stockholders, which could not be enjoyed by those at a distance. Even at Richmond, the stockholders made their payments for the second instalment in funded debt and in coin, which was probably purchased at a premium. The committee find it difficult to reconcile those resolutions with the views professed in their adoption, and are satisfied that they were connected intimately with other measures calculated to affect the price of stock, and particularly with discounts of a similar character, soon after made.

One of the acts, obviously intended to give the bank stock a high price in the European market, was the establishment of an agency there, to pay the dividends. On the 28th November, 1816, a resolution was passed, by the casting vote of the president, and against the report of a committee who had been appointed to consider the subject, authorizing John Sergeant, Esq, to make arrangements in Europe for the payment of the bank dividends, at the par of exchange, and at the risk and expense of the bank. Such an arrangement was made, by which it was stipulated to make the payments six months after the dividends were declared; the papers on this subject are marked XXXIX, XL, XLI. How far it was objectionable thus to offer inducements to foreigners to become interested in our stock, and semi-annually to withdraw from the country the amount of their dividends, the committee do not undertake to decide, as they consider it one of those general and abstract subjects to which the resolution of the House does not direct their attention. But, thus to compel American stockholders, and the Government, to contribute to the possible loss of paying the dividends to those abroad, appears unjust. The nearly equal division of the directors on this important subject, and the able reasons assigned in the report of the committee against the measure, ought at least to have prevented the precipitate adoption of the resolution. And when the committee find among the eleven who voted in the affirmative the names of directors

who have been constantly and largely engaged in the purchase and sale of stock, and that of the ten who voted in the negative, not one has been ascertained to have dealt in those transactions, they are almost irresistibly impelled to the conclusion, that the measure was adopted more with a view to enhance the price of shares, than for the permanent benefit of the institution.

The practice of discounting on stock, to the full amount paid upon the shares, appears to have commenced early at the parent bank, under the 4th by law, which is similar to the 15th regulation for the government of the offices, both of which were adopted at the commencement of the institution.

They authorize discounts without an endorser, on the stock of the bank, or the funded debt of the United States, or such other property as shall be approved when pledged to an amount sufficient to secure the payment of the notes. By a statement referred to in the cashier's examination, XXVII, it appears that the total amount of discounts on pledged stock, up to 30th July, 1817, was $8,046,932 64, of which there had been paid, at that time, $2,815,665 04; those loans, it is presumed, were made chiefly at Philadelphia, as the Baltimore loans on stock had not commenced to a large extent at that time. On the 25th July, 1817, a resolution, marked XXXI, was adopted, authorizing the offices to discount notes, secured by a pledge of bank stock or funded debt, with a recital, that it might be desirable to many persons to obtain temporary loans on such pledges, and a form of the pledge was directed to be transmitted; it is marked XXXII. These notes had no endorsers, and the discount was in fact made upon the credit of the stock. For by a resolution of the 30th September, 1817, marked XXXIII, the president and cashier were authorized, in all cases to renew these notes when they fell due between discount days, and by the resolution of November 6th, 1818, marked XXXIV, the president and cashier were authorized, in all cases, when required by the party, to substitute the note and hypothecation of the person to whom stock might be by transferred, and on which loans at par had been made.

By the resolution of 25th August, 1817, marked XXXV, discounts to stockholders were authorized, at one hundred and twenty-five dollars per share, upon presenting collateral security for the twenty-five dollars. The provision requiring an endorser, or collateral security for the excess, above the par value, was in many instances, and to very considerable amounts, effectually evaded, by some of the largest borrowers becoming endorsers for each other. The alleged reasons for the resolution are, that bank shares had been discounted upon, at one hundred and twenty dollars, by the local institutions in New York, and that it was necessary, in order to employ the capital which had been increased beyond the ordinary means of using it advantageously, by the redemption of eleven millions of the public debt. The practice of other banks would not, in the opinion of your committee, afford any justification of the measure; and, when that practice was to be urged as a reason, the directors ought at least to have been correctly informed of the fact. The committee addressed inquiries to the several banks in the city of New York, and, from their answers, it appears, that in two or three instances only, discounts have been made on the bank shares; that those notes never were renewed; and that in no instance has any bank there discounted on the shares of the Bank of the United States above their par value. And, although pains have been taken to ascertain the fact, no evidence has been discovered of any other bank having made discounts on stock above its par value.

The redemption of the eleven millions of public debt, was effected by the application of that amount of deposites to the credit of the Government, then in the vaults of the bank.

Much unfounded and unnecessary complaint appears to have been made by the officers of the bank against this very prudent measure. That it disappointed the expectations of those who calculated on receiving interest from the Government while they discounted on its money is very probable and very natural. And it is not surprising that some expedient should have been resorted to, in order to supply another equivalent source of profit. But there were other resources besides the stock of the bank. The Government stock was better security, and, although it was uniformly above par, the directors seem never to have thought of discounting upon it above its par value. They began by rating it at ninety dollars for every one hundred, while they were discounting on their own shares at par. By a resolution passed 20th May, 1817, marked XXXVII, the Government stock was rated at par; and soon after, bank shares were discounted upon at one hundred and twenty-five for every one hundred, with an endorser for the excess.

The committee are surprised to find so little good paper business done at the bank and its offices, where it was to have been reasonably expected that the merchants would have preferred transacting their business. The directors themselves avow that they uniformly gave a preference to stock notes over business paper; their reasons are contained in their examinations. But, when the complaint is, that the bank had more capital than it could employ, it is singular that any business paper should have been rejected. In July, 1817, that kind of paper, to the amount of about $940,000, and, in August, to the amount of about $493,500, was rejected at Philadelphia; and, at Baltimore, in July, about $407,000, and in August about $183,000, were rejected. These sums are not precisely accurate, but are sufficiently so for general views. Whether this paper was such as ought to have been rejected, the committee have no means of determining. The amounts rejected are probably not more than might be expected from a bank, doing business on such an extensive scale, at any other time than when it was anxious to employ its capital. Not an instance has occurred of a note secured by a pledge of stock being rejected.

On the 9th of January, 1817, the board resolved, (paper marked XXXVI,) from and after the 20th February then next, and to the 1st of July, to discount notes to those who should have revenue bonds to pay during that period. The amount done under that resolution was small, and it does not appear that such notes have, at any time, been discounted extensively.

The principal business of the bank certainly has been to discount on notes secured by a pledge of stock, under the various resolutions before recited. Their effect was to abandon all personal security, and to rely entirely on the stock pledged—a system which, your committee think, need only to be stated to insure unqualified reprehension. Besides the objection which arises from these loans being in their nature perpetual, after all personal security was abandoned, it appears to have been an act of self-

immolation, thus to place beyond the reach of the institution, in the event of an emergency, to which it and all others are liable, so large a portion of its loans. On the 20th October last, a statement was made, exhibiting the amounts discounted on notes secured by a pledge of the bank stock, and then remaining unpaid, at the following places: at Philadelphia, $4,680,800, of which $173,450 was above the par value; at Baltimore, $2,402,435, of which it cannot be ascertained what proportion was above the par value, but it is believed to have exceeded $500,000; at Charleston, $897,429, of which $2,000 was above par; at Washington, $298,570, of which but a small amount was above par; at Richmond, $209,840, and none above par. There are no accounts from the other offices, the directors having required statements only from those whose discounts on stock exceeded $100,000. A statement has been furnished by the bank of the amount discounted at the above places, and remaining unpaid at this time, marked XLII, which differs somewhat, but not materially, from the statement in October last; by that statement, the total amount of discounts at the bank and at those offices, on pledged stock, is $8,022,954; and, by the general statement on the 1st December last, the total amount of such discounts, at the bank and all its offices, is $8,934,712; the difference between which sums is the amount discounted at all the other offices not above enumerated. The committee have compiled a statement (XLIII,) which exhibits, among other things, the total amount of discounts at the bank and all its offices, at different periods, on personal security and on pledged stock, from which it will appear that the largest amount discounted on bank stock was in January and February, 1818, when it was $11,244,514.

From this recital it will be apparent how large a portion of the capital of the bank was thus placed beyond its control. Although there have been some fluctuations in the amounts of those discounts at different periods, yet the greatest part of them, indeed the whole, with but few exceptions, have been constantly renewed from time to time, as the notes fell due, in many cases at four and six months. Indeed every subsequent act of the bank has been wholly at war with the profession of these loans being temporary, held out in the recital of the resolution of the 25th July, marked XXXI, and, in order to insure the greatest amount of such loans, and at the same time afford facilities to the prompt purchase and sale of stock, the directors, on the 8th August, 1817, passed a general resolution, authorizing the president and cashier to discount all stock notes that should be offered between discount days, to a certain amount; and, by various resolutions, adopted at different meetings until 7th September, appropriated $2,000,000 to their disposal for that purpose. The papers referred to are marked XLIV. And on the 30th September, 1817, the resolution already referred to, marked XXXIII, passed, authorizing those offices, in all cases, to renew the stock notes as they fell due between discount days.

Another, and probably much more censurable effect of these various resolutions and proceedings was, to keep the price of the stock constantly advancing, until it reached a point where it exploded and fell. From various sources of information, the committee have compiled a table of the prices of stock, at the different periods, which these resolutions were adopted, marked XLV, from which their effect in enhancing the price of shares is very clearly exhibited. It will appear, from that table, that the price of shares at Philadelphia on the 20th of August, 1817, was, according to the public reports, $147 50; according to the testimony of Mr. McEuen, a broker, it was $144; at the same place on the 30th of the same month, the price was $156 50. The resolution, authorizing discounts on stock, at $125, was passed on the 25th of the same month, vide XXXV. These facts would, in the opinion of your committee, be sufficient to condemn a system, which thus enabled a stockjobber to sport with the property of others. Stockjobbing, to an immense extent, and wagers on the price of shares, were its inevitable consequences. It gave equal facilities to the bankrupt, who had not credit enough to obtain an endorser, and to the capitalist. Stock could be, and was purchased, without the advance of a cent, by the purchaser, who had only to apply to the directors, or to the president and cashier, between discount days, for a loan on the shares about to be bought, and, by what is termed a simultaneous operation, he obtained his discount, and with it paid for his stock. A rise in the market would enable him to sell his shares, pocket the difference, and commence operations anew. And the committee are compelled to state, that, in fact, the largest loans on pledged stock were made to brokers, and to individuals, who appear to have been constantly in market. Loans on stock, at a rate below its par value, may, unquestionably, be useful to the merchant, who would avoid the obligation imposed by requiring an endorser, and would be highly beneficial to the bank, when restrained within moderate limits, and not made permanent.

But the loans actually made were most of them unreasonable and excessive in their amount; they were not made to the merchant and trader, but to a few persons consisting of directors, brokers, and speculators; and have been renewed and continued, almost invariably, at the option of the borrower. And when, in July last, the board decided a curtailment of its discounts, it fell in almost all cases upon the business paper, while the immense amounts loaned on stock pledges were but little affected, excepting at the offices at Richmond and Washington, where the curtailment appear to have fallen equally on all notes.

But the discounts at those places on stock were very small, particularly when compared with Baltimore, where the loans were such and so long continued as to receive the animadversions of the parent board. An unwillingness to injure the private credit of those engaged in the abovementioned transactions, where no public good is perceived to be probable from the disclosure, induces the committee to withhold the mention of their names.

But in respect to the directors, the committee consider their conduct intimately connected with the general management of the concerns of the bank; and, under a sense of the duty devolved upon them, they state that many of the directors, as well those appointed by the Government as those elected by the stockholders, appear to have been the most forward and the most active in trafficking in stock. The mere purchasing shares with an intention to return them, would not be improper, even in a director, if made without any view to intended future proceedings of the board of which he was a member. But the practice of purchasing at one time, when the stock was low, and selling at another, after its price had been enhanced by the measures adopted by the directors, is

certainly unfair and censurable. It is the perversion of a public and honorable trust to the purposes of self-aggrandizement, and places the directors in a situation where their own interests afford a strong temptation to the abuse of that trust. Still more reprehensible is the conduct of those directors who made contracts for the purchase of stock deliverable and payable, at a future period, at a low rate, and during the intermediate time, by their own official acts, raised the price of the stock to its highest point. The committee do not deem it necessary to repeat the details, which will be found in the examinations of the directors and officers, herewith submitted, marked LII, LIII.

By comparing those examinations with the prices of stock hereinbefore referred to, the House will be enabled to perceive which of the directors have participated in this business. With respect to the public directors, considering them as public officers, responsible to the Government, and subject to the Constitutional power of this House, the committee deem it their duty to state that the president, William Jones, Esq., and George Williams, Esq., appear, from their own declarations, and from the testimony of a number of witnesses, to have been deeply concerned in those speculations. Mr. Jones appears to have purchased 1,555 shares at a high rate, and to have sold a large part of them at a loss. He states that, in the Summer of 1817, he purchased a contract of 1,000 shares, at $132 per share, deliverable 2d January, 1818, and soon after another contract for 1,000 shares, deliverable in November following, at $135 per share; both of which, he says, were sold at $150 per share; from which two contracts, it would appear, he realized $33,000. There is much ambiguity resting on these transactions, arising from the incompatible statements of Mr. Jones, Mr. George Williams, Mr. D. A. Smith, and Mr. James W. McCulloch. The three latter gentlemen appear to speak of the same contracts and purchases, but give accounts of them somewhat variant from that of Mr. Jones; particularly, Dennis A. Smith and James W. McCulloch speak of one of those contracts, or of some other, as having been presented to Mr. Jones gratuitously, after the stock had risen, and it was obvious that a profit would be realized, of which Mr. Jones makes no mention. Mr. Jones states that he sold both those contracts to D. A. Smith; Mr. Smith says he was one of the persons who made one of these contracts a present to Mr. Jones; that the stock never was transferred; and that the profit, amounting to $15,000, was paid to Mr. Jones in money. Although the precise time is not specified by Mr. Jones, yet it is obvious, from the rate at which the contracts were purchased, that it must have been some time anterior to the 25th of August, 1817; for, at no time after that period, during the year 1817, was stock so low as 135. That the resolution of that date, authorizing discount on stock at 25 per cent. above its par value, had an immediate effect on its price, will have been seen from a former part of this report. The committee do not hesitate to say, that although his motives may have been strictly correct, and his vote given without any reference to his private interest, yet his situation forbade his acting on a question whose result was so important to him; or rather that he ought never to have placed himself in that situation. The high trust reposed in the president of a National Bank by the Government, and by the representatives of the stockholders, required that he should abstain from all concerns in which the price of stock was material. Mr. Jones appears to consider them as lawful private concerns; the committee deem them intimately connected with the public management of the institution; of their lawfulness and propriety, it is for the House to judge.

Mr. George Williams, another public director, appears to have been deeply concerned in the purchase of stock, and in the making and purchase of contracts for the delivery of stock to a large amount. Every witness that has been examined speaks of Mr. Williams's transactions in that respect. Mr. Williams himself declined stating the amounts and prices at which he purchased, and the committee did not think proper to insist upon his answers, as they had already obtained satisfactory information respecting his conduct; and examined him chiefly to give him the opportunity of making such explanations as he thought proper, of which he was advised at the time. With respect to the other public directors, Messrs. Pierce Butler and John Connelly, it satisfactorily appears that they were not in the least concerned in these stockjobbing transactions; and, with respect to Walter Bowne, although his residence in New York did not give the committee the same means of information, yet no evidence has been discovered to implicate him. Jonathan Smith, Esq., the cashier of the bank, has had considerable dealings in the purchase and sale of stock, and in making and purchasing contracts for its delivery at future periods. The remark is applicable to J. W. McCulloch, Esq., the cashier of the office at Baltimore, to a much greater extent. Although these gentlemen might have no direct agency in the measures which were to affect the price of stock, yet the influence of their stations ought to be great; and it is to be lamented that they should have placed themselves in a situation where the exercise of that influence might be ascribed to improper causes. With respect to the other directors, their examinations will enable the House to determine how far they have mingled in these transactions.

Besides the objection which has already been urged to the resolution of the 8th August, 1817, authorizing the president and cashier to discount notes, as being connected with a series of proceedings evidently calculated to enhance the price of stock, by affording facilities to the making of prompt purchases, it is still more objectionable as being a delegation of power which, in the opinion of your committee, the directors had no right to grant; and when, connected with the power also given to them, of indefinite and unlimited renewal of the stock notes, it was placing the great bulk of the capital of the bank entirely within their control. The same practice appears to have been almost universal at the office in Baltimore, where the president and cashier, as appears by their examinations, have, under the authority of the board of directors at that place, always discounted notes without an endorser, secured by a pledge of stock. As they were not restricted by the board, they appear accordingly to have exercised the power to a very considerable extent. Still more objectionable, in the opinion of your committee, is the practice at that office of allowing the president and cashier to purchase or discount drafts and bills, payable from sight to sixty days; because, in those discounts, the personal security is the most important circumstance. It has been done to very large amounts, though no loss appears yet to have accrued. At Richmond, an equally improper delegation of power to the cashier appears to have been granted, in authorizing him to discount notes on pledged stock at sixty

days; and afterwards, a similar authority to discount at four months. After an experiment of three weeks, the directors of that office had the wisdom to abandon it—vide papers of Richmond office, XLVI. At the office in this city, the power has been discreetly limited and as discreetly exercised. Two by-laws of the bank seem to your committee to deserve notice—one of them, that no discounts shall be made without the consent of three-fourths of the directors present; and another, that no director, without special authority, shall be permitted to inspect the cash account of any person with the bank. Those by-laws appear to render nugatory the provisions of the charter, authorizing the appointment, by the Government, of one-fifth of the whole number of directors; and are different from the provisions in that respect by the former Bank of the United States, although most of the local banks in Philadelphia have similar regulations. Should a state of things exist, in which the stockholders should deem their interest hostile to that of the nation, such provisions as those stated would render the Government directors mere spectators of the proceedings of the board. The committee endeavored to obtain a statement of the shares, upon which the instalments had not been paid, and of the persons owing them. The officers of the bank satisfied them that, from the irregular manner in which the accounts of the payments had been made, it was impossible to obtain an accurate statement. But the fact is admitted, that the dividends have been paid to some delinquent stockholders, who are few, and to whom but a small amount of stock belongs. The dividends have been uniformly paid to those stockholders whose notes were discounted to the full par value of the stock, with the proceeds of which they paid their instalments, including the funded part as well as the specie part. The injustice of this proceeding towards those who had really paid their instalments according to their engagements, and who received no more benefit from those payments than those stockholders who substituted their stock in place of specie and funded debt, is most obvious. The stock that had really never been paid for, but which remained pledged for the very credit given it, was entitled to draw, and did draw, as much dividend as that which had been fairly and punctually paid.

The root and source of all these instances of misconduct, was the illegal and reprehensible division of stock. By the first fundamental article of the charter, no person, copartnership, or body politic, shall be entitled to more than thirty votes; and yet, in violation of this provision, it will appear, from the examination of Thomas Leiper, George Williams, Dennis A. Smith, and James W. McCulloch, it was a common and general practice, well known to the judges of the election and to the directors, to divide shares into small parcels, varying from one to twenty shares to a name, held in the names of persons who had no interest in them, and to vote upon the shares thus held, as attorneys, for the pretended proprietors. By some of the witnesses, it is avowed that the object was to influence the election. Mr. Leiper, one of the judges of the first election, states that he did so himself. The effect was, that Baltimore, which had about one-seventh of the shares owned by individuals, gave more than one-fourth of all the votes that could be given.

In that place there were 1,172 shares taken in 1,172 names, by George Williams, as attorney, the whole of which, on examination, he owned. At Philadelphia nearly one-third of the shares were owned, and the votes given at that place were about two-ninths of the whole authorized. For a more particular knowledge of these divisions of shares, the committee refer to the statement herewith submitted, marked XLVII. They are not aware that any remarks which could be made by them could present the subject in a stronger light than the above statement of facts. The same persons who thus held the power of appointing directors, are found to have the greatest loans on stock. It is alleged that they have now consolidated the shares; but, when occasion shall require their division, former practice will facilitate the operation. In the opinion of the committee it is the greatest evil in the whole system, and is the origin of all others. So long as the large stockholders can control the choice of directors, so long can they hold and acquire immense amounts of stock, by the proceeds of notes discounted on their shares, and, so long as they can obtain such discounts, they can control the election of directors. The system places the property of the other stockholders, and of the Government, the credit of the bank, and of individuals, and, in a measure, that of the nation, at the mercy of a few large stockholders, who, without having really contributed to the wealth or value of the institution, have the control of its concerns. It requires a corrective; and the committee are of opinion, that it is in the power of Congress to pass a supplementary law, not contrary to, but in support of the provisions of the charter, and to give it the true and real effect originally contemplated. And they have instructed their chairman to ask leave to report a bill prepared for that purpose.

The committee deem it their duty also to submit to the House a resolution marked LXVIII, authorizing a discount of a note of $20,000, at 60 days, and directing that it should be paid by a post note drawn at 60 days after date. It is stated by the cashier, in his examination, that that post note was made payable in Philadelphia. They find a resolution of the 30th of January, 1817, XLIX, expressly authorizing the office in Baltimore to grant discounts to the amount of $100,000, to be paid in post notes at 60 days after date. There is no doubt entertained that this was done in Baltimore from its subsequently asking permission to do more, although, from the manner in which the books of that office are kept, it would be difficult to ascertain the fact. The only circumstance which throws any doubt upon the transaction being deemed usurious is, that instead of exacting more than lawful interest, the bank has charged and received interest on money that it never loaned. Not being a draft on another office, it cannot be considered as an exchange operation. As the parties have a remedy in the courts of justice for any injury they may have sustained, the committee do not deem it necessary to recommend any provision on the subject.

Under the resolutions authorizing discounts on pledged stock, a form of pledge was adopted, marked XXIII. A, and under the resolution of 25th July another form was adopted, XXXII, both of which were used by those obtaining loans. Although the latter form is in the shape of a mortgage or hypothecation, yet the equitable interest in the stock was in the bank. It might be questioned whether a stockholder could vote upon his shares which had been actually transferred to the cashier in that form. It does not appear that any objections have been made to such votes, but that they have been received without scruple. It will be found difficult to reconcile with the ninth funda-

mental article of the charter a resolution of the 24th June, 1817, by which the board resolved to purchase $2,000,000 of the public debt, as the agent of the Commissioners of the Sinking Fund, and to deliver it to them at par. That resolution, with the letter of the president of the bank, announcing its purchase, and a statement of its cost, are herewith submitted, marked L. a. b. c. From these it will appear that the bank had sold $2,000,000 of its debt, in England, with which to purchase specie. The Secretary of the Treasury claimed the right to redeem it, under the provisions of the charter; and, after some negotiation, a compromise was effected, by the bank undertaking to purchase two other millions in lieu of that sold, and to deliver it at par. The idea of its purchasing, as the agent of the Commissioners of the Sinking Fund, is exploded, when it is discovered that the stock cost it $2,054,264 26, which it was bound to deliver at par, by which a loss was produced of $54,264 26. It would be a novel idea, that a mere agent was to do the business of his principal solely at the expense of the agent. And it is obvious, from the whole transaction, that the purchase was really on account, and for the benefit of the bank, to enable it to maintain its faith with the purchasers of the debt sold in England. The apology for the bank is, that it was done under the sanction of a high officer of the Government, and although the committee feel bound to say that it was a violation of the article before quoted, yet, under all the circumstances, considering that it was done in good faith, they do not themselves think it such a violation as requires the interposition of Congress.

On the subject of the facilities furnished by the bank to the Government, in the transmission and collection of the public revenue, and its fulfilment of its engagement in discharging the duties of commissioners of loans, and agents for military pensions, the accompanying letter of the Secretary of the Treasury, marked LI, shows its conduct has been satisfactory.

There appear to have been some contentions between the parent board and some of its officers, but the committee have not deemed them sufficiently connected with any practical objects of inquiry, to justify their going into the merits of these controversies, which would be a work of much time and labor, and would not repay the trouble. And it would be unjust to make any statement, without making it in detail.

In order to give the House full information of the state of the bank since its institution, a statement exhibiting its condition at different periods, marked XLIII, and various tables and statements, compiled by the committee, or by them verified, are submitted: among them will be found statements of notes issued payable at each office, and of notes returned to the offices respectively; reports of the committee of directors previous to each dividend; a complete list of the stockholders of the bank; No. 1, exhibiting the names of those who were such at the first dividend, with their places of residence, and the number of shares held by them respectively, at that time, and at each subsequent dividend; No. 2, exhibiting the names of those who became stockholders after the first dividend; and No. 3, exhibiting those who became stockholders after the second dividend, together with a list of those who held shares as attorneys for others. Other letters and miscellaneous documents, not specially referred to in the preceding part of this report, but elucidating the facts stated, will also be found. Statements, obtained from the offices at Richmond and this city, are also submitted, which will show that the affairs of those offices have generally been conducted with prudence and ability, and that every effort was made by them to execute the directions of the parent board in a manner the least inconvenient to their customers.

In considering the question, whether the charter of the bank has been violated or not, the committee have thought the expressions used mean, whether, in any instance, the provisions of the charter have not been complied with? There may be many violations of a charter which could not be considered, by a court of law, as producing a forfeiture. The principle on that subject the committee believe to be this: those acts of usurpation of powers not granted, of *misuser* and of *nonuser* of those granted, which defeat the very objects of the institution, as expressed in the charter itself, would produce a forfeiture; and that all other instances of abuse of the powers granted, or of usurpation of powers, must be punished and restrained either by the ordinary process of *mandamus* and *quo warranto*, or by other means than a dissolution of the corporation. The committee think they are required by the resolution to report all instances of a violation of the provisions of the charter, which have come to their knowledge, but they do not consider themselves called upon to state which of them would, in their opinion, produce a forfeiture, or any other legal consequences; and one inducement to this construction of the resolution arises from the consideration that, if they were to confine themselves only to those violations which would produce a forfeiture, and should give a mistaken or incorrect opinion, that the charter had not been violated so as to produce a forfeiture, the House might, under a strict construction of the act, be precluded from expressing any other opinion, and from directing the proceedings contemplated by it; whereas, by reporting all instances of violation that have occurred, without reference to their technical character, the House is left free to pursue any course it may judge proper. In speaking, therefore, of the violations of the provisions of the charter, the committee wish to be understood as not expressing any opinion whether such violations would enure a forfeiture or not. They present the facts, and the House will determine whether, under those facts, it be or be not expedient to direct the issuing a scire facias, to ascertain whether the violations are such as to cause a dissolution of the corporation.

The committee, then, are of the opinion that the provisions of the charter of the Bank of the United States have been violated in the following instances:

I. In purchasing two millions of public debt, in order to substitute them for two other millions of similar debt, which it had contracted to sell, or had sold in Europe, and which the Secretary of the Treasury claimed the right of redeeming. The facts on this subject, and the views of the transaction entertained by the committee, have been already given,

II. In not requiring the fulfilment of the engagement made by the stockholders on subscribing, to pay the second and third instalments on the stock, in coin and funded debt. The facts on this point are fully before the House, and they establish, beyond all doubt, 1st, that the directors of the bank agreed to receive, and did receive, what they deemed *an equivalent* for coin, in checks upon, and the notes of the bank and other banks to pay specie. This substitution of any equivalent whatever, for the specific things required by the charter, was in itself a departure from its provisions; but, 2d, the notes and checks thus received

were not, in all cases, equivalent to coin, because there was not specie to meet them in the bank; 3d, that notes of individuals were discounted and taken in lieu of the coin part of the second instalment, by virtue of a resolution for that purpose, passed before that instalment became due; 4th, that the notes of individuals were taken in many instances, and to large amounts, in lieu of the whole of the second and third instalments, which notes are yet unpaid.

III. In paying dividends to stockholders who had not completed their instalments, the provisions of the charter in that respect were violated.

IV. By the judges of the first and second election allowing many persons to give more than thirty votes each, under the pretence of their being attorneys for persons in whose names shares then stood, when those judges, the directors, and officers of the bank, perfectly well knew that those shares really belonged to the persons offering to vote upon them as attorneys. The facts in relation to this violation are in possession of the House, and establish it beyond the reach of doubt.

The committee are of opinion that no other instance of a violation of the charter has been established. In closing this report of a most laborious investigation, the committee observe, that whatever difference of opinion can exist among them as to the results and inferences to be drawn from the facts stated, they unanimously concur in giving, to the preceding statements of facts and abstracts of documents, their sanction. They have not recommended the adoption of any measures to correct the many evils and mischiefs they have depicted, excepting that of the bill before mentioned, because, by the provisions of the charter, the Secretary of the Treasury has full power to apply a prompt and adequate remedy, whenever the situation of the bank shall require it. And if, after the stockholders have become acquainted with the mismanagement of the institution, they shall adopt no means to prevent its continuance, or the directors themselves shall persist in a course of conduct requiring correction, the committee cannot entertain a doubt that the salutary power lodged in the Treasury Department will be exerted, as occasion may require, and with reference to the best interests of the United States.

It is due to the officers of the bank at Philadelphia to state, that every facility in their power was rendered in explaining the books, and assisting the researches of the committee.

I.—*Letter from the Secretary of the Treasury to Messrs. Jones, Girard, Willing, Leiper, and Evans, Commissioners.*

TREASURY DEPARTMENT, *Aug.* 15, 1816.

GENTLEMEN: The information communicated to this Department renders it probable that, in the course of a few days, the sum of $8,400,000 in gold and silver coin, and in public debt, will have been actually received on account of the subscriptions to the capital of the Bank of the United States, exclusively of the public subscription; and it will then be your duty to notify a time and place, within the city of Philadelphia, for the election of directors, who are to be chosen by the stockholders. As an incident in the performance of this duty, it is presumed that you will deem it proper to provide a suitable building for commencing the business of the bank, at the place designated for holding the election; and, conforming to the general nature of your trust, you will no doubt be disposed to make such other preparatory arrangements as will facilitate and accelerate the operations of the institution.

It is indeed of high importance to the people, as well as to the Government, that the Bank of the United States should be in an organized and active state before the 20th of February next, when the paper of the State banks which have not returned to metallic payments must be rejected in the collection of the duties and taxes, and when such banks will unavoidably cease to be the depositories of the public revenue.

In this view of the subject I am authorized by the President to recommend that you cause to be prepared such books, engravings, and paper, as you shall deem necessary for the commencement of the business of the bank, as soon as the directors shall be chosen by the stockholders. If however an opportunity occurs, it will be proper to consult the directors who have been appointed by the Government, although not members of your board, upon the measures pursued in consequence of the present recommendation.

With the advantages of the proposed anticipation, it is believed that the Bank of the United States may be in operation before the 1st of January next; and a hope is still indulged that the State banks will either conform to that event, or adopt the period contemplated by the Legislature (the 20th of February next) for a general resumption of specie payments.

I have the honor to be, &c.

A. J. DALLAS.

MESSRS. JONES, GIRARD, WILLING, LEIPER, and EVANS, *Commissioners.*

II.—*Letter from the Secretary of the Treasury to W. Jones, Esq., President of the Bank of the United States.*

TREASURY DEPARTMENT, *Nov.* 29, 1816.

SIR: Your letter of the 21st instant, communicating the preparatory measures which have been adopted by the Board of Directors of the Bank of the United States, and their disposition to make every exertion in their power, consistent with the interest and security of the bank, to enable this Department to execute the intentions of the Legislature, in the collection of the public revenue, after the 20th of February next, has been received by due course of mail.

You observe that the operations of the bank must necessarily be very limited until the second instalment shall be received, and the principal local banks evince a sincere disposition to co-operate in the important and indispensable work of invigorating public confidence, by resuming specie payments. With that co-operation, the board is of opinion that the attainment of this great object is neither difficult nor incompatible with the safety and real interests of all the solid banks.

From this view of the subject, as well as from a general knowledge of the means with which the Bank of the United States will have to commence its operations, and of the difficulties which it will have to surmount if the State banks do not make a simultaneous effort, it is manifest that, without their co-operation, a national currency equal to the indispensable demands of the community cannot be obtained by the 20th of February next, from the efforts of the bank and Treasury, under the existing legal provisions.

As the principal banks in the Middle States, in the month of August last, explicitly stated to this Department their determination not to resume specie payments before the 1st July, 1817, there is no reason to expect their co-operation before that period, unless a change has in the mean time been effected in their situation,

or unless inducements more powerful than those presented in the Treasury proposition of the 22d of July last can now be presented to them.

Although the precious metals have, in the interval between that declaration and the present period, continued to flow into the country from abroad, in quantities sufficient to reduce the premium on specie, by exceeding the demands for exportation and for subscriptions to the Bank of the United States, it is not believed that the State banks have replenished their vaults from that source. The influx of specie, however, cannot but be considered highly favorable to the resumption of specie payments. By satisfying the current demands for specie, the inducement to run on the banks has been generally diminished. But admitting (what is not clearly established) that the disproportion between the specie in their vaults and their circulating paper shall render it unsafe to discharge their notes in specie, on demand, simultaneously with the Bank of the United States, it does not follow that an augmentation of their stock of the precious metals is indispensable to that operation. If this disproportion can be reduced within its proper limit by other means, the great object of the Government will be secured.

The requisite reduction of the circulating paper may be effected by the State banks, either by curtailing their discounts, or by the sale of the public debt, of which they are known to be the holders.

If this reduction is effected in the latter mode, no inconvenience will be suffered by the community, and no positive pecuniary loss will be sustained by the banks. If it is effected in the former mode, great individual suffering must necessarily be produced. At a moment when excessive importations of foreign merchandise had involved the mercantile and manufacturing classes in the greatest distress, and menaced them with impending bankruptcy, reason, humanity, and sound policy, all united against the curtailment of bank discounts. Yet, so far as the knowledge of the Treasury extends, the reduction of the circulating paper has in no instance been attempted by the sale of public debt held by the banks.

Curtailment of discounts has been the only process resorted to by them, where any effort has been made to prepare for the resumption of specie payments.

The disregard to individual suffering manifested by this procedure of the State banks has been the result of a conviction, that, when the national currency shall be restored by the efforts of the Government and of the Bank of the United States, the public debt which they hold will be greatly increased in value. This is demonstrable from the consideration that the curtailment of discounts, in good paper, produces a loss of about seven per cent. per annum, whilst the sale of an equal amount of public debt would produce the same effect upon the relative proportion between their specie and circulating paper, and could reduce their profits but six per cent. In calling upon them to sell the public debt which they hold, as the proper and effectual mode of preparing to resume specie payments, no sacrifice is required of them. The public debt everywhere bears a considerable premium upon the price at which they obtained it. The determination therefore which they have formed not to resume specie payments before the 1st day of July, 1817, is an explicit declaration that they not only will not bear any part of the sacrifice required to restore the disordered state of the currency, but that they will not forego any of the advantages to be derived from that event.

If the view here presented be substantially correct, although changes in the situation of the banks may have taken place favorable to the early resumption of specie payments, yet there does not appear to be any well-founded reason to expect any change in the determination which they have formed on that subject.

When the friendly character of the proposition made by the Treasury to the banks on the 22d July last, and the extraordinary manner in which it was received, are well considered, it does not appear probable that any inducement can be offered by the Government sufficiently strong to divert them from the policy of making the highest possible profit upon the public debt which they hold. In directly addressing their love of acquisition, we can offer them nothing equivalent to the gain which they expect from an adherence to their previous determination. To appeal to their fears, by refusing to receive their bills in payments to the Government, if that appeal should be ineffectual, would be to visit the sins of the banks upon the great mass of unoffending citizens, unless the Government was prepared to furnish a sufficient legal currency to meet the indispensable demands of the community. It is important therefore at this time to ascertain the extent to which the operations of the bank will be able to supply a national currency by the 20th of February next, unaided by the State banks. Is it possible for the bank to supply the demand in the commercial cities which the collection of the revenue arising from imports and tonnage will create in the interval between that period and the 1st of July next? If the emission of bills by the Bank of the United States, during the period that the State banks refuse to discount their bills in specie, must necessarily be so extremely limited as that a national currency to that extent could not be expected from that source within the first months of its operation, the Government must either furnish a national currency or it must suspend the collection of its revenue, at least partially, until the operations of the Bank of the United States shall have thrown into circulation a sufficient quantity of its bills to furnish the necessary facilities for that purpose. The period within which the Bank of the United States will, consistently with its security, be able to put into circulation bills equal to the demands of the community, will in a great measure depend upon the facility and cheapness with which specie can be obtained from foreign countries. If the importations of foreign merchandise shall continue to exceed the value of our exportations, as they have done since the peace, the balance must be paid in specie, or by the transfer to foreign hands of the bank stock or funded debt of the nation. The former mode of settling the balance will impose upon the bank the constant necessity of supplying the vacuum produced by the exportation of specie, and the latter will tend to procrastinate the duration of that balance. The suspension by law of the collection of the revenue, under existing circumstances, would be an apparent admission of the dependence of the Government upon the State banks, in its fiscal transaction, which could not fail to give them a direct influence over the national currency. The public interest requires that an admission of that nature should be expressly rejected, and that that control should not be exercised.

It appears probable that the deficiency in the circulating medium which must be produced by the rejection of the bills of the State banks in all payments to the Government, on the 20th of February next, must for some time be principally supplied by Government

paper of some description. Justice and sound policy forbid the continuance of the present system of Treasury notes. With a large surplus revenue in the Treasury, the Government cannot continue in circulation a paper which subjects them to the payment of interest, or which may be funded at even six per cent., as the period is approaching when it is probable that that stock must rise above its nominal value.

If the Government takes upon itself the principal burden of restoring the circulating medium to specie value, it is improper that all the advantage resulting from that operation should be exclusively enjoyed by the Bank of the United States. As the credit of the nation is to be exerted in producing this revolution in the state of the currency, it is but reasonable and just that a part of the profit resulting from that exertion should enure to the benefit of the national Treasury.

The more readily to effect this object, Government paper not bearing interest, receivable in all payments to the Government, and which shall not be funded at a higher rate of interest than five per cent. per annum, may be placed at the disposition of the Bank of the United States, to be put in circulation, for which the bank shall pay a stipulated interest; or it may be issued by the bank, for the benefit of the Government, upon receiving funded debt at the rates fixed in the act incorporating the bank, or bank stock of any incorporated bank, to the amount issued to any individual, for which service the bank shall receive a reasonable compensation; or a board of directors may be appointed, for the purpose of putting this paper in circulation for the benefit of the Government, confining their operations always to applications where interest-bearing securities shall be pledged by the borrower. It is probable that this system will not interfere with the operations of the bank, as long as that institution shall not be able to put in circulation a sufficient amount of their bills to furnish a circulating medium equal to the indispensable demands of the community. Whenever this shall be effected, the issue and reissue of Government bills to cease.

Should the balance of trade continue to be unfavorable, or should the price of specie rise in foreign countries, the bank would find it extremely difficult, during the first year of its operations, to sustain the continual run upon it, which such a state of things could not fail to produce. In an emergency of this nature, the Government paper could not fail to be a powerful auxiliary to the bank, and a great advantage to the community. The sums drawn from its vaults for exportation would necessarily withdraw from circulation an equal amount of its bills, and leave a void which could not safely be filled but by the issue of Government paper. Whatever portion of this paper should come into the hands of the bank might be reissued, without exposing their remaining specie stock to further diminution. By limiting the amount of Government paper to be put in circulation to the probable surplus revenue during the year 1817, its credit and value would everywhere be equal to gold and silver.

It is, however, most ardently desired by the Government that the necessity of resorting to the issue of Government paper may be avoided, by the resumption of specie payments by the State banks on or before the 20th of February next. As an inducement to this measure, the Government can only aid their operations by withholding from circulation as much of their paper now in the Treasury, or which may hereafter be received, as the demands upon the Treasury during the ensuing year will permit. As the sum which it will be in the power of the Government to retain in the Treasury will be considerable, it may present a sufficient inducement to change their determination not to resume specie payments before the 1st day of July next.

How far the discrediting of their paper, by refusing to receive it in discharge of duties and taxes, will influence their conduct, can only be ascertained by the experiment.

It may be proper, in closing this long letter, to inform you that no decision has been made upon any of the points presented in it. It must be considered, therefore, as merely sounding this delicate and important subject, with a view to obtain all the information which may be necessary to enlighten the understandings of those who must ultimately decide upon it.

A communication of your views upon the whole question will be received with much pleasure, and will receive the respectful consideration to which they are so highly entitled.

With sentiments of the highest respect, &c.

WM. H. CRAWFORD.

WILLIAM JONES, Esq.,
President of the Bank of the U. S.

III.—*Resolution and arrangement with the State banks for the resumption of specie payment.*

JANUARY 31, 1817.—At a meeting of the President and Directors of the Bank of the United States:

The board took into consideration the proposition of the convention of banks, made through a committee from that body, to a committee from this board, and reported by the latter at the last meeting; and, after some time spent in considering the same, certain modifications were made, and the committee on the part of this bank authorized to agree to the propositions as modified, as follows, viz:

"The committee of the Bank of the United States respectfully submit the following modifications of the propositions received from the committee of the State banks, viz:

"1st. That the incorporated banks of New York, Philadelphia, Baltimore, Richmond, and Norfolk, engage, on the 20th of the ensuing month, to commence, and thenceforth to continue, specie payments for all demands upon them, and reciprocally to support the credit of each other in their several districts, upon any emergency, until the balances existing between them shall be finally paid off.

"2d. That the whole of the public balances in the receiving banks of New York, Philadelphia, Baltimore, Richmond, and Norfolk, be immediately transferred to the Bank of the United States, and retained in its vaults, (except so much thereof as may be required by the Secretary of the Treasury to meet the current expenditure,) until the 1st of July next, when the same shall be paid off, together with the interest thereon.

"3d. That payment of the balances which may accumulate against the aforesaid banks, subsequently to the transfer of the balances first mentioned, shall not be demanded by the Bank of the United States until the said bank and its branches shall have discounted for individuals (other than those having duties to pay) the following sums, viz:

"For those in New York, two millions.
"For those in Philadelphia, two millions.
"For those in Baltimore, one and a half million.
"For those in Virginia, five hundred thousand dol-

ars: *Provided*, That if the said bank shall be willing to discount, and shall not have the required amount of good paper offered within the term of sixty days, from the 20th of the ensuing month, at New York, Philadelphia, and Baltimore, and within the same term after the operations of the offices of the said bank in Virginia shall have commenced, the aforesaid banks shall, at the expiration of that time, at the aforesaid places, respectively, pay to the Bank of the United States the balances due by them respectively, together with the interest thereon.

"4th. That the Bank of the United States will engage to discount the required amount, at the respective places, and within the time mentioned in the preceding articles, provided good paper to that amount be offered.

"5th. That in the event of the Bank of the United States and its branches not having a sufficient amount of good paper offered at the respective places mentioned in the third article, within the period therein stipulated, then the Bank of the United States will engage to discount for the said banks the amount of the deficiency, at the respective places, according to the amount of the capitals of the said banks, respectively.

"6th. That the banks aforesaid shall engage, respectively, and in the proportion which their loans may bear to their capitals, to reduce the amount of the said loans, in the ratio of the discounts required of the Bank of the United States and its branches, and that the said reduction shall take place by the 1st of July next.

"7th. That the Bank of the United States will interchange pledges of good faith and friendly offices with the respective banks, and, upon any emergency which may menace the credit of any of the aforesaid banks, will cheerfully contribute its resources, to any reasonable extent, in support thereof, confiding in the justice and discretion of the banks, respectively, to circumscribe their affairs within the just limits indicated by their respective capitals, as soon as the interest and convenience of the community will admit,

"8th. That, upon the mutual agreement of the parties to these stipulations, the same shall be submitted to the Secretary of the Treasury, for his decision upon those points which involve the public balances; and, when approved by him, shall be obligatory on all the contracting parties."

[The tabular statements, &c., being very voluminous, are necessarily omitted.]

Ordered, That the Clerk be directed to procure as speedily as practicable, for the use of the members of this House, 2,500 copies of the said report, in addition to the usual number of 600 copies.

Mr. SPENCER, from the same committee, by leave of the House, reported a bill to enforce the provisions of the act, entitled "An act to incorporate the subscribers to the Bank of the United States," which relate to the right of voting for directors; which bill was read twice, and also committed to the Committee of the Whole on the state of the Union. The bill is as follows:

Be it enacted, &c., That, in all elections of directors of the Bank of the United States, hereafter to be held, under and by virtue of the "act to incorporate the subscribers to the Bank of the United States," whenever any person shall offer to the judges of such election more than thirty votes in the whole, including those offered in his own right, and those offered by him, as attorney, proxy, or agent for any others, the said judges of the elections, or any one of them, are hereby authorized and required to administer to the said person, so offering to vote, the following oath or affirmation, viz:

I ——, do solemnly swear, (or affirm, as the case may be,) that I have no interest, directly or indirectly, in the shares upon which I shall vote at this election, as attorney for others; that those shares are, to the best of my knowledge and belief, truly and in good faith, owned by the persons in whose names they now stand, and that, in voting at this election, I shall not in any manner violate the first fundamental article of the "act to incorporate the subscribers to the Bank of the United States." And the said judges of elections, or any one of them, shall be authorized and empowered, in their discretion, or at the instance of any stockholder of the bank, to administer the said oath or affirmation, to any person offering to vote at any such election. And if any person shall wilfully and absolutely swear or affirm falsely, in taking the said oath or affirmation, such person, so offending, shall, upon due conviction thereof, be subject to the pains and penalties which are by law prescribed for the punishment of wilful and corrupt perjury.

SEC. 2. *And be it further enacted*, That if the judges of any election of directors, to be held as aforesaid, shall permit any person to give more than thirty votes in the whole, at any such election, without the said person's having taken the aforesaid oath or affirmation, such of the said judges as shall consent thereto shall severally be deemed guilty of a misdemeanor, and, on due conviction thereof, shall be subject to a fine, not exceeding ——, or to imprisonment not exceeding ——, at the discretion of the Court before which such conviction shall be had.

MONDAY, January 18.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of William McDonald, brother and administrator of the late Captain James McDonald; which was read, when Mr. W. reported a bill authorizing an equitable settlement of the accounts of the late Captain James McDonald, of the fourteenth regiment of United States infantry; which was read twice, and committed to a Committee of the Whole.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill relative to the direct tax and internal duties; which was read twice, and committed to the Committee of the Whole.

Mr. SMITH also reported a bill supplementary to the act, entitled "An act to provide for the prompt settlement of public accounts;" which was read twice, and ordered to be engrossed and read a third time on Thursday next.

Mr. ROBERTSON, from the Committee on Private Land Claims, to which was referred the report of the recorder of land titles in the Territory of Missouri, made in obedience to the act of the 20th of April, 1818, entitled "An act for the relief of James Mackay, of the Territory of Missouri," made a detailed report thereon, which was read; when Mr. R. reported a bill for the relief of the said James Mackay; which was read twice, and

committed to the Committee of the Whole, to which is committed the bill for the relief of Philip C. S. Barbour.

Mr. POINDEXTER, from the Committee on the Public Lands, who were instructed by a resolution of the 7th ultimo to inquire into the expediency of granting to each State one hundred thousand acres of land for the endowment of a university in each State, made a report unfavorable to the granting of said land; which was read and ordered to lie on the table.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting information in relation to the adjustment and payment of the claims of the friendly Creek Indians, rendered in obedience to the resolution of this House of the 4th instant; which was read, and ordered to lie on the table.

On motion of Mr. STORRS, a select committee was appointed to consider and report to this House whether any amendments may be expedient to the several laws now in force, providing for compensation to individuals for losses of property sustained during the late war with Great Britain, either by the public enemy or in consequence of impressments into the service of the United States, or by order of the officers of the United States or otherwise. Messrs. STORRS, WILLIAMS of North Carolina, SPENCER, QUARLES, and BALL, were appointed the said committee.

GOVERNMENT OF FLORIDA.

Mr. EDWARDS rose to offer a resolution calling for information in relation to the posts, without the limits of the United States, now in the possession of the United States. The object of his motion was in itself so plain as to need no elucidation. It would be recollected that the law of 1811 authorized the taking possession, on certain contingencies, of that part of Florida east of the Perdido, and to establish a government therein. One object of the resolution was to ascertain how far, if at all, that law had been carried into effect, &c. The resolution was in the following words:

Resolved, That the President of the United States be requested to cause any information, not already communicated, to be laid before this House, whether Amelia Island, St. Marks, and Pensacola, yet remain in the possession of the United States, and, if so, by what laws the inhabitants thereof are governed; whether articles imported therein from foreign countries are subject to any and what duties, and by what laws; and whether the said duties are collected and how; whether vessels arriving in the United States from Pensacola and Amelia Island, and in Pensacola and Amelia Island from the United States, respectively, are considered and treated as vessels arriving from foreign countries.

Mr. HOLMES said that the resolution embraced some objects which the Committee of Foreign Relations had had under consideration, that concerning Amelia Island, for example; respecting which they had directed him to make of the Secretary of State all the inquiries embraced in the resolution, and more. That information might be expected to be soon received, and laid before the House. He therefore wished the gentleman to waive his motion for the present.

Mr. EDWARDS said he had no objection, if the committee had asked for the information, (though he still thought it would have been better had the information been specially called for by the House,) to waive his motion for the present, with the reservation of the right to renew it, if the expected information was not laid before the House.

Mr. HOPKINSON suggested that the information which had been required by the Committee of Foreign Relations was limited to Amelia Island, and therefore did not embrace the principal part of the information required by the resolution.

Mr. EDWARDS said, if that were the case, he should certainly not waive his motion. If we are correctly informed by the newspapers, there had been something like a government established at St. Marks and at Pensacola, by the military authority, as well as at Amelia Island; and he wished to ascertain how far the arrangements of the military authority had been sanctioned by the Executive. Vessels had cleared out and entered at Pensacola; he wished to know whether it had been regarded in this respect as a foreign or domestic port. If civil officers, collectors, &c. had been appointed, he wished to obtain information by what tenure they held their offices, and also the nature of their accountability. If ultimate measures should be found necessary, information would be wanted, without which the House was groping in the dark. He had no other object than to ascertain, officially, the facts on these subjects.

Mr. STROTHER said, he never should oppose a resolution calling for information to instruct this House in the discharge of its duty, or that was necessary to enable them to ascertain the manner in which the Executive department had discharged the duties assigned it by the Constitution and laws of the country. The stability and integrity of the Government depended upon the right to call for and obtain information; but he objected to this resolution, introduced by his friend from North Carolina, because the information called for had been furnished this House, in that voluminous document laid upon our table upon the subject of the Seminole war. Mr. S. said, if his honorable friend would examine the correspondence between General Jackson and the Secretary of War, he would ascertain that a government has been established at Pensacola, and functionaries appointed to administer the government; a temporary government, confined to the necessary and legitimate purpose of protection to the persons and property of the people inhabiting that region; a proceeding springing from necessity, and to terminate with it. Upon this ground he was opposed to the resolution.

Mr. STORRS said, he hoped the House would agree to the resolution. He wished to know whether the posts of Pensacola were governed by the laws of the United States, or by those applicable to a conquered colony; whether they were now ruled by the same laws as previously

existed, or by whatever other laws. As it appeared, by what had fallen from the chairman of the Committee of Foreign Relations (Mr. Holmes) that that subject was likely to come before Congress, it was not enough that that committee should have the information, but this House ought to have it for its guidance. In regard to the custom-house, he asked the gentleman from Massachusetts to point out that part of the documents which instructed this House whether any duties were collected by the officers of the United States at Pensacola or not; or to any part of the documents which indicated who was the law officer, &c. There had not, he said, been communicated a single paper which threw the least light upon the subject. He hoped, therefore, the resolution would be adopted.

After some further observations from Mr. Strother, and the words "not already communicated" being inserted, on suggestion of Mr. Poindexter, as they stand in the resolution, it was agreed to without a division.

THE SEMINOLE WAR.

The order of the day, on the report of the Committee on Military Affairs respecting the Seminole war, being announced—

The House then went into Committee of the Whole on the state of the Union, to whom that report was committed, Mr. Pitkin in the Chair.

There was some conversation previously about postponing the subject for a day or two; but the House, by a majority of ten or fifteen votes, resolved to take it up.

The report of the Military Committee was read through, concluding with the following resolution:

"*Resolved,* That the House of Representatives of the United States disapproves the proceedings in the trial and execution of Alexander Arbuthnot and Robert C. Ambrister."

Mr. Cobb, of Georgia, commenced the debate, by observing, that although he concurred in opinion with the Military Committee, as expressed in their report under consideration, yet he thought they had not gone far enough. There were other matters, arising out of the late Seminole war, which he thought of infinitely greater importance, and, in comparison with which, indeed the trials of Arbuthnot and Ambrister were objects of but secondary consideration. As highly, therefore, as he disapproved the proceedings in the trial of these men, yet as, by the report, the matters to which he had allusion were not presented for consideration, he held in his hand certain resolutions which it was his intention to propose, by way of amendment to the report of the Military Committee. [Mr. Cobb here read the amendment, which he subsequently moved.] From these resolutions, the Committee of the Whole would observe that it was his intention to open the whole field of debate, and to present for discussion, not only the trials of these men, but the capture of the Spanish posts of St. Marks, Pensacola, and Barancas, in which, he believed, there had been a most flagrant breach of the Constitution of the United States. But as, notwithstanding the amendment he was about to propose, the resolution of the Military Committee would stand first in order, he would proceed to make a few remarks as to the subject-matter of that resolution. He thought he could promise that the Committee should not be long detained by the observations which he might have the honor to make either upon this resolution or those which he would lay upon the table, as, at that early period of the discussion, it was not necessary to present to the Committee anything more than what he considered the leading points, reserving to himself the right of speaking, as to particulars, at some future period, if he should find it necessary.

In attending to the trials by court martial of those two Englishmen, the first objects for consideration which presented themselves, were the charges exhibited against them. Reasoning upon the supposition that they were true, he was perfectly at a loss to know what law, martial, municipal, or national, was violated. Against what law had they offended? He was not certain that he perfectly understood what was martial law in this country. Were he to view it in the light that it had been explained and enforced by some, he must be compelled to consider it as of paramount authority indeed; so high in its nature as that it could be made to suspend the Constitution itself. He had not yet obtained his consent to give it this omnipotent effect, and he hoped he never should. He had thought, and yet believed, until he could have some proofs to the contrary, that it was contained in that body of laws established by the Congress of the United States for the government of the Army, commonly called the "Rules and Articles of War." If he was correct in this opinion, (and he presumed no gentleman would controvert it,) he had searched in vain, (and he had used no little industry to discover) for that clause against which Arbuthnot and Ambrister had offended, in the commission of the acts charged against them, and for which they were convicted. It was true, there was a clause subjecting to death those who should be convicted of being "spies." But, although these men, or one of them, was charged with this, yet he was acquitted of that charge, and for that reason it would be unnecessary to take farther notice of it. The offence for which they were convicted and suffered death, was that of "exciting and stirring up the Creek Indians to war against the United States and her citizens, they being subjects of Great Britain, with whom the United States are at peace;" "of aiding, abetting, and comforting the enemy, and supplying them with the means of war;" "and leading and commanding the Lower Creeks in carrying on war against the United States." Admit the truth of the facts contained in these charges, are they declared penal in any part of the rules and articles of war? Or are they therein declared to be proper subject matters for trial before a court martial? If they were not, it followed, as a consequence, that the commanding General had transcended his powers in ordering the court, and that the court itself had

stretched its powers to an unwarrantable length, in acting upon matters not cognizable before them. It would be arguing to little purpose to prove, that the crimes contained in these charges were not embraced in the rules and articles of war. It would be sufficient, at present, simply to deny that they were, until those who differed from him in opinion attempted to prove the affirmative of the question.

Mr. C. thought it would be an attempt equally fruitless to prove that the matters charged against these individuals constituted an offence against national law, for which they were answerable before a court martial. He did not profess to be deeply read in the law of nations. He had, however, searched, in the hope that he could find some justification for this most novel proceeding, all the writers on that subject, upon whose works he had been able to lay his hands. He had commenced and prosecuted this search under the most anxious wish for success. It had been an object of great solicitude with him to rescue both the court and the General who ordered it, from the imputation of injustice. He had been compelled to desist, chagrined and disappointed. If any other gentleman had been fortunate, he should rejoice to learn it. He certainly could have no wish to remain in error.

The next point occupied by Mr. COBB was as to the evidence under which both, or one of these men, were convicted. He should not say much upon it, for he did not intend to analyze it. He had understood, and no doubt correctly, that the rules of evidence, in courts martial, differed very little, in principle, from those established in the courts of common law. It was so declared, he believed, by the only American authority, (Macomb on Martial Law,) that he knew anything of, on that subject. He presumed it would not be denied. But, sir, said he, if we test the evidence produced in those trials by these rules, we shall blush at the shameful perversion of justice therein displayed. The evidence of papers, not produced or accounted for, the *belief* of persons whose testimony of *facts* ought to have been doubted, *hearsay*, and *that* of *Indians*, *negroes*, or *others*, who, had they been present, could not have been sworn, were all indiscriminately admitted and acted upon. Miserable, indeed, will be the precedents established by *this* court martial for *others* which may hereafter be formed! More need not be said on this subject.

Mr. C. next called the attention of the Committee to the sentence under which Ambrister was executed. He had strong doubts whether, upon giving a fair construction to the Rules and Articles of War, the proceedings of the court martial ought not to have been laid before the President of the United States before the sentence was carried into effect. But he waived the examination of this question. It seems that the court first sentenced Ambrister to be shot; but one of the members having asked a reconsideration of the sentence, before the proceedings were submitted to the commanding General, it was allowed, and another punishment awarded, as ignominious in its nature as imagination could well conceive, but which yet spared life. Now, will it be contended that this reconsideration and change of sentence did not, to all intents and purposes, render null and void the first sentence? Can it be said, with any truth, that there was any other sentence than the one last passed in the case? But, unfortunately, the first sentence was not erased from the proceedings of the court. It is there found by the General, when they were submitted to him, and, by a *high stretch* of power, he avails himself of it—"approves the finding and first sentence—disapproves of the reconsideration and last sentence," and directs the man to be executed! To me, sir, said Mr. C., this proceeding has upon its face a cruelty that excites my greatest disapprobation. The last thing to which Mr. C. would call the attention of the Committee was the principle by which the commanding General professes to have been governed in ordering the execution of Ambrister, and which, in its extent, as contended by the report of the committee under consideration, applied with equal force to the case of Arbuthnot. It is in these words: "It is an established 'principle of the law of nations, that any individual of a nation making war against the citizens of another nation, they being at peace, 'forfeits his allegiance, and becomes an outlaw 'and a pirate." The Military Committee, in their report, have very properly denied the establishment of any such principle in the law of nations. Sir, said Mr. C., I boldly challenge any man of common sense to prove the existence of such a principle to the extent it is here laid down. Reason, propriety, justice, and humanity, all cry aloud against such a principle! So far as my researches have gone, it is absolutely denied by the writers on national law; and, I sincerely hope, will be absolutely denied by every member of this Committee. If this principle was true, then La Fayette, De Kalb, Pulaski, and a large host of foreigners, who joined the standard of our fathers in the Revolution, and, by their blood, and at the expense of their lives, aided in the establishment of the independence of this nation, were "outlaws and pirates;" and, had they been captured, were subject to have been tried and sentenced to an ignominious death by a court martial. For, when they entered our service, they were "individuals of a nation at peace" with England, and they, after they joined our arms, "made war upon England and her citizens, and thereby forfeited their allegiance." Sir, is this Committee prepared to brand these men with the titles of "outlaws and pirates," by their sanction to this principle? I will not yet believe it.

But, it may be said, that these Englishmen, having "joined a savage nation, who observe no rules, and give no quarter," we have a right to treat them precisely as we might treat the savages whom they have joined, and that we would have a right to put the savages to death, upon a principle of retaliation. Let this position for a moment be admitted, and yet it will be evident

that the principle under which we should proceed would be a very different one—to wit, that of retaliation. For even savages cannot regularly be put to death, until they refuse "to observe rules or give quarter." In order that the principle established by General Jackson may be applied, it must undergo a material amendment. Instead of the words in which it is couched, it should read thus—"It is an established principle of the law of nations, that any individual of a nation, joining savages and barbarians who observe no rules and give no quarter, and making war against the citizens of another nation, they being at peace, becomes himself a savage and barbarian, and may be treated as such." Under such a principle, there would have been more justice (humanity being out of the question) in putting Ambrister and Arbuthnot to death.

Mr. C. then proceeded to inquire, whether the commanding General of the American army possessed the power to exercise the right of retaliation? If in its exercise there is any responsibility, he contended it was placed upon the nation. They were accountable to all other nations for the manner in which they conducted their wars. To the nation, therefore, it belonged, to establish the rules of war, by which it would be governed; and the authority by which they were to be established, was that in whose hands was vested the right of declaring war. In their establishment, the character of the nation for justice, for humanity, &c., was deeply involved. Who, he asked, were the legitimate guardians of the character of this nation, but Congress—the war declaring power? Mr. C. thought he was not singular in this opinion. He believed that the late President of the United States, the virtuous James Madison, was of the same opinion. For when, during the late war, it was thought necessary to apply the retaliatory principle, did he believe himself clothed with power to do it, although Commander-in-Chief? No—he believed it was in Congress alone. To Congress he applied for the power, and, by a special act, they conferred it on him. Mr. C. thought this case should be considered as conclusive authority.

But he would inquire how long this retaliating principle, even upon savages, had been in operation in this country? So far as his memory served him, the Seminole war afforded the first instance in which it had been exercised, from the time of the establishment of the provincial governments, up to this day. In the Indian wars in the South, and in the Northwest, in the years 1793–4–5, he recollected to have heard of no instance of it. During the late war with England, white men were captured after the massacre at the river Raisin, while fighting by the side of the savage, and were not put to death. Nay, General Jackson himself had in his hands the very leaders of the merciless band, who butchered the hundreds of his countrymen, whose bones are now mouldering under the ruins of Fort Mims, and did not put them to death? Where *then* was his avenging arm? Why did he not then brandish the sword of retaliating justice? No! He had not then clothed himself with such mighty powers. But now, when the United States have no other enemies to contend with than the small tribes of the Seminole Indians, aided by a few negroes and Upper Creeks, it has become, all at once, necessary, after they have been defeated and dispersed, and their towns destroyed, to exercise retaliation! In one day has the fair character of this nation been blasted! That character for justice and mercy in which we thought ourselves pre-eminent, and of which we had so proudly boasted to the other nations of the earth, is now prostrated as low as theirs. They can now say to us, boast no more—you are not less cruel than other nations. But, sir, said Mr. C., I have done with this disagreeable subject—I turn with disgust from this nauseous scene.

Mr. Cobb then submitted the resolutions he had before read in his place, relative to the capture of the Spanish posts in East Florida, as an amendment to the report of the Military Committee, in the following words:

Resolved, That the Committee on Military Affairs be instructed to prepare and report a bill to this House, prohibiting, in time of peace, or in time of war with any Indian tribe or tribes only, the execution of any captive, taken by the Army of the United States, without the approbation of such execution by the President.

Resolved, That this House disapproves of the seizure of the posts of St. Marks and Pensacola, and the fortress of Barancas, contrary to orders, and in violation of the Constitution.

Resolved, That the same committee be also instructed to prepare and report a bill, prohibiting the march of the Army of the United States, or any corps thereof, into any foreign territory, without the previous authorization of Congress, except it be in the case of fresh pursuit of a defeated enemy of the United States, taking refuge within such foreign territory.

Upon these resolutions he presumed the door for a discussion, as wide as could be, was opened. The first resolution pointed to an act of legislation, growing out of the adoption of the resolution submitted by the Military Committee. The second disapproved the capture of the Spanish posts, as unconstitutional, and contrary to orders; and the third pointed to a legislative act arising out of such disapproval.

A subject involving a breach of the Constitution, said Mr. C., must at all times be an interesting one to the nation and to Congress. Such he considered the one now presented to the Committee of the Whole. It ought to be discussed with calm deliberation, but with firmness. He hoped he had not yet travelled out of this rule. If, contrary to his intention, he had done so, and thereby done injury to the feelings of any, he regretted it, and would repair the injury by any means in his power. Towards General Jackson, Mr. C. said, I hope I have not used language unnecessarily severe, or unsuited to the dignity of this House. Such was not my intention. If I have betrayed a want of caution or calmness, I hope the Committee will believe it proceeded

more from the unreflecting warmth of hurried debate, than from a wanton desire unnecessarily to assail feelings. To me General Jackson is personally a stranger. It is impossible, therefore, that I can entertain for him any personal enmity. I know him only as a public man—and it is only in his public character that I have censured his conduct. In doing so I have no personal wishes to gratify, no disappointed hopes to revenge, and no interests to promote, but those of the people. Sir, I love my country—I love her character—I love her Constitution. As the Representative of the people of Georgia upon this floor, I should feel myself criminal were I to permit unnoticed the exercise of a power, which, in its operation, has a tendency to sap the fair fabric of this sacred instrument, established at the expense of so much blood and treasure. Against the usurpation of such a power, by any individual, I feel it my duty to raise both my hand and my voice. No man can more highly appreciate the distinguished services of General Jackson than I do. So far as those services have been virtuous and legal, I have joined my countrymen in crying "well done, good and faithful servant;" and in bestowing upon him my plaudits and warmest thanks. For such services I am still willing to join in crowding laurels upon his head, until it bends under the weight of them. But, if they are to be acquired by trampling upon the Constitution, and the best interests of this country, then shall I wish to see each leaf of these laurels fade, and fall in ruin to the ground. Nay, the very brow which they encircle sink

> "To the vile dust from whence it sprung,
> "Unwept, unhonored, and unsung."

Sir, upon the preservation of this instrument in its purity, depends the freedom and the happiness of not only the present generation, but, as I would fondly believe, of myriads of our posterity yet unborn!

But to the point. That part of the Constitution which I believe to have been violated by the capture of the Spanish posts, is the one vesting in Congress solely the power of declaring war. Is it necessary to enter upon a course of reasoning to prove the policy of vesting this power in Congress, or, in other words, in the people? I would fondly hope that there is no man upon this floor who wishes to see it changed; and I should feel that I was doing them an injustice did I even suspect them of such a wish. So clear, so self-evident is the policy of placing it where the Constitution has left it, that, if I am not mistaken, the immortal authors of the letters of Publius, would not condescend to consume one moment of time, or waste one solitary argument in the proof of it. But such a discussion is now too late. It is vested in Congress—in the people; and the true question is, will you preserve it to them inviolate? Sir, so long as it is preserved to the people, we have the best security against the ambition of individuals—we need fear no tyrants. If it is once lost, ruin is the consequence.

And permit me here to observe, that from no portion of the people have we so much cause to fear the loss of this great prerogative of peace and war, as from the military. If it should ever be usurped, depend upon it, it will be by a military man. It is natural to the public mind to admire warlike deeds. In the splendor of military achievements our eyes are blinded, and our reason is obscured. We become so infatuated with the man that we lose sight of principle, and we are offering him our worship, before we are aware that we have made him a god. Sir, I much fear that this spirit of adulation has already pervaded the minds of the people of this country to a most injurious extent.

But to the proof of a violation of the Constitution. This question might at once be put to rest, by showing that a war has been commenced and prosecuted to a conclusion, and calling upon those who conducted it for their authority in doing so. Sir, no such authority can be found in your statute book. Will it be denied that war has been prosecuted against the Spanish authorities in Florida? What is war but the exercise "of force, of violence between nations, in the prosecution of their rights," whether real or imaginary? Such gentlemen will find to be its definition, whether their own reason or the best writers upon this subject be consulted. Such it is defined to be in the work which I hold in my hand, (Vattel.) That the Spanish posts were captured by the exercise of this force by the Army of the United States, is most evident, from the communications of General Jackson with the War Department. In his letter of 5th May 1818, speaking of the capture of St. Marks, he says he entered it by "violence." In his letter of 2d June following, detailing his operations against Pensacola, he says, "he demanded the surrender of that place, and entered it only with a show of resistance." Barancas he regularly invested; "mounted batteries against it;" "commenced offensive operations;" forced the Spanish garrison to "capitulate," and granted them "more favorable terms than a conquered enemy would have merited." Here, then, is furnished most abundant evidence of that very circumstance, of force, necessary to constitute war. Of the capture of the Spanish posts by war, then, there is no doubt. But this is not all—it was an offensive war. To give it the character of a defensive war, it must appear that our country had been invaded, or was in imminent danger of invasion by the Spanish forces in East Florida, or elsewhere. Or, if this was not the case, it ought, at least, to be made to appear that our army, which had been marched into East Florida, in pursuit of an Indian enemy, had been attacked by the Spaniards; or that they had arrayed themselves against us, for the purpose of preventing that pursuit of our enemy. None of these cases appear to have happened. The Spanish authorities spoke the language of peace. The Minister of Spain was here. We had a Minister at Madrid; peace prevailed between the two nations, and negotiations of a friendly kind were going on. Not a Spanish soldier had raised his hand, or pointed his musket

against us, until the American army sat down before St. Marks and Pensacola, for the purpose of capturing them. To call it a defensive war, therefore, is idle. It is an outrage upon common sense.

It was an offensive war, to all intents and purposes. We had no territory in East Florida to claim from Spain. It must, therefore, have been prosecuted to punish some wrong or prevent some threatened danger. These are the legitimate objects of offensive wars. They are so declared to be by the writers on the subject of war. That such precisely were our objects in the attack upon the Spanish posts, is evident from the documents on our table. Not that we had much threatened danger to fear from them, for they threatened none—what could we fear from such a handful of soldiers as Spain there had—but because they had done us great wrongs, which it was our intention to punish. The President's Message, and General Jackson's letters, are filled with the details of these wrongs. Such of them as are urged as affording reasons for the attack of St. Marks and Pensacola, are as follows: "That Spain had broken her treaty, by which she was bound to restrain the Indians within her territory from attacking us," that, so far from doing this, she departed from a "neutral conduct," and supplied the savages with arms, ammunition, &c., "encouraged them to make war on us," "gave them refuge and protection," "protested against the invasion of East Florida, and threatened to resist force by force," sent "menacing letters to General Jackson," and finally, because it was feared "the Spanish posts might fall into the hands of Indians." These reasons are some of them ridiculous in themselves, and such as, to say the most of them, but causes of war. They contain wrongs which demand punishment.

But who, Mr. Chairman, authorized or directed this war? That Congress, the Constitutional power, declared it, will not be pretended. The Executive had no power had he been disposed. The President in his Message disclaims any such power—"it belongs to Congress alone," says he, to change the relations existing between Spain and the United States. But this is not all. If all the orders issued to the general commanding are laid before us, it is evident to me that the Executive did not authorize this war upon the Spanish authorities expressly, or by implication. Far be it from me to entertain the slightest wish to charge the Executive with duplicity. I will not say that all the orders and correspondence between the Executive and General Jackson have not been laid before us. But candor compels me to say, that there is something a little mysterious to me upon the face of the documents before us. I will proceed to state the grounds of this mystery. In the first place I cannot account for the perfect confidence which General Jackson shows, throughout his correspondence, in the correctness of his proceedings, in which he had clearly violated his orders, as I will hereafter show. He never expresses a doubt that his conduct will be approved. Acting as he did, manifestly contrary to orders, he never even attempts to excuse himself. He does not seem to think he has overleaped his orders. He has no apprehensions, no fears, as to the opinion the Executive might form of his proceedings. And yet, if the orders on our table are all that he received, it appears to me he must have known that he had violated them. But I am somewhat staggered at another fact, if I have made no mistake. In his letter of the 5th of May, 1818, which is the only one in which he condescends to notice his instructions, he says, that his measures have been adopted in pursuance of instructions from the War Department, and under a firm conviction that they alone were calculated to insure "peace and security to the southern frontier of Georgia." These last words are given to us as a quotation, and, one would believe, from the General's orders. I have not seen any order, either to General Gaines or General Jackson, containing these expressions; but yet I may be mistaken.

Again, taken in connexion with these, may be the letter from the Secretary of War to Governor Bibb. In that the Secretary says, that "General Jackson is vested with full powers to conduct the war in the manner he may judge best." This letter is dated more than a month after the capture of St. Marks. Certainly no "full powers" as against the Spanish authorities are laid before us; and yet no intimation is given that General Jackson had exceeded his authority until orders were given to General Gaines to restore Pensacola and Barancas in the August following—and then it is not noticed, otherwise than by directing restoration.

The last circumstance which I shall notice as inexplicable to me, is the fact that General Jackson has never been called to account for his transcending his orders. All those circumstances do stagger me. But I shall be glad if they can be explained by gentlemen differing from me in opinion, and who have taken a better view of the documents. I have no wish to believe that there is any mystery in these proceedings.

Reasoning upon the presumption that all the orders ever issued in relation to this war have been communicated to us, there is abundant cause to say not only that General Jackson was not ordered to attack the Spanish posts, but was expressly forbidden to do so. It is fairly to be inferred from the Message that he acted without orders. And, if we can be permitted to refer to the unofficial *expose* issued last Summer, which everybody knows contained the views of the Administration on this subject, and therefore ought to be viewed almost as an official paper, he is there expressly said to have acted "on his own responsibility." The orders themselves afford ample proof that he did. I presume no one will attempt to argue that the orders laid before Congress were not obligatory upon General Jackson, because they were directed to General Gaines. The President, in his Messages of the 25th March and at the opening of this session, has settled that question, and I see from the intimations given me by some gentlemen, who I know differ

in opinion with me upon this interesting subject, that they will not deny it. It would be useless to do so. Let us see what those orders were. There were several of them. But the most efficient one was that of 16th December, 1817. In this, he is authorized to "cross the Florida line and attack the Indians within its limits, unless they should shelter themselves under a Spanish fort. In the last event, you will immediately notify this department." Now, so far from this order's giving authority to attack the Spanish forts, it must be considered as containing an express prohibition. And why was this prohibition laid upon him? For the best possible reasons—1st. Because the President knew he could not give such an order, leading directly to war, without the authority of Congress—and, secondly, to put Spain in the wrong. Had the Indians been protected by a Spanish fort, there would have been immediate cause afforded; and upon which, when added to the long list of other wrongs, Congress might, if they chose, declare war.

Sir, let us next examine the grounds on which General Jackson excuses or justifies himself, and on which the Executive have refused "to censure him," and may therefore be said to justify him. They have been already enumerated. They are, that Spain did not observe her treaty, aided and abetted the Indians in war, excited them to war, furnished them with the means of war, gave some of them protection in their forts, bought the fruits of their depredations, and a general departure from a strict "neutral course of their conduct;" or, in the words of the paper of the minority of the Military Committee, 1st. That Spain neglected to keep her treaty, and thereby became a party in the war; or, secondly, was too weak to do so, and, therefore, forfeited her right of sovereignty." How this forfeiture should accrue to the United States, in preference to any other nation, remains yet to be explained.

I examine first the breach of treaty by Spain. I beg leave first to premise, that we are not now considering what is cause of war with Spain. The question is not between the United States and Spain. Whenever that question is presented, I shall be ready to deliver my sentiments. Were it necessary to decide upon that question, I should say that there was ample cause of war. I hope, therefore, no gentleman will suppose me to be the apologist of Spanish wrongs. Spain has done us many and grievous wrongs. Even when I have satisfied myself upon this point, it is still, however, a question of great moment to determine whether the United States shall make war for those wrongs. Upon that point also I shall be ready to deliver my opinion. But the true question before us is between the United States and its own officer. Has he exceeded his authority? Has he, by an exercise of usurped powers, involved, or attempted to involve the people of this nation in a war without their consent, declared through their Representatives? Sir, it is my painful duty to say that General Jackson has, in the cases under consideration, snatched from the people this most important right of making war only by their own consent, and that I cannot approve of the conduct of the Executive, whose duty it was to have called him to a severe account, in tolerating this highhanded act.

I have yet to learn that the breach of treaty simply, and not followed by the immediate commencement of open hostilities, is itself war. It is only cause of war? Suppose Spain to have wilfully broken her treaty, can the General of the United States Army proceed to commence hostilities? Can the President himself do it? No, sir, it is only cause of war, upon which the war-declaring power, which is Congress, may proceed to deliberate, and then declare war, as the interests of the nation may dictate. A nation may excuse a breach of treaty, especially when it proceeds from weakness—(*Vattel*, 230, 328.) This exercise of judgment, and discretion in exercising it, belongs of course to the war-making power in each Government. Unless, therefore, General Jackson possesses this power, he cannot be justified or excused.

Of the same character are "almost all the other grounds upon which the capture of the Spanish posts is excused, such as exciting the Indians to war, supplying them with arms, giving information and advice, and, in general, a departure from neutral conduct, by which, as is contended, Spain became a party in the war with the Indians. Sir, they were none of them direct and open acts of war. They were only causes of war. I will not deny that if there had been what the writers on national law call a warlike association—(*Vattel*, 324, 328,) and resulting in the formation of common cause; for instance, if the Spanish authorities in East Florida had, by agreement, united their interests and forces together, and either attacked us, or, thus united, repelled our attack upon the Indians; in that event, we should be compelled to make war upon them by a regard to our own safety. No declaration of war would be necessary. But, will it be contended that any such association was formed? Where is the evidence of the alliance or association? Where did the Spanish troops attack or array themselves against us, until we attacked them? And even then, did they act in conjunction with the Indians? I appeal to the candor of those who defend General Jackson's conduct upon this subject? I ask them to lay their finger upon the document which is to establish the existence of such a warlike association between the Spaniards and Indians as will identify them as equally our enemies, according to the definition given of this compact by the law of nations. If, then, no such association is proved, the conduct of the Spanish authorities in East Florida furnished no more than ground of complaint, or, in other words, cause of war, upon which this nation might have proceeded to deliberate. Every cause of war is not war, otherwise nations could use no discretion. Yet, every person knows that it is the duty of nations to deliberate when a wrong is done them. It is their duty to complain of the injury, and, if redress is re-

fused, then to calculate the chances of a war; to examine her own means, the strength and resources of her enemy, the probability of success in the contest, and finally to determine upon declaring war or not, as their honor and their interest may dictate. In the case under consideration, we might have chosen to overlook the injury done us. I do not say that we would have done it, although I have some doubt whether this House, or the Executive, entertain any serious ideas of going to war with Spain. But the circumstances of the nation, in a similar situation with another enemy, might have rendered it necessary to count the cost. Suppose it had been Great Britain instead of Spain. Think you that we should have proceeded in the same headlong manner? I venture to say not. What opportunity has the nation had to express its willingness to encounter a war with Spain? Are the wrongs which were done us such as that we must fight? Are they such as that they cannot be overlooked? I contend that they are such as a prudent nation may overlook if she chooses. It cannot be contended that they are stronger grounds of complaint than "furnishing a determined succor, allowing troops to be raised, or advancing money." Although not precisely the same, yet they are of similar character. They are the evidences of a hostile disposition; they are evidences of a greater regard for our enemy than ourselves. Now, the cases I have quoted, *Vattel* expressly declares to be such "as may be overlooked," if in other respects the accustomed relations of peace are preserved—(*Vattel*, p. 328.) True, we may call them to account for it. We may demand redress. It was "new ground of quarrel," of which we had a right to complain. "We might expostulate with them, and, not receiving satisfaction, we might prosecute our right and make war on them. But, in this case, there must be a declaration"—(*Vattel*, 331.) But, sir, this nation have had no opportunity to complain of Spain, and in case redress were refused, to consult their interest in declaring war or not. Whether willing or not, it has been declared to their hand, and those who have done it are not even to be censured. That we are not now at war is attributable only to the imbecility of our enemy. Sir, I think that even those who differ with me in opinion upon this subject, will admit that had it been England, and not Spain, whose forts were captured, we had now been at blows in a war commenced without consulting the people. I go further. I venture to ask them, had it been England from whom we had seized these posts, and General Macomb (I mention his name only because I know he commands on the Northern frontier,) the officer who had made the war, would he not have been called to a severe account?

But, sir, the policy of the nation is changed; the law is changed; the Constitution is changed; the right of deliberation upon this great exercise of power, in declaring war, and with which the interest, honor, and prosperity of the people are more intimately connected than with any other act of sovereignty, is taken from them; it belongs to General Jackson; he has involved us in war, as far as his act could do it, and we must support him in it.

Some other reasons for the seizure of these posts deserve to be noticed. One is, because "St. Marks was necessary as a depot for the success of his future operations." And will it be said that this affords a justification of his conduct? So Gibraltar may be necessary in our future operations against the Barbary Powers, and why not take that, or some other place in the Mediterranean? But, again: it seems that the Governor of Pensacola sent a very insulting letter to the General, threatening to repel force by force. It was this letter, he declares, that finally determined his mind to capture the place. From his letter, it would seem that all the other reasons would not have been sufficient. Upon the receipt of this letter "he hesitated no longer." And so, sir, because his feelings and his dignity were insulted, this nation must run the risk of war to revenge it. Sir, in my opinion, it was the duty of the Spanish officer to protest when he discovered that General Jackson was on his march for Pensacola; he was near to it—for he received the protest on the 23d of May, and on the next day entered the town. The duty of the Spanish officer to his own Government required that he should protest. In saying this, I again repeat, that I do not intend to palliate Spanish wrongs; they are sufficiently great. But it belongs to the people, and not the officers of the Army, to determine on punishing them.

There is one other circumstance which the General gives as a cause for his movements, to which I beg leave to advert. It is this—that he "had understood the Indians were collecting, to the amount of four or five thousand,* in the neighborhood of Pensacola." This is really too laughable to be seriously noticed. At no time during this war, was there ever as many as one thousand seen together. The Indians had been beaten and dispersed, and driven to the east, into the peninsula of Florida. From whence, then, were these four or five thousand to come? Sir, all the Seminoles, Red Sticks, and Negroes together, did not amount to that number; and I have too good an opinion of his judgment to think he believed the information, though I have no doubt he received it.

I had, sir, various other circumstances to which I wished to call the attention of the Committee.

* Mr. Cobb feels it but justice to state, that, since the delivery of his argument, he has been informed by a gentleman that this is a *typographical* error, and that it should be *four* or *five hundred*. Mr. C. has not examined the document from which the letter laid on his table was printed. He, however, takes it for granted, there was a mistake, and, had he known it before he rose to speak, he should not have adverted to the circumstance in the terms he did. The circumstance to which he alluded may be found in the letter of General Jackson to the War Department, of the date of 5th May, 1818, at page 58 of the printed documents.

But I feel myself nearly exhausted, and I am sensible I have already taken up too much of their time. For the patience and attention with which they have listened to me, I return them my thanks; they have been greater, perhaps, than I deserved. But I cannot take my seat without calling their attention to the precedent which will be made in this case. This body is the child almost of precedents. Not a case presents itself but what precedents are sought—even every little claim is governed by precedent. I hope they will be aware of the important one to be afforded by the decision of this question, and that it shall not be such as that, at some future period, if some ambitious General should spring up, and, panting to acquire the same glory, without possessing the talents of General Jackson, should, by some mad act, hurry this nation into war, he shall not have it in his power to point to this case, and shield himself from responsibility.

Mr. COBB was followed, on the opposite side, by Mr. HOLMES of Massachusetts, who had only concluded one branch of this subject; when, having given way at the request of a member—

The Committee agreed to rise; and leave being given to sit again, the amendment moved in Committee was ordered to be printed.

TUESDAY, January 19.

Mr. BLOOMFIELD, from the Committee on Revolutionary Pensions, made a report on the petition of Samuel Bennett; which was read, when Mr. B. reported a bill directing the Secretary of War to place Samuel Bennett, a private of the Revolutionary army, on the pension list; which was read twice, and committed to a Committee of the Whole.

Mr. TAYLOR, from the Committee of Revisal and Unfinished Business, reported a bill allowing further time to complete the issuing and locating of military land warrants; which was read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. MIDDLETON laid before the House sundry documents transmitted to him as chairman of the committee on that part of the President's Message which relates to the illicit introduction of slaves into the United States; which were referred to the Committee of the Whole, to which is committed the bill supplementary to the act prohibiting the importation of slaves into the United States.

Mr. H. NELSON submitted the following resolution, viz:

Resolved, That the Speaker be authorized to admit to seats within the House of Representatives such persons as he may think proper, having regard to the convenience of the members in transacting the public business.

The question was taken, will the House now proceed to consider the said resolution? and determined in the negative.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to provide for the more convenient organization of the Courts of the United States, and the appointment of circuit judges," in which they ask the concurrence of this House. The bill was read twice, and referred to the Committee on the Judiciary.

BANK OF THE UNITED STATES.

Mr. TRIMBLE offered for consideration the following resolution:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Attorney General of the United States, in conjunction with the district attorney of Pennsylvania, shall immediately cause a *scire facias* to be issued, according to the 23d section of the act "to incorporate the subscribers to the Bank of the United States," calling on the corporation created by the said act to show cause wherefore the charter thereby granted shall not be declared forfeited; and that it shall be the duty of the said officers to cause such proceedings to be had in the premises as shall be necessary to obtain a final judgment thereon; for the expenses of which Congress will hereafter provide.

Mr. T. then said that he would briefly state the reasons which induced him to offer the resolution which he had submitted. He ought first, however, to make an apology to the committee who had made the able, and, he hoped, useful report upon this subject. From that report, he had inferred that the committee did not intend to offer any proposition leading to an inquiry into the question of forfeiture. It was possible that the committee might, from motives of delicacy, decline the submission of any measure involving the inquiry. That he might commit no mistake in that respect, he said he had thought it his duty to wait on the honorable chairman of that committee, by whom he was authorized to state that the committee did not intend to report a proposition to that effect, and that any proposition of that tendency would come with equal propriety from any other member of the House.

It is manifest, said he, that public confidence in the bank is shaken to its foundation, and that it has become the imperious duty of this House to act carefully and promptly on the subject; that, when the bank was established, it was expected it would coerce the resumption of specie payments; that it would curtail the emanation of paper issuing from fugitive country banks, and, by every means in its power, assist in restoring the par of exchange between the States; that the Treasury of the United States was to have had all the aid which the bank could render, by affording facilities in the transmission of the public funds. How far the expectations of the public or of the Treasury had been realized, he would not stop to inquire. It was not his intention to sum up the advantages which had grown out of the establishment, but to avoid the mischief which might follow the disclosures made in the report.

He had no fears, he said, that the operations of the Treasury would be greatly embarrassed, and he was sure that a depreciation of the bank notes would produce much confusion and distress, and perhaps terminate in a serious loss to

the stockholders. That the bank did not possess the power or the means of restoring the confidence of the nation; and that, without a restoration of confidence, its operations would be feeble and languid for years to come; that every view of the subject is fraught with unpleasant considerations and evil forebodings, and that, in fact, nothing is left us but a choice of evils.

He had been taught by experience, he said, that a bad remedy, promptly applied, was better than a good one delayed too long. We see, at a single glance, that public opinion applies itself to two objects—the charter of the bank and the conduct of the directors. The first question which a plain man would ask himself is this—Has the charter of the bank a legal existence? This question ought to be answered by a legislative opinion or a solemn legal adjudication; and, in his opinion, the inquiry ought to be immediately instituted, so that public opinion might not be suspended, and its confidence left in abeyance, upon a subject involving so many and such important considerations. Wisdom and prudence would both advise us to remove, as speedily as possible, all uncertainty and doubt upon the question of forfeiture. And he was confident that the interest of the stockholders, the Treasury, and the nation, would be equally promoted by a speedy investigation. Suppose a judicial decree should be rendered, announcing that the charter is not forfeited, that, of itself, would remove all doubts as to the legal existence of the corporation. Or, suppose that this House shall ultimately be of opinion that the reported violations of the charter are not such as should require the bank to be put upon its trial, would not a vote to that effect restore confidence in the charter? The argument would be this: The Congress of the United States have maturely considered this subject, and are of opinion that the reported violations of the charter are so far from working a forfeiture of the charter, that they are not sufficient to authorize a *scire facias*, or call the bank before a judicial tribunal. Mr. T. said, that if a proposition should be made in the House to revoke the charter, he was ready to give his opinion; but that, if the question shall be referred to the judicial tribunals, he would not forestal the decision by a premature declaration of his impression on the subject. His primary object at present, he said, was to give a clear intimation that the question of forfeiture would be urged when the report is called up; so that gentlemen may have time for reflection, and an opportunity of foreseeing and avoiding the consequences that may follow.

If, upon inquiry, said Mr. T., it shall be found that the charter is not forfeited, it will be the duty of Congress to adopt some measure which will restore confidence in the directors, and by some timely and well digested regulations, to interdict malpractices for the future. He would conclude by saying that it was the imperious duty of Congress to revoke and suppress the charter, or sustain its reputation by giving it every assistance which legislation can afford.

Mr. TAYLOR thought that any distinct propositions, as to the course most proper to be adopted toward the bank, had better be deferred until the report of the committee on that subject should be taken up in Committee of the Whole, as then the subject would be fully under consideration, and could be acted on to more advantage.

The question was then taken, will the House now proceed to consider the said resolution? And it was decided in the negative, 71 to 53.

THE SEMINOLE WAR.

The House then again resolved itself into a Committee of the Whole, Mr. PITKIN in the Chair, on this subject.

Mr. HOLMES resumed the thread of the speech which he yesterday commenced, in support of the proceedings of General Jackson, which is given entire as follows:

Mr. HOLMES, of Massachusetts, said the gentleman from Georgia (Mr. COBB) having appealed to the common sense of the Committee, he felt himself obliged, having some claim to that very common and vulgar commodity, to attempt to answer the gentleman's call.

This is not, said Mr. H., the only inducement. The very handsome, able, and gentlemanly manner in which that gentleman has supported his resolutions entitles him to the particular consideration of every member who differs from him, and demands our utmost efforts to combat his arguments and resist the force of his eloquence.

It is not, sir, because General Jackson has acquired so much glory in defence of his country's rights that I defend him—it is not for the splendor of his achievments or the brilliancy of his character. I would not compromit the rights and liberties of my country to screen any man, however respectable. If General Jackson has been ambitious, I would restrain him; if cruel, I would correct him; if he is proud, I would humble him; if he is tyrannical, I would disarm him. And yet, I confess, it would require pretty strong proof to produce conviction that he has intentionally done wrong. At his age of life, crowned with the honors, and loaded with the gratitude of his country, what adequate motive could induce him to tarnish his glory by acts of cruelty and revenge?

Nor am I disposed to become the advocate of Executive usurpation. If the President of the United States has encroached upon the rights of the people, or usurped a power not granted by the Constitution, it is our duty, as the guardians of those rights, to correct the mischief and preserve the Republic. And yet, it would be difficult to imagine an adequate motive to induce the President to trample upon the Constitutional liberties of the people. His life has been constantly devoted to the liberties, prosperity, and honor of his country. He receives his reward in the gratitude and confidence of the people. The chief of the only free people on earth, I could scarcely imagine that he has an inducement to do wrong, much less to prostrate the fabric of freedom which his own hands have contributed to erect.

I assure the gentleman from Georgia that, in endeavoring to anticipate the arguments of the friends of General Jackson and the President, he has not anticipated me. I admit, in the outset, that the President has no right to commence a war, even against Indians. And I further admit, that, if a treaty between this and another nation be violated by the other party, and the violation is not itself an act of war, but such as would justify hostilities on our part, the President has no right to commence these hostilities without the consent of Congress. If, with these admissions, the President and General Jackson cannot be defended, they cannot, in my opinion, be defended at all.

It is, then, incumbent on me to show that the Indians commenced the war. I shall not detain the Committee long on this point at present, as I shall be obliged to examine it more particularly in discussing another part of the subject. It cannot, however, sir, have escaped the recollection of the members of this House that the aggressions of those Seminoles were loudly complained of by the people of Georgia. Scarcely a newspaper from the South but was filled with dismal accounts of Indian massacres; scarcely a breeze but wafted to our ears the dangers, distresses, and murders of the people on the frontiers of Georgia. Were these all groundless rumors and false alarms? Were the Georgians, in fact, the aggressors? The gentleman from Georgia can answer the question.

On the 9th of August, 1814, a treaty was signed at Fort Jackson between the United States and most of the chiefs and warriors of the Creek Nation. By this treaty certain lands were ceded to the United States, and the inhabitants of the frontiers understood that the war was ended. But it was soon found that several of the hostile Creeks, and the Seminoles, had, within the limits of Florida, associated for the purpose of commencing hostilities against the United States. By the instigation and aid of a certain Colonel Nicholls, a fort was erected on the Appalachicola, and within the province of East Florida, to facilitate their hostile designs. At this place were assembled a motley banditti of negroes, Indians, and fugitives from all nations, and trained and instructed in the arts of robbery and murder. The people of the United States soon felt the effects of their vengeance. Several families, including women and children, were barbarously murdered. In 1816 a boat's crew were cruelly butchered, one of whom was tarred, set on fire, and burnt to death. On the 30th of November last, Lieutenant Scott and his party, consisting of about fifty men, women, and children, were murdered in a manner too shocking to describe. In this exigency what was to be done?

The Constitution of the United States makes the President the Commander-in-chief of the Army and of the militia, when called into the service of the United States. It vests in Congress the power to provide for calling out the militia to suppress insurrections and repel invasions. The act of Congress of the 28th of February, 1795, provides that, whenever the United States shall be invaded, or in imminent danger of invasion, the President may call out any portion of the militia to repel the meditated attack, and, to this end, may direct his orders to any officer of the militia, without a requisition upon the Governors of the States. The framers of the Constitution, by authorizing the President to repel invasion, did not intend that he should wait until it should have taken place. Should invasion impend, it was essential that the President should have the power to prevent it. The preposterous doctrine that the invasion must take place before the militia can be called for, is, I trust, long since exploded. This act is an exposition of this clause in the Constitution, acquiesced in ever since the year 1795. The President, then, may employ the militia without a special authority from Congress, when there is invasion, or danger of it; and he can use the army as well as the militia. He is their Commander-in-chief, and though the act to which I have just referred does not specially authorize him to employ the standing army for these purposes, yet it is manifest that our regular troops would never have been placed on our frontiers in time of peace, if they could not be employed by the President, to repel invasion, without an act of Congress. If the army of the United States, during invasion, were to remain inactive until Congress could be convened to authorize them to act, they would be worse than useless. Though I am not in the habit of placing much reliance on the admissions of my opponents, I trust it will not be insisted that the President has not the power to employ the army for the same purposes as the militia.

The war having been commenced by the Seminoles and their associates, and the President of the United States having the power, by the Constitution and laws of the United States to meet and repel the enemy, the inquiry is important, on what ground he may meet them. I differ from many gentlemen in regard to the political rights of the Indians. Whatsoever may be their rights in peace, either by natural or conventional law, in war I deem them as sovereign. Their residence within the limits of the United States, limits to which they have never assented, neither brings them within our protection nor entitles us to their allegiance. The laws of the United States have no operation upon them, and if they levy war they are not punishable as traitors. A tribe of Indians, whose territory is exclusively within our limits, may wage war and make peace with us; pursue, capture, and destroy us; send and receive flags; grant and receive capitulations, and are entitled to a reciprocation of every act of civilized warfare, and subject to the same rules of severity and retaliation as other nations. To invade their territory and cross their line is, as to them, passing out of the limits of the United States. And, if General Jackson had no right, in this war, to cross the Florida line, neither had he a right to cross the Indian line within our limits. If there is any force in the argument so often urged on other occasions, that every war of inva-

sion is an offensive war, and one, consequently, which the President could not wage without the authority of Congress; then, it follows, that Congress must declare war before the President can march the militia across the Indian line, even within the limits of the United States. But such a construction of the Constitution is totally inadmissible. When war is commenced by savages, it becomes the duty of the President to repel and punish them. To follow them to the line affords us no security. The invasion cannot be effectually repelled but by pursuing them into their own territory, and retaliating on them there. Such has been the uniform construction of the power of the President, ever since the adoption of the Constitution. In no instance that I recollect has Congress declared war against an Indian tribe. The defeat of St. Clair, and subsequent victory of Wayne were on Indian territory. The battle at Tippecanoe (fought by my friend from Ohio, with so much honor to himself and satisfaction to his country) was within the limits of the Indian nation. In neither of these instances was a declaration of war deemed necessary by Congress.

If, then, it be true that this war was commenced by these savages, we have brought General Jackson and his army up to the Florida line, and, I trust, without any material violation of the Constitution or laws of the United States. Let us now stop and examine the ground on the other side before we attempt to pass it.

The territory of Florida, which the General and his troops are about to enter, from St. Marks to Pensacola in length, and from the United States to the Gulf in breadth, comprehends, probably, not less than 10,000 square miles. Spain claims a jurisdiction over this tract, as comprehended within the two provinces; and it includes, I am told, about 3,000 Spaniards in all—2,500 of whom are in and about Pensacola, and the residue scattered on the Choctaw river, and a few trading families on the Appalachicola. The number of Indians there cannot be well ascertained, but far exceeds the white population. The possessions of the Spaniards are exceedingly limited, and their jurisdiction is merely nominal. The Indians have, in fact, the possession and the control.

But suppose we admit that the Spaniards and Indians have a concurrent jurisdiction. This is the most that can be pretended. And upon this hypothesis, what are the rights of the United States? The territory of these Indians is on both sides the Florida line. Their possessions and residence are transient and ambulatory, without regard to this line. The nation, if such they may be called, is at war with us, and in this war they can occupy their territory in Florida in spite of Spain. Singular, indeed, would it be, if we should be engaged in war with an enemy who had a perfect right to be, where we had no right to meet him. Spain claims a jurisdiction to a territory occupied by our enemy; she has no power nor inclination to expel him, and yet it is gravely said this enemy cannot be pursued to this territory without an act of hostility against Spain. Unfortunate, indeed, would be the condition of the United States, if a horde of unprincipled banditti, holding a residence on our borders, could prosecute a cruel and exterminating war upon our citizens, and then take refuge across an ideal line, where the laws of nations forbid us to approach them. Sir, let gentlemen tell me of another instance where your enemy has a right to perfect security against your approach. It would be a war of a peculiar character, where one side only gives the blows.

Why, then, should not General Jackson and his army cross? Will any gentleman point to me the clause in the Constitution or laws of the United States that forbids him? Nay, more, can any one offer a reason why he should not pass into Florida, which would not equally forbid his crossing the Indian line within the limits of the United States? It would be preposterous and absurd to pretend that you could not pursue your enemy to any refuge to which he is entitled. The Seminoles, then, being enemies, and having a right in Florida beyond the control of Spain, the inference is irresistible that you have a right to pursue and fight them there in your own defence.

General Jackson having crossed into Florida, for the purpose of meeting and fighting the Seminoles, what are his duties towards those who profess an allegiance to Spain? The case is peculiar, and, perhaps, stands on its own foundation. It is difficult to illustrate it by analogy. While we are on enemy's, we are, in some sense, on neutral ground. The ocean being the highway of nations, all having concurrent jurisdiction, it is possible a case may there be found affording an illustration. You discover your enemy's fleet at a distance. On approaching it you perceive neutrals intermixed. Some are of a doubtful character, wearing the neutral flag, but exhibiting other symptoms of a belligerent character. Some seem engaged in affording facilities to the enemy to defend themselves or to escape. In such a case you are bound to exercise your discretion, and to capture all those of a suspicious character. Should you mistake, it is not your fault, but the misfortune or folly of the neutral in being found in company with your enemy, in a situation to excite suspicion. A discretion, therefore, must rest with a commander to discriminate. In the ordinary case of invading the country of a civilized nation, the commanding General is obliged to distinguish between the public and private property, and between combatants and non-combatants. There are situations in which it is extremely difficult to determine, and it not unusually happens that this power of discrimination necessarily devolves on the subordinate officer, and even soldiers, whereby many of the innocent and unoffending are made to suffer.

When General Jackson marched his army into a country where he must necessarily find neutrals, as well as enemies, the right of discrimination devolved on him. If a Spaniard was found in the ranks of the enemy, aiding and assisting in hos-

tilities, he was bound to consider him as an enemy. If the guns of a fort were turned against him, or the fort used by the Indians as a post of annoyance, he had a right to consider the soldiers there as associated and identified with the enemy, and to wrest from their hands the means of hostility. Even should he mistake, he is not subject to censure, but it is the misfortune of the neutral in being associated with our enemy, and placed in a situation where suspicion might attach. But, sir, I by no means admit that General Jackson needs such an apology in this case. I will prove that the Spaniards in Florida were identified with the Indians, and the posts taken by Jackson were under Indian control. I will prove that the Spanish officers and inhabitants in Florida have conducted most treacherously, pretending to a neutrality which they have constantly violated. I will show to the Committee, by proofs incontestable, that the local authorities were the exciters, promoters, and prosecutors of the war, and furnished the means of carrying it on.

I lay Spain out of the question. Poor, miserable, degraded Spain, too weak and palsied to act or think! She has but the shadow of authority there, and, so far from being able to control the Indians, or even her own subjects, the country, as to her, is a perfect derelict. I will ask this Committee to go back with me to the year 1813, and from that period to the capture of Pensacola, to witness the Spanish officers exciting the Indians to vengeance, furnishing them with the arms and munitions of war, tamely acquiescing in the most flagrant violations of their pretended neutrality, and suffering the territory to be prostituted to every banditti who might be disposed to annoy or distress the people of the United States.

Sir, before I proceed to an account of these transactions, allow me to subjoin a few remarks in reply to what has been said relative to the conduct of the Executive in engaging in this war. The gentleman from Georgia apprehends that the President has violated the Constitution. During the last session of Congress, it was known that this war could not be terminated without marching the troops into Florida. The President of the United States, in his Message of 25th March, and four weeks before the session closed, informed this House that he had issued orders to General Gaines to cross into Florida, to pursue and chastise the enemy, but to respect the Spanish authority where it was maintained. We acquiesced; we appropriated the money to pay the militia, and without a whisper of disapprobation.

Connected with this part of the subject, I regret to be obliged to notice an intimation from the gentleman from Georgia, that General Jackson might possibly have orders from the President different from those communicated to this House. Sir, though the gentleman did not state that he believed this, yet, when a member of this House will intimate that it is even possible that the President of the United States has practised such duplicity, and will endeavor to show evidence of the grounds of such intimation, it becomes our imperious duty to inquire. If the President has given to General Jackson one set of orders, and imposed upon us a different set, he has practised a hypocrisy utterly unpardonable, and he ought to be exposed to the indignation of the American people. What then, I repeat, can be the ground of this suggestion? The gentleman quotes the letter of the Secretary of War to Governor Bibb, of the 13th May, stating that General Jackson had full powers to prosecute the war at his discretion, and, as we have seen no such full power to General Jackson, he leaves us to infer that the document is withheld. A brief statement of the facts will, I trust, explain this mystery, even to the satisfaction of the gentleman from Georgia. The Secretary's letter of 16th December last authorizes Gaines to cross into Florida, under the restriction as to Spanish fortresses. His letter to Jackson, of the 26th of the same month, directs him, to whom the command was now transferred, to concentrate his forces and adopt the necessary measures to bring the war to a speedy conclusion. Governor Bibb, not knowing of the orders to Gaines, on the 15th April, 1818, writes to the Secretary, that he has no authority to pass the Florida line, and wishing for orders. The Secretary, on the 13th May, replied, that the orders to Gaines to cross were sufficient for him, and then adds, that General Jackson had full powers to conduct the war. Taking all these letters together, can there be a doubt of their meaning? The authority to cross was that given to Gaines and transferred to Jackson on his assuming the command; and the full power, mentioned in the letter to Bibb, was that vested in Jackson by the letter of the 26th December, and meant and intended nothing more than that Jackson was Commander-in-chief in that quarter, and that his powers were sufficiently extensive to accomplish the object of his appointment. Can gentlemen find in all this sufficient ground to suspect the President of fraudulently suppressing a document? Were the gentleman a judge or juror, could he find in this sufficient to convict, or even to cast a well grounded suspicion upon the meanest wretch who crawls in the filth of society? And yet this is offered as ground of inquiry against your President! Sir, is it liberal, is it candid, is it charitable, is it magnanimous?

Sir, who are we? Are we the people, or, like the President, the servants of the people? And, should we suggest such suspicions on such evidence, may not these same people call us to an account for a malicious prosecution without probable cause against their President and friend? I do not profess to predict what would be their decision, but I confess I should be unwilling to submit to them such a question on such evidence.

I will now proceed to the detail of the acts of hostility of the Spanish officers. Lest I should be tiresome to the Committee, I shall only state the facts, and, if gentlemen wish, will, from my minutes, refer them to the book and page.

It is in proof that, in 1813, William Hambly

saw a letter from the Governor of Pensacola advising the Indians to take up arms against the United States. Early in the Spring of 1824, the British frigate Orpheus landed arms, ammunition, and officers, on the Appalachicola, in East Florida, and engaged the Indians against the United States. These acts were public and notorious, and, being in the vicinity of St. Marks, must have been known to the Spanish Governor. About the same time, the fact was notorious at Pensacola, that about two hundred Indians received provisions and ammunition out of the public stores. On the 4th of August, of the same year, a certain Colonel Nicholls, an Irish adventurer, arrived at the Havana, with an expedition, for the avowed purpose of proceeding to Florida, and taking possession of Pensacola. The Governor General, to be sure, forbade him, and warned him not to violate the neutrality of Spain, with as much gravity as if he expected to be obeyed. Notwithstanding this, however, Nicholls obtained refreshments, and proceeded to his destination, publicly and notoriously, without being in the least hindered or molested by the Governor General. He arrived at Pensacola, captured the Barancas and the city, without resistance or complaint. This scandalous surrender of the capital of West Florida to the British, with whom we were at war, for the well known purpose of organizing a desperate, unprincipled, and ferocious banditti against the people of these States, was conclusive evidence of the treachery and hostility of the Governor. On the 29th of August, Nicholls issues his proclamation, at his headquarters, Pensacola, stating that he has Indians commanded by British officers; that he is aided by a numerous British and Spanish fleet, and calling upon all fugitives and vagrants to join his standard to inflict vengeance on our frontiers.

He sends a minister to the choice spirits of Barrataria, invites and receives the aid of the Indians, promises to let loose the slaves for the humane purpose of cutting the throats of their masters, and compliments the Louisianians and Kentuckians with an invitation to join this honorable coalition.

It begins thus: "Natives of Louisiana! on you 'the first call is made to assist in liberating, from 'a faithless, imbecile Government, your paternal 'soil: Spaniards, Frenchmen, Italians, and Brit-'ish, whether settled or residing for a time in 'Louisiana, on you also I call to aid me in this 'just cause: the American usurpation in this 'country must be abolished, and the lawful own-'ers of the soil put in possession!"

Again: "Men of Kentucky! let me call to 'your view, (and, I trust, to your abhorrence,) 'the conduct of those factions which hurried you 'into this civil, unjust, and unnatural war, at a 'time when Great Britain was straining every 'nerve in defence of her own and the liberties of 'the world."

Captain Lockyer, of the Sophia, and the honorable Captain Percy, of the Hermes, used all their exertions to induce Lafitte, the chief of the pirates of Barrataria, to unite with these British and Spaniards, and Indians, and Negroes, in this work of indiscriminate massacre.

From this capital of His Most Catholic Majesty's province of West Florida, at the residence, under the eye and with the consent and aid of this Spanish Governor, boasting of his impartiality and jealous of his neutral rights, an expedition was fitted out against Fort Bowyer, an American post at Mobile point. On the memorable 15th of September, 1814, the fort was attacked, but was so well defended, by the brave Lawrence and his companions, that the assailants were defeated, and returned with loss and disgrace. All this was done in the name of neutrality; but it was a neutrality not to be endured. General Jackson, with that energy and promptitude which mark his character, marched to Pensacola, and captured the place. Nicholls and his banditti ingloriously fled, after blowing up the fort of Barancas, which he had received from the hands of his friend, the Spanish Governor. Nicholls's confederacy now began to decline. The Louisianians were true to the core. The Kentuckians could not be seduced from their allegiance. Even the pirates of Barrataria hesitated, suspecting that their reputation might suffer, and at last declined the honor of such a confederacy, and united in defence of the United States. The glorious and unparalleled victory of the 8th of January, and the peace which immediately ensued, broke up this confederation of the Mississippi. Nicholls, with his ruffians, retired to the Appalachicola. There let us leave him a while, breathing revenge and meditating murder, and glance at the conduct of the Spanish officers in the east of the peninsula. Here we find the same style of affected neutrality, connected with the most abject and scandalous submission to the mandates of the British, and the most wanton and unjustifiable excitement of the Indians against the people of these States.

In December, 1814, the notorious Woodbine was recruiting negroes and others at St. Augustine. The people became alarmed, not that their neutrality would be violated, but lest their slaves should be seduced from their masters. Governor Kinderlan issued his order to Woodbine, affecting to caution him against violating the neutrality of Spain, but intending, in reality, to prevent his seducing the negroes from their masters. Woodbine understood him, promised to relieve the alarm of the inhabitants, and to remove his negro and Indian escort so far off as the inhabitants should be in no danger. The Governor was pacified, and nothing further was heard of neutral rights, and the recruiting, probably, proceeded as before.

In the same Winter, several American vessels were taken by the British in the St. Marys, and within the territories of Spain. Complaint was made in behalf of the owners, and Admiral Cockburn, with characteristic impudence, told the Spanish Governor that these vessels were taken, for breach of blockade, in a small river far in the interior, and that they were only transferred to the British admiralty courts in the West Indies, where the most speedy and impartial justice

might always be expected. But, says this modest and consistent Admiral, why do you insist upon neutrality in favor of a people who do not respect it towards you? General Jackson has, in a hostile manner, entered Pensacola, and captured and blown up the Barancas. When, in fact, this Pensacola had been a British rendezvous, was taken from the Spaniards by a British force, and Nicholls himself blew up the fort. All this tantalizing, all this debasement, was endured by this hypocrite with great philosophy.

The documents from whence these facts are derived, were presented by the Spanish Minister as evidence of the fairness and correctness of His Majesty's officers in Florida—evidence furnished and prepared for the occasion, by the party accused. When it was ascertained that the President of the United States well understood the course the Spaniards in Florida had pursued, the Spanish Minister here set about procuring from them the evidence of their own innocence; and he triumphantly communicated to the Secretary of State the papers to which I have alluded, and others of a similar character, selected or created, for the special purpose, by the culprits themselves. In one of these, however, the Spanish Minister seems to have defeated himself. In answer to a letter from an Indian chief, I think by the name of Bowlegs, inquiring what he should do to the Americans, who he pretends are stealing his cattle, the Governor advises the Indian to "resolutely drive them off." Bowlegs well knew that this advice meant cutting throats and scalping, and with much prudence replied, "my people did drive off some Americans settled at Luchua, and I fear the United States will consider this an act of war." These cases principally occurred during our war with Great Britain; and I should suppose that these, of themselves, furnished strong, if not irresistible, proof of the fact, that the Spaniards in Florida were engaged in active warfare against the United States. But this is not all; the peace with Great Britain did not even suspend these hostilities.

Nicholls, after this peace, remained at and fortified his post at Prospect Bluff, within the limits of East Florida, and in the vicinity of St. Marks. It was made an asylum for the base and desperate of every people and nation; all vagrant Indians, fugitive negroes, Spanish renegadoes, British malefactors, outlaws, and pirates, were associated here, to ferment and breed plots of blood, and torture, and murder, and treason.

Under a grand bandit like Nicholls, what might not such an assemblage achieve? This bloodthirsty, ferocious miscreant, endeavored to tempt the cupidity as well as the ferocity of the savages, by pretending that, by the 9th article of the British treaty, they were to be restored to the condition they enjoyed in 1811. He encouraged them to disclaim the treaty of Fort Jackson, and to drive the Americans from the lands acquired by that treaty.

Nicholls, thus countenanced and encouraged by the Spaniards, becomes more daring and insolent. In his letter of the 12th May, 1815, to Colonel Hawkins—a letter that would disgrace a vandal—he exults in the security of his position, prescribes limits to the people of the United States, and threatens with instant death every one who shall venture to transgress them.

I will read to you, sir, a few paragraphs from this letter: "I have ordered them, (the Indians,) 'however, to stand on the defensive, and have 'sent them a large supply of arms and ammuni'tion, and told them to put to death, without 'mercy, any one molesting them. They have 'consented to wait your answer before they take 'revenge. But, sir, they are impatient for it, and 'well armed, as the whole nation now is, and 'stored with ammunition and provisions, having 'a strong hold to retire to in case of a superior 'force appearing.

"I am also desired to say to you, by the chiefs, 'that they do not find that your citizens are 'evacuating their lands, according to the 9th ar'ticle of the Treaty of Peace, but that they were 'fresh provisioning the forts. They also request 'me to inform you, that they have signed a 'treaty of offensive and defensive alliance with 'Great Britain, as well as one of commerce and 'navigation, which, as soon as ratified at home, 'you shall be made more fully acquainted with."

Nicholls, having established his government, begins to think of foreign alliances. He assumes the diplomatist; is converted into a Minister Plenipotentiary; makes, in behalf of his subjects, a treaty offensive and defensive, and a treaty of navigation and commerce with Great Britain, and proceeds to England to obtain their ratification. His "bluff people" were left to themselves; who commanded or governed them is not distinctly known, until the unfortunate Ambrister and Arbuthnot succeeded to the government.

It is, however, sir, well known that these desperadoes were not inactive; that the unfortunate inhabitants of our frontiers felt the full weight of the vengeance threatened by Nicholls, and that the Spanish officers looked with perfect composure at these atrocities, committed within their own jurisdiction. Nay, more: the Governor of Pensacola endeavors to preserve the establishment. In a letter of the 26th May, 1816, in answer to one from General Jackson, complaining of this nuisance, the Governor pretends to deprecate the existence of it, and to regret his want of authority and means to break it up; promises to write for orders, but hopes that the United States will not violate the neutrality of Spain, by attempting to suppress it themselves. After waiting two months, and no symptom of a disposition to suppress the establishment, on the part of the Spanish authorities, a vessel of the United States ascended the river, to break up this nest of outlaws. After a boat's crew of this vessel had been murdered, except one who was made prisoner, carried into the fort, tortured, and burnt to death, the magazine was set on fire by a shot from the vessel, and two hundred and seventy men, the choice troops of Nicholls's command, and Britain's allies, were blown into the skies.

Sir, if there could remain a doubt whether the

commandant of St. Marks was in league with these people, this doubt must be removed by a mass of testimony contained in the documents on your table. The moment the Negro Indian fort was destroyed, St. Marks became the deposite and storehouse of the savages. Here their councils were held; here they sold their bloody trophies, torn from our murdered citizens, and here they received the instruments and means of future murders. Luengo was the adviser, aider, and protector of the savages, and the friend and coadjutor of Arbuthnot. Witness the depravity of this double-tongued hypocrite. Policy induced his acquiescence! When Jackson arrives, from an associate of the Indians, he becomes our friend, and discovers a baseness which a brave man would despise. "May God preserve your Excellency, is my prayer. I kiss your Excellency's hand, and am your most faithful and obedient servant."

If St. Marks was used for purposes of Indian hostility, much more so was Pensacola. Suffice it to say, that there is a mass of evidence, which proves most positively that, from the Spring of 1817 to the capture of Barancas by Jackson, the Spaniards of that place constantly sold to the Indians arms and munitions of war, and purchased their plunder; that the Spanish Governor privately furnished them with arms and provisions from the public stores, and the Indians were commanded by Spanish officers, and were actually protected and aided in their escape by the Spanish Governor.

Sir, is it not demonstrated, then, that the Spanish officers and inhabitants of Florida were identified with our enemy; and that the posts of St. Marks and Pensacola were converted to the use of the savages? Even then, upon the strongest hypothesis in favor of these people of Florida, upon the supposition that the jurisdiction of Spain was concurrent with that of the Indians, and that the Indians are independent in war, we had a right to enter this territory, to meet and conquer our enemy, and to take the posts thus become hostile.

In speaking of the case of Ambrister and Arbuthnot, it becomes necessary to notice a remark in the report of the Military Committee. They state that, at the time of the capture of these men, the war was, to all intents and purposes, at an end; and they very appropriately distinguish this sentence with three notes of admiration. And, sir, it is to me matter of the profoundest astonishment how these gentlemen discovered that the war was at an end. Do they find it in General Jackson's letters of the 20th and 26th of April? In these, although he expresses the intention of returning to Nashville, he expressly states the necessity of scouring the country on the west of the Appalachicola. He had not yet crossed that river, and between this and Pensacola there was a distance of near two hundred miles, with scarcely an inhabitant except Indians. Do the committee infer it from his discharging the Georgia militia? Sir, there is a better reason why they were discharged—the best reason in the world—they were not wanted. It would be marching them near two hundred miles further from their homes, making an additional march of near four hundred miles, while the Tennessee troops would be about as near home at Pensacola as at St. Marks. His force was strong enough without them; they would have been an actual encumbrance, and could have afforded him no manner of aid, but that of eating up his provisions; an aid, by the bye, which at that time General Jackson did not need. Sir, if the war was, to all intents and purposes, at an end, the committee have not gone far enough. General Jackson should have been charged with high crimes and misdemeanors, indeed. Every step which he afterwards took, was in violation of his express orders, and every death he occasioned was an act of deliberate and malicious murder. He has wantonly wasted the troops and treasure of the nation, and stained his hands with innocent blood.

But how, sir, was this war to all intents and purposes at an end? Had the enemy been conquered? had he submitted? had he offered terms of peace? Does not every one know, that, to disperse Indians, is not to conquer them? Was it not extremely probable that the enemy had retired to his covert and fortresses, there to wait for a favorable opportunity to issue forth to retrieve his disasters, and take ample revenge? And is it not a fact, that, near a month after this war was to all intents and purposes at an end, Major Young engaged, fought and defeated a large body of the enemy, on the Escambia, in the neighborhood of Pensacola? How, then, is it, that we hear that the war was to all intents and purposes at an end?

I am willing to admit, for argument, sir, that if Ambrister and Arbuthnot were acting under orders or authority from the British Government, and Jackson knew it, he should have retained, and treated them as British prisoners of war. But, is it fair to presume this? With Great Britain we were at peace; and though Nicholls had made a treaty, offensive and defensive, with His Britannic Majesty, there is no evidence that it ever was ratified. When Nicholls went to England, with his prophet and his treaty, the American Minister there protested to Earl Bathurst against the proceedings of this incendiary. Earl Bathurst disavowed the whole transaction, and stated that the treaty would not be ratified, nor Nicholls admitted to an audience. The same disavowal was repeated by Lord Castlereagh, on his return from the Continent. I regret, however, that circumstances exist, to authorize a suspicion of the insincerity of the British Government. Although our Minister in London pressed both of the above gentlemen repeatedly, by several official notes, yet he never was able to extort a disavowal in writing. The same caution, it is understood, has been manifested by the agents of His Majesty's Government here.

There are other circumstances which go to throw a mystery over the conduct of the British Court in regard to these Indians. Papers were

found with Arbuthnot, which might tend to increase the suspicion. His letter to Nicholls of the 26th August, 1817, informing him that Governor Cameron of New Providence had shown him a letter from Bathurst, stating that the British Minister at Washington had orders to watch over the interests of these Indians—the conduct of Cameron in the affair—his unsigned *answer*, referred to at the close of this letter—and the respectful notice taken of the prophet Francis while in England; all go to create a suspicion, that the hand of the Government is in this thing. But, as the British Government have *verbally* disavowed all concern in the affair, surely General Jackson could not presume anything in favor of these men, by suspecting the integrity of their Government.

The justice of their execution cannot, in my mind, admit of a doubt. They were volunteers in the service of a lawless tribe of savages, whose mode of warfare is indiscriminate massacre of all ages and sexes It is right, it is merciful to inflict on these savages those cruelties which they practise and inculcate. In this, however, it is proper to select the most atrocious and vindictive. To spare the effusion of the blood even of savages, and to effect that security which arises from eminent examples, it is prudent and wise to select those men as objects of retaliation and punishment, who are the most active and successful in practising and inflicting cruelties. Who, then, could have been selected as examples, with more justice and policy, than these two foreigners, who had been taught in the school of humanity, and understood the distresses which their conduct would inflict? The General had a right to execute them without trial. This right is an executive right, and rests in the commanding General. A trial by court martial, strictly speaking, in my mind, was illegal. As the General had power to execute them without trial, there could be no good reason to try these men, which would not apply to the chiefs who were hung without trial, except the necessity of ascertaining whether there were in fact concerned in provoking and prosecuting hostilities. All that Jackson could have legally done, would have been to appoint a board of officers to ascertain this fact. All the authority which he delegated to them, therefore, beyond that, was illegal; and it was his duty to annul it, and pass the judgment and sentence which the facts justify. The most, then, that can be contended, is, that this was a wrong mode of doing a right act. And though I am not an advocate for the principle, that the end justifies the means, yet, in this case, I see nothing so erroneous in the means, as to impeach the character of the end. The truth was found by the court martial, and upon this it was his duty to decide. He did decide, and I trust correctly. I will not tire the patience of this Committee by a particular statement of the evidence against these men. Ambrister was taken in arms, and the proofs against him are abundant, that he was actively engaged in provoking and prosecuting this war: and that he enforced the precept of his master, Nicholls, to regard the affections and antipathies of the Indians. Arbuthnot was not only the exciter, but supporter of the war. Knowing of the treaty of Fort Jackson, of 9th August, 1814, he keeps up the pretence, that these Indians were not bound by it, but were relieved by the 9th article of the British Treaty. He is the successor of Nicholls. He calls for succors from the British Government. He is the associate and confidant of the commandant of St. Marks. He furnishes the Indians with the weapons of destruction.

Sir, an awful responsibility rests upon this House. Upon their decision rests the safety of thousands. I hope and trust that the period has arrived, when the United States shall have adopted a rule of policy, to punish every foreigner who shall instigate the savages to war. Let it from henceforth be promulgated, that no citizen of a civilized nation, who excites the savages to war, is to be spared. That, wherever he may be found, he is to be deemed the enemy of mankind, and to suffer instant death. Had this rule been adopted forty years ago, and rigidly observed, how many disconsolate mothers would now be happy in the embraces of their children! How many bereaved parents, and children, and husbands, and wives, would now be surrounded by their respective friends, and enjoying the endearing charities of domestic life!

Sir, it is not a matter of trifling importance for a man to quit the sweets of society, and to become an inhabitant of the wilderness, surrounded by savage beasts and savage men. The privations and dangers he is to endure, demand the protection and solicitude of the nation. Gentlemen in this House can well describe the dangers and hardships through which the frontier settler has to pass; and I appeal to the gentlemen from the West, particularly, if it is not well understood, and fully believed, that most of the Indian wars were instigated by foreigners? I ask gentlemen to look back awhile, and examine facts. Let them recollect the letter of Mr. Jefferson to Mr. Hammond, on this subject, in 1792. Let them examine the facts in proof of foreign instigation, which occurred before and after the defeat of St. Clair, and the victory of Wayne. I could call to your recollection the address of Lord Dorchester, advising the Indians to take up the hatchet. The numerous cases of British traders urging and provoking hostilities, and of British subjects found fighting with, and painted like Indians. But these are familiar to gentlemen who witnessed the events of those times. A mass of evidence on this subject was collected by a committee, who made to this House, on the 13th of June, 1812, a very able report, on the subject of Indian hostilities, and their causes.

I will, however, read you a paragraph from a late document of very high authority, and which presents the facts in a very forcible and emphatic manner, It is thus expressed:

"The undersigned very sincerely regret to be obliged to say, that an irresistible mass of evidence, consisting principally of the correspondence of British officers and agents, part only of which has already

been published in America, establishes, beyond all rational doubt, the fact, that a constant system of excitement to those hostilities, was pursued by the British traders and agents, who had access to the Indians; not only without being discountenanced, but with frequent encouragement by the British authorities. And if they ever dissuaded the Indians from commencing hostilities, it was only by urging them, as in prudence, to suspend their attacks, until Great Britain could recognise them as her allies in the war."

Sir, do you ask me for the authority which I read? I answer, it is a communication made to the British Commissioners at Ghent; and it is signed by John Q. Adams, J. A. Bayard, Henry Clay, Jonathan Russell, and Albert Gallatin; names which this country, I trust, will long delight to honor. Sir, is further proof needed? Let the disconsolate widow, and helpless orphan, whose cause I am advocating, be my witness.

I confess, sir, that I am excited, and my sensibility is awakened. My imagination transports me into some distant wilderness, in some sequestered spot. A female form stands before me, and seems to say, "Once I enjoyed the conveniences and pleasures of life. Excluded, in some measure, from the enjoyment and allurements of the world, I was happy in the society of my husband, and the embraces of my children. The bounty of Providence was poured in, in copious effusion; the sun of prosperity had risen, was shedding its beams upon us, and hastening to its meridian. But, it was at once obscured by a cloud. Some foreign incendiary, prompted by avarice or revenge, excited the savage, and provoked him to vengeance. The midnight yell was heard—our habitation was assailed—the doors were forced—the horrors of despair thickened around us. My husband met and fell under the fatal stroke; my children clung to my neck, and fastened on my bosom; they were torn from my embrace, and mangled and murdered in my presence! I was doomed to a more lingering fate—to endure the torch and the fagot, and wait the tardy approach of the fatal messenger, in most excruciating torment. Our spirits have taken their flight—our mangled bodies are cast out, a prey to the vultures and wolves of the desert—our bones are scattered and bleaching on the mountains. Go tell the advocates of false humanity—go tell your countrymen, who revel and wanton in the luxuries of freedom, that there is an avenging God; that justice and mercy demand a prompt and severe retribution; that duty and policy demand that you should punish, with instant death, every instigator of Indian barbarity, wherever he may be, and whenever he may be found. Then will your country become the protectors of the unfortunate, and the defenders of the defenceless. Then will you have tranquillity on your borders—prosperity in your dwellings. Then will your peace be indeed as a river, and your righteousness as the waves of the sea." There is a pause—and I seem to hear the responsive amen, descending from the throne of infinite mercy.

Mr. T. M. NELSON, of Virginia, said, it had been his intention, when the Committee of the Whole on the state of the Union first took up the report which was now the subject of deliberation, to have stated briefly the view taken by the majority of the Military Committee who concurred in the report; but, not having been so fortunate as to get the floor, he had been obliged to delay doing so until now. I should not, said he, have obtruded any remarks upon you now, sir, had the report the aid of the chairman, who has so faithfully presided over the Military Committee ever since he has occupied that station; but, I regret to say, we differed in opinion on this occasion.

I believe I am correct in stating that that part of the subject to which the report is confined, is the only one on which a majority of the committee could be united; and, as the other branch of it might fairly be considered to be in the hands of another committee of this House, a reason was found for passing it over in silence. I moreover acknowledge that, although I did, previous to the decision of the committee, disapprove the proceedings against Pensacola and Barancas, as unauthorized and unnecessary, I felt a doubt whether the capture of St. Marks might not be justified, upon the plea of necessity; but that is dispelled by a more minute examination of the documents. A reference to the letter from the commanding officer at St. Marks, to General Jackson, bearing date April 7, 1818, to be found page 67 of the documents on the Seminole war, and which had escaped my recollection, shows that there was no necessity for the capture of that post, to preserve it from falling into the hands of the Indians; the apprehension of which seems to be the original cause of General Jackson's design to take it. And, sir, if for the peace of the United States, it was important that St. Marks should not fall into the hands of the enemy, the proposition made to General Jackson, in the letter I have alluded to, to leave a force in its vicinity, with which the Spanish troops would co-operate, to effect that object, appears to me amply sufficient for every purpose of security and defence. General Jackson thought differently; he thought "St. Marks was necessary, as a depot, to insure success, and he occupied it with an American force."

The gentleman (Mr. HOLMES) who preceded me in this debate, has gone into a long train of reasoning to show that Spain has given us just cause of war, and thence infers that General Jackson had a right to take possession of the Spanish garrisons in West Florida. Sir, I am not the apologist of Spain; I wish to be distinctly understood to say, that to Spain we are under no obligations for General Jackson's conduct while in her territory. When the gentleman, who is chairman of the Committee on Foreign Relations, shall offer a proposition to go to war with Spain, it will be time enough to inquire whether we have just cause of war against her; but there would be many other points of discussion, besides the mere justification or cause of war. Would it be politic, would it be magnanimous, to make war upon a degraded, enfee-

bled enemy? These are questions which I am not called upon at this time to decide. Sir, the question now before us is, whether a war has existed between the United States and Spain, and by whose authority. That a war has been prosecuted by General Jackson, against the Spanish authority in West Florida, can be established by his own representation. I refer you to the capitulation entered into by General Jackson and the Governor of Pensacola "which, with the exception of one article, amounts to a complete cession of the country to the United States," to use the General's own language. How, sir, was this effected? By the American army, commanded by General Jackson. Was it in compliance with the wish and desire of the Spanish commander? No, sir; it was in direct opposition to his warning, that he would repel force by force; which General Jackson says "was so open an indication of hostile feeling" on the part of the Governor, that he no longer hesitated on the means to be adopted. "I marched for and entered Pensacola, with only the show of resistance." In his letter of the 2d of June, to the Secretary of War, he details all the minutia of investing the fortress of Barancas; of making a lodgement under the fire of the garrison; of mounting nine-pounder and howitzer batteries; and such other incidents as are attendant on most battles between civilized nations. Mr. Chairman, if this be not war, I have always misunderstood the term, although three years a soldier during what was then called war.

General Jackson, speaking of the captured garrison, says, "the terms were more favorable than a conquered enemy would have merited." He goes on, in the same letter, to state the kind of government he had established, appointing revenue and other officers, putting the revenue laws of the United States in force! By what authority has all this been done, Mr. Chairman? Has it been the effect of any act of Congress, where the power alone is vested by the Constitution? It is not necessary to refer to that instrument to show, that to Congress alone belongs the war-making power; every gentleman who hears me knows it to be so; nor will I consent to partition it. The inevitable result of every gentleman's unbiassed inquiry will be, that a war has been waged against a foreign Power by the United States without the sanction of Congress, where alone the right and the power constitutionally exists. And, in this act of war, I witness, to regret and deplore, the most unqualified infraction of the Constitution that has ever occurred since its adoption. Shall we, sir, who represent the sovereignty of the nation, tamely fold our arms and acquiesce in the violation of that sacred instrument, which, by our oaths and our interests, we are bound to support and maintain? I trust not. Let us apply the only remedy in our power, censure the proceedings, and enact other laws which cannot be misconstrued. I fear even this remedy will prove inefficient; the Constitution, to my mind, is so plain and explicit on this point, that he who runs may read.

The gentleman from Massachusetts, referring to the President's Message of the 25th of March last, says Congress was apprized of the course about to be taken in the prosecution of the Seminole war, and that we had ample opportunity to interpose and prevent that course, if it had been thought necessary, and argues that, as the opportunity was neglected, it is now improper to take any steps in relation to it. How does the case stand, in point of fact, sir? The order given to General Gaines, which it was supposed would and ought to have governed General Jackson when he assumed the command, and which was communicated to Congress with that Message, is explicit in requiring that "the Spanish authority should be respected, wherever it is maintained." Sir, need I go into a minute examination of the documents to prove that the Spanish authority was maintained both in Pensacola and Barancas? I think not. Gentlemen will find, by examining the evidence furnished by General Jackson himself, to justify the capture of those places, very far short of any definite proof; and the greatest number of Indians said to have been in the neighborhood does not exceed two hundred; except upon the hearsay evidence of William Hambly, who certifies that he had understood that five hundred had been seen at Pensacola some time in the early part of the year; these, however, all dwindled down to one, an almost superannuated chief, who was found there at the capture of Barancas. I cannot conceive, then, how Congress could anticipate so extraordinary a departure from orders, in the prosecution of the war.

I must now beg leave, sir, to call your attention to the other branch of this subject—I mean the report from the Military Committee. You have understood that the chairman differed from a majority of the committee, which accounts for my feeble effort to sustain it. The first proposition of the report is, that there exists no law of the United States authorizing the punishment of Arbuthnot and Ambrister, by a military tribunal, for the charges of which they were found guilty and suffered death. The Rules and Articles of War alone contain the law which shall govern courts martial in their proceedings; and I deny that any authority can there be shown for the proceedings, in these cases, of the court or commanding General. The fifty-sixth and seventh articles cannot be construed to extend to foreigners, but are evidently intended to operate on our own citizens only, who shall be found guilty of aiding, abetting, comforting, or corresponding with the enemy. But the law of nations, say gentlemen, authorizes retaliation on our enemy; and the same law says, "where severity is not absolutely necessary, clemency becomes a duty." Let me, however, here protest, as I ever will, against the assumption of this right by a military officer; nay, by the Executive itself. Sir, it belongs to Congress, and to Congress alone. Else why, on a former occasion, was it thought necessary to delegate the power, by special act, to Mr. Madison during the late war with Great

Britain? Gentlemen are not aware to what extent this doctrine leads. Under their construction, the most ignorant, besotted corporal, in your service, if in command, may assume the exercise of it.

And now, sir, to the necessity of the case. General Jackson, in his letter to the Secretary of War, dated 20th April, page 52 of the documents, says "the war is ended for the present." In his letter of the 26th of the same month, (the very day on which the order issued for the court martial) after detailing some plans for securing the conquered country, this "valuable acquisition to the Republic," he says "I shall proceed direct to Nashville—my presence is no longer necessary in this country." Why was it not, Mr. Chairman? The war was at an end, and no necessity existed for retaliation. If he possessed the power, clemency became a duty. Colonel Butler, adjutant general, in his report to the War Department, informs us, that, on the 20th April, General Glasscock was ordered to march his brigade to Hartford, Georgia, and muster them out of service. On the 24th, General McIntosh, commanding the friendly Indians, was ordered to Fort Scott, to muster them out of service. How then, Mr. Chairman, can these executions be justified upon the plea of necessity? The war was at an end, to all intents and purposes, notwithstanding General Jackson choose afterwards to renew it against Pensacola and the fortress Carlos de Barancas.

I will endeavor to show that Arbuthnot was pardonable in the view he took of Indian rights, in relation to the land obtained by the United States, by the treaty of Fort Jackson; as many, less ignorant than he is presumed to be, construed the 9th article of the Treaty of Ghent to mean what it expresses—to oblige both parties "to restore to such tribes or nations of Indians, respectively, all the possessions, rights, and privileges, which they may have enjoyed or been entitled to in one thousand eight hundred and eleven." It will be recollected that the treaty of Fort Jackson was made in 1814. Sir, will it not admit of a doubt in your mind whether the land obtained under that treaty is justly held? Particularly when it is remembered that the treaty was notoriously made with the friendly chiefs only, who constituted about one third of the nation. This circumstance, although not susceptible of proof at this time, is strengthened by the face of the treaty itself. It is there to be found, that the individual property of the friendly chiefs within the ceded territory is expressly reserved, establishing most clearly that the friendly chiefs ceded to us that which did not belong to them, and which, in my humble opinion, we are bound to restore.

In further extenuation of Arbuthnot, it will be recollected that he was residing, as he had a right to do, among these people; he enjoyed protection in his person and property; he shared their hospitalities and kindness; he was in fact an Indian. He, no doubt, prompted by one of the noblest principles of our nature, espoused their cause—became their friend and adviser. He had a right to do so. And shall it be said, in the Hall of an American Congress, that he who obeys the dictate of gratitude to an Indian deserves to die? I hope not.

I will now pass on to the evidence upon which Arbuthnot was convicted. In addition to the objections made in the report to that part of the proceedings of the court martial, I must be allowed to say, that I should be extremely cautious, at any time, how I found a man guilty of the forfeiture of his life, upon the testimony of his personal enemies; and it will be recollected by the Committee that two of the principal witnesses were proved to be such in the examination before the court. The fact was acknowledged by one, and a correspondence with the other, exhibited in the trial, established it as to the other.

I will now take a short view of Ambrister's case. Some of the arguments which I have offered to the Committee, which extenuate the offences charged against Arbuthnot, are applicable also to him. He was living with the Indians—enjoying their protection and kindness. He, too, from that principle of gratitude inherent in man, was called upon to aid and succor them in time of distress and emergency. I will not say anything of the quotation from the law of nations, under which General Jackson justifies the executions; that is put to rest by the report. But the advocates of General Jackson again meet us with the law of retaliation. Let us suppose, for argument sake, and for argment sake only, that he possessed the right; was not that right waived by his submitting the case to a court martial, who sentenced the prisoner to one punishment, and the commanding General inflicted another and a greater—*death?* In doing so, he violated every principle of law and justice, in my opinion. Even suppose that Ambrister was legally tried, and legally convicted, he cannot be considered legally punished, when the punishment exceeded, far exceeded the sentence of the court. Sir, I feel that the detail of circumstances to which I have confined myself, and which must be familiar to every gentleman of the Committee, must be uninteresting; I will leave the subject in better hands than mine to comment on.

Mr. JOHNSON, of Virginia, said it was with sensations very different from those which are pleasurable, that he entered on the investigation of the subject which claimed the attention and deliberation of the Committee. To be compelled, said he, to investigate the conduct of the high and distinguished officers of the Government, when warned and admonished by every fact which meets my eye, that I shall be compelled to disapprove that conduct, can never be to me a pleasurable duty. As an American citizen, as the Representative of a portion of the people of the United States, it would be the pride and pleasure of my heart to be enabled always to prove the officers of my Government right, and to prove the enemies of my country and the enemies of liberty wrong. Before I proceed, sir, I must notice a remark made by the honorable gentleman from Massachusetts, (Mr.

HOLMES.) I am sorry that I do not see the honorable gentleman in his seat. [Mr. HOLMES rose.] He remarked that a malicious prosecution had been commenced against the President of the United States. I do not precisely understand the gentleman. By whom has this malicious prosecution been commenced? [Here Mr. HOLMES rose and explained. He said the remark was intended as a reply to an observation made on yesterday by an honorable gentleman from Georgia, (Mr. COBB,) who seemed to insinuate that some instruction given to General Jackson had been suppressed.] Mr. Chairman, I hold it to be a fundamental principle, that every officer of this Government, from the highest to the lowest, is responsible to the people for the manner in which he has discharged the duties of his office. It is on this principle that the Government depends for its perpetuity—for its capacity to secure to the people of the United States peace, prosperity, liberty, and happiness. Is there any gentleman who hears me that will question the truth of this political maxim? Is there any officer, however distinguished by station, or the splendor of his public services, who is unwilling to submit the investigation of his public acts to a candid, deliberate, and decorous investigation by the Representatives of the people? If there be any such officer, I pronounce him a stranger, an alien to the affections of the people, and that it is time to get rid of him. The moment that any officer of this Government denies that he is responsible for the faithful and correct discharge of his public duties, from that moment he becomes dangerous. Sir, I am arguing this question on abstract principles. I have no reference to individuals; I have no feelings to gratify. I presume that a high-minded honorable man, so far from evading an investigation of his public conduct, the moment he discovered the slightest shade of suspicion hovering over the pure, faithful, and legal discharge of his public duties, would court investigation; that he would present himself at the bar of the public, and demand an investigation of his conduct.

Sir, I will proceed to answer the arguments of the gentleman from Massachusetts, (Mr. HOLMES) —the arguments submitted on this day, not those offered on yesterday. The gentleman took great pains on yesterday to conduct us to the line which separates Florida from the United States—to prove that an American General, when authorized by the President of the United States, had the right to march an American army through the United States to this line; and, after managing the argument with great skill and adroitness, he took them over the line, where he left us. Sir, I shall not waste the time of the Committee, by contesting principles about which nobody entertains a doubt, but proceed at once to Pensacola and combat doctrines which have been boldly advanced, but which have been sustained neither by precedent, reason, nor law.

Had General Jackson the right to capture Pensacola and the Barancas? Sir, I wish to treat this question with the most perfect candor and fairness. To save the trouble of frequent references to books, I have transcribed from Vattel's Law of Nations the strongest principles in favor of the course pursued by the Commander-in-Chief. I have no question that there are copies of Vattel's Law of Nations in the House. If any gentleman doubts the correctness of the quotations, I hope he will compare the text with the original. It is laid down by Vattel, page 410, that "extreme necessity may even authorize the 'temporary seizure of a place (in a neutral coun-'try) and the putting a garrison therein for de-'fending itself against an enemy, or preventing 'him in his designs of seizing this place when 'the sovereign is not able to defend it. But when 'the danger is over, it must be immediately sur-'rendered." Did this necessity exist? Was the existing state of affairs such as would have authorized a commander, possessed of plenary power, to have captured Pensacola and the Barancas? In order to ascertain the facts necessary to a correct decision of this important question, I beg permission to refer the honorable Committee to the correspondence of General Jackson with the Governor of Pensacola and the Secretary of War. In the letter of General Jackson, of the 2d June, 1818, to the Secretary of War, will be found the following statement: "The terms are more than 'a conquered enemy would have merited, but, 'under the peculiar circumstances of the case, 'my object obtained, there was no motive for 'wounding the feelings of those whose military 'pride or honor had prompted to the resistance 'made. The 'articles, with but one condition, 'amount to a complete cession to the United 'States of that portion of the Floridas hitherto 'under the Government of Don Jose Massot.' 'Though the Seminole Indians have been scat-'tered, and, literally so, driven and reduced, and 'no longer to be viewed as a formidable enemy, 'yet, as there are many small marauding parties, 'supposed to be concealed in the swamps of Per-'dido, Choctawhatchy, and Chapouly, who might 'make occasional and sudden inroads on our fron-'tier settlers, massacreing women and children, 'I have deemed it advisable to call into service 'for six months, if not sooner discharged, two 'companies of volunteer rangers, under Captains 'McGirt and Boyles, with instructions to scour 'the country between the Mobile and Appala-'chicola rivers, exterminating every hostile party 'who dare resist, and will not surrender, and re-'move with their families, above the 31st degree 'of latitude." In the letter of the 25th of May, 1818, from General Jackson to Don Jose Massot, commanding the Barancas, will be found the following important statement of facts: "I have 'only to repeat that the Barancas must be occu-'pied by an American garrison; and, again, to 'tender you the terms offered, if amicably sur-'rendered. Resistance would be a wanton sac-'rifice of blood, for which you and your garrison 'will have to atone. You cannot expect to de-'fend yourself successfully, and the first shot 'from your fort must draw down upon you the 'vengeance of an irritated soldiery. I am well

'advised of your strength, and cannot but remark 'on the inconsistency of presuming yourself ca- 'pable of resisting an army which has conquered 'the Indian tribes, too strong, agreeably to your 'own acknowledgment, to be controlled by you."

Mr. Chairman, after this statement of facts by the commanding General, permit me to inquire whether any member of this Committee can believe that this extreme necessity existed, which would authorize a General, in a neutral country, temporarily to seize a place and put a garrison therein, for defending himself against the enemy, or preventing him in his designs of seizing this place. What, sir! after the Indian tribes had been conquered, with whom was the General waging war? Not with Spain. Not with the Indian tribes, because these tribes he had subdued and conquered. Where, then, was the necessity, the urgent and extreme necessity, which would have justified an absolute sovereign, on whose fiat depended war and peace, in thus forcibly possessing himself of these places and posts in a neutral country?

We are told by the honorable gentleman from Massachusetts, (Mr. Holmes,) that Spain had not maintained her neutral relations—that she had violated her treaty. And pray, sir, who constituted General Jackson the judge to decide whether Spain had so violated her treaty, and her neutral relations with the United States, as to furnish to this Government justifiable causes of war against her? Not the President of the United States, because he has no power, no authority, to decide the question himself. The people of the United States had too many melancholy evidences of the abuses of this power, when confided to a single Executive Magistrate, ever to trust their tranquillity, repose, and happiness, to individual discretion and prudence. By their Constitution they carefully and cautiously confided this great, this important power of declaring war, to their Representatives—to the Congress of the United States. Has General Jackson himself justified the occupation of Pensacola and the Barancas under that extreme necessity, which, according to the law of nations, dispenses with the rights of property, and justifies the temporary seizure of a post in a neutral country? No, sir; the General had far different views when he entered Pensacola and captured the Barancas. The terms of capitulation prove it; his letter, already referred to, of the 2d of June, to the Secretary of War, proves it. Permit me again to refer to that letter, in order to ascertain the views and the objects of the General. He certainly understood his own motives—his principles of policy—at least as well as those who have attempted to defend his conduct. In the letter of June the 2d, the General remarks: "The Seminole war may 'now be considered at a close, tranquillity again 'restored to the southern frontier of the United 'States, and as long as a cordon of military posts 'is maintained along the Gulf of Mexico, Amer- 'ica has nothing to apprehend from either foreign 'or Indian hostilities. Captain Gadsden is in- 'structed to prepare a report on the necessary de- 'fences of the country, as far as the military re- 'connoissances will permit, accompanied with 'plans of the existing works; what additions or 'improvements are necessary; and what new 'works should, in his opinion, be erected, to give 'permanent security to this important territorial 'addition to our Republic." I appeal to the candor of gentlemen to say, with what view Pensacola and Barancas were forcibly occupied. Was it to prevent the enemy (the Seminole Indians, the Red Sticks, and the negro brigands) in his design of seizing these places; or of enabling the General to defend himself against the enemy? The Indian tribes were conquered. The General himself exultingly speaks of his conquest—of the important territorial addition to our Republic—and points out to the Secretary of War the future policy of the Government of the United States; treats as visionary the idea of fortifying an imaginary line on the 31st degree of latitude, in a wilderness; and proposes to maintain a cordon of military posts along the Gulf of Mexico. Was this war, sir? Was it war against Spain? It was; it must be considered as war. It was the application of military force, for the purpose of making conquests of towns and military posts of the Spanish Government in Florida. Has the Government of the United States the Constitutional authority to wage war with the view to conquest? I must be permitted to doubt. I presume it will not be pretended, that either General Jackson or the President of the United States has the Constitutional right to wage war, for the purpose of making territorial additions to our Republic. The President of the United States has furnished the most conclusive evidence of the opinion which he entertains on the subject of his powers to place the United States in a belligerent attitude with foreign nations. We find, in all the orders from the War Department, the most cautious circumspection; the most apparent reluctance to authorize the march of the American forces into Florida; the most positive injunctions to respect the Spanish authorities. This use of the military forces of the United States, for the purpose of conquest—of making important territorial additions to our Republic—must be viewed as an act of war against Spain, and, in that view, must be considered as an usurpation of the powers of the Congress of the United States—as a violation of the Constitution of the United States.

We are informed by the honorable gentleman from Mass., (Mr. Holmes,) that the trial and execution of Arbuthnot and Ambrister is the great subject of dispute. I differ from the honorable gentleman; I consider the execution of these miscreants, as they have been called, as but the fragment of the great subject in dispute. It is the usurpation of power, the violation of the Constitution of the United States, the waging of war against a nation with which we were at peace, that I consider as presenting the question most interesting to the people of the United States. What, sir, was the cautious and deliberate course pursued by the Executive Magistrate of the United States, at a former period of our history, on a subject

which might involve the exercise of rights properly belonging to the Congress of the United States? In the year 1793, the Government of the United States was engaged in an Indian war. The British Government had retained, contrary to the Treaty of 1783, the posts of Detroit and Mackinac. The Governor of Canada erected a military post forty-five miles within our acknowledged limits, at the Miami of the Lakes. From these several posts the Indians were regularly supplied with provisions, and the munitions of war. The question whether our commander, General Wayne, should possess and hold—not the two former posts, which were solemnly recognised as the property of the United States, but the latter, on the Miami of the Lakes, which had been tortuously erected, and in violation of the principles of justice and of law, was by the Cabinet unanimously decided in the negative, unless the taking of this post became indispensable to the operations of the army. General Washington and Mr. Jefferson were members of the Cabinet. I have in my eye an honorable friend from Ohio, from whom I obtained this statement. He will correct me if I am inaccurate. This, perhaps, may be considered as a case of extreme delicacy. Perhaps I should myself have decided differently. It, however, shows with what care and circumspection the patriots and statesmen of former times avoided the exercise of doubtful rights—how determined they were not to usurp powers which, by the Constitution, had been vested in the Congress of the United States. We are admonished of the delicacy of our situation in making this investigation, in reference to our existing negotiations and differences with the Spanish Government. Spain, poor, imbecile, miserable, and degraded, as she has been represented—she has nothing to do with investigations between the Government of the United States and our officers. It is not in accordance with her policy, nor in acquiescence to her views or demands that this inquiry is made. Spain has given to us the most abundant and justifiable causes of war. For one, whenever the question of war with Spain shall be constitutionally submitted to me, I shall be prepared to act efficiently on the subject. But, sir, what has been the situation of the Government of the United States? At the very moment that a negotiation was going on at this place, under the sanction of the President of the United States, with Don Onis, General Jackson, at the head of an American army, was forcibly possessing himself of the country, capturing St. Marks and Pensacola, entering, at the head of his victorious and conquering army, the Barancas; making the "important territorial addition to our Republic." I ask if this conduct on the part of the commanding General, in violation of his orders, was not calculated to produce some embarrassment to the President of the United States? If it was not calculated to produce some slight effect in the pending negotiation? And how, sir, is this violation—this prostration of the Spanish authorities in Florida, justified? By that extreme necessity laid down by Vattel—by the writers on national law? No, sir, it is justified by the same principles, the same reasoning resorted to by the British Government to justify the capture of the Danish fleet. The British Government proclaimed to the world, that it was not from hostility to Denmark, but merely to prevent the fleet from falling into the hands of Bonaparte, of the enemy of Great Britain, that she had taken possession of this fleet. It was with the view to secure America, by establishing and maintaining a cordon of military posts, along the Gulf of Mexico, from foreign or Indian hostilities, to make an "important territorial addition to our Republic," that General Jackson made his conquests in Florida. The capture of St. Marks is as unjustifiable as the conquest already referred to. The commandant of that post made every submission, tendered everything which it was in his power to offer, short of committing treason against his Government. To General Jackson he gave a solemn pledge that he would avail himself of the earliest opportunity to obtain permission from the competent authority to surrender the post; in the mean time, he proposed to the General to station a corps of his troops in the vicinity of the post, to co-operate, if necessary, in its defence against the Indians and negroes. This proposition was spurned. St. Marks furnished a convenient depot. Another principle of the law of nations has been relied on to furnish the apology or justification for these conquests. Vattel, page 413, speaking of neutral nations lays it down that they are "not to afford retreat to troops, that they may again attack their enemies." This doctrine certainly does not apply to a flying, scattered, broken, beaten enemy—flying from death and destruction, but, to an enemy retreating with the view to recommence the attack. Let gentlemen beware that they do not push this doctrine too far. How many unfortunate Frenchmen have been compelled to fly from the certain destruction which awaited them in Europe, and to seek an asylum on our peaceful shores, under our mild, free, and happy form of Government? Would the allies have the right to pursue them here, and, on refusal to surrender them, to make war upon us? I should humbly conceive not.

I proceed to examine into the propriety of the course pursued on the trial and execution of Arbuthnot and Ambrister. It is laid down by *Vattel*, p. 416: "An enemy not to be killed after ceasing 'to resist." In the same page: "A particular case 'excepted. Yet, as a prince or his general has 'a right of sacrificing the life of his enemies to 'his safety, and that of his men, if he is engaged 'with an inhuman enemy, who frequently com-'mits enormities, he appears to have a right of 'refusing life to some of the prisoners he may 'take, and of treating them as his were treated; 'but Scipio's generosity is rather to be imitated." Did Arbuthnot and Ambrister come within the particular exception? I beg attention to the careful and particular manner in which this distinguished writer lays down this important principle. The prince, for his own safety, appears to

have the right to take the life of his prisoner. The general, for his own safety, and that of his men, appears to have the right to take the life of his prisoner. This humane author seems disposed to guard this dangerous principle as effectually as possible. It presents two distinct propositions. The general, when in the field, at a distance from his Government, when his safety and that of his men require it, appears (in the words of the author) to have the right to take the life of his prisoner. To justify the general in exercising this high and important power of denying to an unfortunate captive life, the safety of the general and his men must really require the sacrifice. I can scarcely believe that it will be pretended that the safety of the General or his men required the execution of these prisoners. Did then the safety of the Prince (that is, in this country, the people) require the execution of these men? Was it necessary to offer them up on the altar of public safety—to hold them up as a terrible example to future instigators and abettors of Indian wars? If so, their fate should have been referred to the people; that is, to their representatives—to the Congress of the United States. The commanding General had no right, no authority, to decide the question whether the safety of the people required the sacrifice of these captives. We are told—and very seriously told—that this execution of prisoners may be justified on the principles of retaliation. What, retaliate the cruelties and shocking barbarities of savages! Not precisely that sort of retaliation. You execute individuals, not under the authority of the law of nations, during the continuance of war, having given notice to the enemy of the particular acts of inhumanity which you mean to retaliate; not for the purpose of punishing, through these individuals, the nation with which they are identified and fighting, but to punish them, as individuals, for their crimes—the crimes of aiding and abetting and instigating Indian tribes to war upon us; not as an example to operate on nations, but on individuals. And we are seriously and gravely informed, by honorable gentlemen, that an American General has authority to execute individuals for individual offences, as a warning to other individuals, without the form of trial, and even contrary to the sentence of the court, detailed by the General himself, for the purpose of trying the offenders. It is a doctrine unsupported by precedent and law, and is shocking to the principles of humanity. It may be said, as it was remarked the other day by a gentleman from Virginia, (Mr. NELSON,) that this is a sympathy for miscreants—a sympathy resulting from morbid sensibility—a sympathy for British subjects. It is not so, Mr. Chairman. I have no sympathy for British subjects. When I look at yon ruin, (pointing to the Capitol;) when I recollect the massacre at the river Raisin, Frenchtown, and many other places in the United States, during the late war, I recognise in the late British forces an enemy not less cruel and savage than the Seminole Indians—the outlawed Red Sticks. Acts of wanton and shocking cruelty occur to me, at which my soul sickens, and which I should have rejoiced to see retaliated on the most distinguished officer in the British army. What has been the opinion, as deliberately expressed by this Government, on the subject of retaliation? Did the highest officer in this Government, during the late war—the Commander-in-Chief of your Army—the President of the United States—consider himself vested with authority to retaliate the acts of cruelty perpetrated by the enemy, or those threatened? The answer will be furnished by referring to the act of Congress, passed during that war, for the express purpose of authorizing the President to retaliate. What has been, since the period of our independence, the uniform and unvarying policy pursued by this Government towards the Indian tribes? Has it been a policy tempered by mercy, brightened by generosity, and ameliorated by Christianity? Have we been constantly engaged in the humane work of civilizing them—of sending emissaries among them to preach the gospel—to distribute the copies of the Bible collected by different societies? Is this policy to be suddenly changed, under the auspices of General Jackson? Shall we, at the close of a war of extermination, go through the ceremony of appointing committees to meet members from the Society of Friends, to devise the means of civilizing this unfortunate, misguided, and deluded race of beings? Such committees have been appointed during the present session. I have seen members of the Society of Friends giving their willing attendance. But Arbuthnot and Ambrister were Christian savages; they were worse than the Indians; they were the exciters and instigators of the war; they deserved death. In a moral point of view, I admt that the instigator to acts of wickedness, and of dark, malignant, and criminal character, is worse than the actor. The question recurs, Had the General, on his own authority, without trial, and against the sentence of the court, the right to take the life of his prisoner—a prisoner completely in his power—from whose hands the weapons of death—the tomahawk and the scalping knife—had been stricken? Were these men, according to any known principle of the law of nations, subject to any other or different treatment than the subjects or citizens of the nation with which they had identified themselves, and by whose sides they were fighting? Most certainly not. The gentleman from Massachusetts (Mr. HOLMES) has made a strong appeal to our feelings. He has painted, in glowing colors, the murders and cruelties which have been perpetrated on our innocent and unoffending citizens, on our Southern frontier. No man can listen to the descriptions of the murders perpetrated on infantine weakness—on innocent and unprotected females—without feeling his blood curdle, and return with chilling horror to his heart. May not the honorable gentleman be mistaken in the effects produced by his picture?

> "Affection bound it to his heart;
> Ambition tore the links apart."

Why this effort to excite our compassion? Why this appeal to our feelings? Would any honorable, highminded man—who felt himself justified—who had the law on one hand, and justice on the other, stoop to solicit your pity? No, sir, pity is too nearly allied to another passion to be grateful to the gallant and the highminded. When gentlemen point me to the bleeding scalps of my countrymen—their mangled and still bleeding wounds—and talk to me about the law of retaliation, and represent it as mercy to resort to it, I tell them they are mistaken; that they appeal to stronger feelings; that it is revenge, which they have mistaken for what they term humane and merciful retaliation. Permit me to invite the attention of the Committee to that highly finished specimen of diplomacy, which has called forth so many eulogiums, and so justly, too, from the editors of newspapers—Secretary Adams's letter to our Minister at Madrid; which has been published long since the commencement of the present session of Congress; if my memory does not deceive me, about the 28th of November. Does that letter amount to a complete justification of the whole course pursued by General Jackson in the prosecution of the war against the Seminole Indians? I will not attempt to draw the conclusion; because this honorable Committee is infinitely more capable of arriving at a correct conclusion than I am. But, sir, there is one part of that letter which excites my most serious attention. It is the threat contained in that letter, that, unless the Spanish Government maintains more completely her neutral relations, and observes with better faith her treaty, that those posts in Florida will be retaken and held; that they will not again be surrendered. The letter is published for the benefit of the people of the United States. The declaration or threat is not that this Government will declare war against Spain, and seize upon these posts by way of indemnity, but that they will be retaken and held. The honorable Secretary has not consulted Congress on the subject. The act is to be performed upon his own responsibility, or upon the responsibility of the Executive branch of the Government. I pass on to the correspondence between General Jackson and the Governor of Georgia. This correspondence presents to my mind a most melancholy picture. On the 7th of May, 1818, General Jackson addressed a letter to Governor Rabun, in which will be found the singular and bold declaration, that "You, sir, as Governor of a State, have no right to give a military order while I am in the field." Have the State authorities thus early dwindled into insignificance? I recollect, when we first went into Committee of the whole House, on the subject now before us, some difficulty arose as to the proper mode of bringing into full and free discussion all the questions connected with the Seminole war. An honorable member from Virginia (Mr. SMYTH) offered a resolution of thanks to General Jackson, by way of substitute for the resolution reported by the Military Committee. I would ask whether it be for the treatment of the Governor of Georgia that this honorable member proposes to obtain from this House a vote of thanks? Have we arrived at that singular period of our history when the division of the United States into military districts, composed of two or more States, and the placing of these divisions under the command of Major Generals of the Army of the United States, *ipso facto* repeals the constitutions of the several States and their laws: That the moment the Major General takes the field, even in a war against Indians and Negro brigands, the lips of the several Governors, and the people of the States composing the division, are to be sealed, and all their powers, even of self-defence, to be suspended? If so, for one, I am disposed to get rid immediately of your standing Army. Sir, the doctrine is fraught with the most dangerous consequences.

Mr. Chairman, I have thus (I fear, in a disjointed manner,) presented to the Committee my views on the interesting questions under consideration. I have attempted, by fair and dispassionate argument, to prove the propriety and the policy of adopting the several resolutions on your table. How far I have succeeded will be for the Committee to decide. When the public feeling shall be sobered by the passing wings of time; when the calm, slow ivy shall have leisure to wreathe the soft green of its melancholy over the tombs of the present actors on the busy theatre of public life, these acts, these precedents, will, by posterity, be regarded in a light very different from that in which we view them. That the calamities likely to flow from these bold invasions of the Constitution and laws of the country may be averted from future generations, I most fervently pray to God.

Mr. HARRISON entered into some explanations touching the proceedings of General Wayne, in the war of 1792, against the Northwestern Indians, which had been referred to in debate.

The Committee then, on motion of Mr. CLAY, (who intimated his wish to express his views of the subject,) rose, and reported progress.

WEDNESDAY, January 20.

Mr. BASSETT submitted the following resolution, which was read and ordered to lie on the table:

Resolved, That the rules for the admission of persons within the hall of this House be suspended during the present debate, so that the Speaker may admit within the hall others than those included within the same.

An engrossed bill, entitled "An act allowing further time to complete the issuing and locating of military land warrants," was read the third time and passed.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a statement of the debts, credits, and funds of the banks within the District of Columbia, not returned in the statement laid before this House

on the 14th instant; which was read and ordered to lie on the table.

THE SEMINOLE WAR.

The House again resolved itself into a Committee of the Whole on the state of the Union, (Mr. Pitkin in the Chair,) on the report of the Military Committee, disapproving the trial and execution of Arbuthnot and Ambrister, with the amendments proposed thereto.

Mr. Clay (Speaker) rose. In rising to address you, sir, said he, on the very interesting subject which now engages the attention of Congress, I must be allowed to say, that all inferences, drawn from the course which it will be my painful duty to take in this discussion, of unfriendliness to either the Chief Magistrate of the country, or to the illustrious military chieftain, whose operations are under investigation, will be wholly unfounded. Towards that distinguished Captain, who has shed so much glory on our country, whose renown constitutes so great a portion of its moral property, I never had, I never can have, any other feelings than those of the most profound respect, and of the utmost kindness. With him my acquaintance is very limited, but, so far as it has extended, it has been of the most amicable kind. I know, said Mr. C., the motives which have been, and which will again be, attributed to me, in regard to the other exalted personage alluded to. They have been, and will be, unfounded. I have no interest, other than that of seeing the concerns of my country well and happily administered. It is infinitely more gratifying to behold the prosperity of my country advancing, by the wisdom of the measures adopted to promote it, than it would be to expose the errors which may be committed, if there be any, in the conduct of its affairs. Mr. C. said, little as had been his experience in public life, it had been sufficient to teach him, that the most humble station is surrounded by difficulties and embarrassments. Rather than throw obstructions in the way of the President, he would precede him, and pick out those, if he could, which might jostle him in his progress—he would sympathize with him in his embarrassments, and commiserate with him in his misfortunes. It was true, that it had been his mortification to differ with that gentleman on several occasions. He might be again reluctantly compelled to differ with him; but he would, with the utmost sincerity, assure the Committee, that he had formed no resolution, come under no engagements, and that he never would form any resolution, or contract any engagement, for systematic opposition to his Administration, or to that of any other Chief Magistrate.

Mr. C. begged leave further to premise, that the subject under consideration presented two distinct aspects, susceptible, in his judgment, of the most clear and precise discrimination. The one he would call its foreign, the other its domestic, aspect. In regard to the first, he would say, that he approved entirely of the conduct of his Government, and that Spain had no cause of complaint. Having violated an important stipulation of the treaty of 1795, that Power had justly subjected herself to all the consequences which ensued upon the entry into her dominions, and it belonged not to her to complain of those measures which resulted from her breach of contract; still less had she a right to examine into the considerations connected with the domestic aspect of the subject.

What were the propositions before the Committee? The first in order was that reported by the Military Committee, which asserts the disapprobation of this House of the proceedings in the trial and execution of Arbuthnot and Ambrister. The second, being the first contained in the proposed amendment, was the consequence of that disapprobation, and contemplates the passage of a law to prohibit the execution hereafter of any captive, taken by the army, without the approbation of the President. The third proposition was, that the House disapproves of the forcible seizure of the Spanish posts, as contrary to orders, and in violation of the Constitution. The fourth proposition, as the result of the last, is, that a law should pass to prohibit the march of the army of the United States, or any corps of it, into any foreign territory, without the previous authorization of Congress, except it be in fresh pursuit of a defeated enemy. The first and third were general propositions, declaring the sense of the House in regard to the evils pointed out; and the second and fourth proposed the Legislative remedies against the recurrence of those evils.

It would be at once perceived, Mr. C. said, by this simple statement of the propositions, that no other censure was proposed against General Jackson himself, than what was merely consequential. His name even did not appear in any one of the resolutions. The Legislature of the country, in reviewing the state of the Union, and considering the events which have transpired since its last meeting, finds that particular occurrences, of the greatest moment, in many respects, had taken place near our Southern border. He would add, that the House had not sought, by any officious interference with the duties of the Executive, to gain jurisdiction over this matter. The President, in his message at the opening of the session, communicated the very information on which it is proposed to act. He would ask, for what purpose? That we should fold our arms, and yield a tacit acquiescence, even if we supposed that information disclosed alarming events, not merely as it regards the peace of the country, but in respect to its constitution and character? Impossible. In communicating these papers, and voluntarily calling the attention of Congress to the subject, the President must himself have intended that we should apply any remedy that we might be able to devise. Having the subject thus regularly and fairly before us, and proposing merely to collect the sense of the House upon certain important transactions which it discloses, with the view to the passage of such laws as may be demanded by the public interest, he repeated, that there was no censure anywhere, except such as was strictly consequential upon our legislative ac-

tion. The supposition of every new law, having for its object to prevent the recurrence of evil, is, that something has happened which ought not to have taken place, and no other than this indirect sort of censure would flow from the resolutions before the Committee.

Having thus given his view of the nature and character of the propositions under consideration, Mr. C. said he was far from intimating, that it was not his purpose to go into a full, a free, and a thorough investigation of the facts and of the principles of law, public, municipal, and Constitutional, involved in them. And, whilst he trusted he should speak with the decorum due to the distinguished officers of the Government, whose proceedings were to be examined, he should exercise the independence which belonged to him as a representative of the people, in freely and fully submitting his sentiments.

In noticing the painful incidents of this war, it was impossible not to inquire into its origin. He feared that would be found to be the famous treaty of Fort Jackson, concluded in August, 1814; and he asked the indulgence of the Chairman that the Clerk might read certain parts of that treaty. [The Clerk of the House having accordingly read as requested, Mr. C. proceeded.*] He had never perused this instrument until within a few days past, and he had read it with the deepest mortification and regret. A more dictatorial spirit he had never seen displayed in any instrument. He would challenge an examination of all the records of diplomacy, not excepting even those in the most haughty period of imperious Rome, when she was carrying her arms into the barbarian nations that surrounded her; and he did not believe a solitary instance could be found of such an inexorable spirit of domination pervading a compact purporting to be a treaty of *peace*. It consisted of the most severe and humiliating demands—of the surrender of large territory—of the privilege of making roads through even what was retained—of the right of establishing trading-houses—of the obligation of delivering into our hands their prophets. And all this, of a wretched people, reduced to the last extremity of distress, whose miserable existence we had to preserve by a voluntary stipulation to furnish them with bread! When even did conquering and desolating Rome fail to respect the altars and the gods of those whom she subjugated! Let me not be told that these prophets were impostors, who deceived the Indians. They were *their* prophets—the Indians believed and venerated them, and it is not for us to dictate a religious belief to

* The passages read by the Clerk were as follows:

"Whereas an unprovoked, inhuman, and sanguinary war, waged by the hostile Creeks against the United States, hath been repelled, prosecuted, and determined, successfully on the part of the said States, in conformity with principles of national justice and honorable warfare; and whereas consideration is due to the rectitude of proceeding dictated by instructions relating to the re-establishment of peace; be it remembered, that, prior to the conquest of that part of the Creek nation, hostile to the United States, numberless aggressions had been committed against the peace, the property, and the lives, of citizens of the United States and those of the Creek nation in amity with her, at the mouth of Duck river, Fort Mimms, and elsewhere, contrary to national faith, and the regard due to an article of the treaty concluded at New York in the year 1790, between the two nations; that the United States, previous to the perpetration of such outrages, did, in order to insure future amity and concord between the Creek nation and the said States, in conformity with the stipulations of former treaties, fulfil, with punctuality and good faith, her engagements to the said nation; that more than two-thirds of the whole number of chiefs and warriors of the Creek nation, disregarding the genuine spirit of existing treaties, suffered themselves to be instigated to violations of their national honor, and the respect due to a part of their own nation, faithful to the United States, and the principles of humanity, by impostors denominating themselves prophets, and by the duplicity and misrepresentation of foreign emissaries, whose governments are at war, open or understood, with the United States.

Art. 2. The United States will guarantee to the Creek nation the integrity of all their territory eastwardly and northwardly of the said line, [described in the first article] to be run and described as mentioned in the first article.

Art. 3. The United States demand that the Creek nation abandon all communication, and cease to hold any intercourse, with any British or Spanish post, garrison, or town; and that they shall not admit among them any agent or trader, who shall not derive authority to hold commercial, or other intercourse with them, by license from the President, or authorized agent of the United States.

Art. 4. The United States demand an acknowledgment of the right to establish military posts and trading-houses, and to open roads within the territory guarantied to the Creek nation by the second article, and a right to the free navigation of its waters.

Art. 5. The United States demand that a surrender be immediately made, of all the persons and property taken from the citizens of the United States, the friendly part of the Creek nation, the Cherokee, Chickasaw, and Choctaw nations, to the respective owners; and the United States will cause to be immediately restored to the formerly hostile Creeks all the property taken from them since their submission, either by the United States or by any Indian nation in amity with the United States, together with all the prisoners taken from them during the war.

Art. 6. The United States demand the caption and surrender of all the prophets and instigators of the war, whether foreigners or natives, who have not submitted to the arms of the United States, and become parties to these articles of capitulation, if ever they shall be found within the territory guarantied to the Creek nation by the second article.

Art. 7. The Creek nation, being reduced to extreme want, and not at present having the means of subsistence, the United States, from motives of humanity, will continue to furnish, gratuitously, the necessaries of life, until the crops of corn can be considered competent to yield the nation a supply, and will establish trading-houses in the nation, at the discretion of the President of the United States, and at such places as he shall direct, to enable the nation, by industry and economy, to procure clothing.

them. It does not belong to the holy character of the religion which we profess, to carry its precepts, by force of the bayonet, into the bosoms of other people. Mild and gentle persuasion was the great instrument employed by the meek founder of our religion. We leave to the humane and benevolent efforts of the reverend professors of Christianity to convert from barbarism those unhappy nations yet immersed in its gloom. But sir, spare them their prophets! Spare their delusions! Spare their prejudices and superstitions! Spare them even their religion, such as it is, from open and cruel violence. When, sir, was that treaty concluded? On the very day, after the protocol was signed, of the first conference between the American and British Commissioners, treating of peace, at Ghent. In the course of that negotiation, pretensions so enormous were set up, by the other party, that, when they were promulgated in this country, there was one general burst of indignation throughout the continent. Faction itself was silenced, and the firm and unanimous determination of all parties was, to fight until the last man fell in the ditch rather than submit to such ignominious terms.

What a contrast is exhibited between the contemporaneous scenes of Ghent and Fort Jackson! What a powerful argument would the British Commissioners have been furnished with, if they could have got hold of that treaty! The United States demand!—the United States demand!—is repeated five or six times. And what did the preamble itself disclose? That two-thirds of the Creek nation had been hostile, and one-third only friendly to us. Now, he had heard (he could not vouch for the truth of the statement) that not one hostile chief signed the treaty. He had also heard that perhaps one or two of them had. If the treaty really were made by a minority of the nation, it was not obligatory upon the whole nation. It was void, considered in the light of a national compact. And, if void, the Indians were entitled to the benefit of the provision of the ninth article of the Treaty of Ghent, by which we bound ourselves to make peace with any tribes with whom we might be at war on the ratification of the treaty, and restore to them their lands as they held them in 1811. Mr. C. said he did not know how the honorable Senate, that body for which he had so high a respect, could have given their sanction to the Treaty of Fort Jackson, so utterly irreconcilable as it is with those noble principles of generosity and magnanimity which he hoped to see his country always exhibit, and particularly towards the miserable remnant of the aborigines. It would have comported better with those principles to have imitated the benevolent policy of the founder of Pennsylvania, and to have given to the Creeks, conquered as they were, even if they had made an unjust war upon us, the trifling consideration, to them an adequate compensation, which he paid for their lands. That treaty, Mr. C. said, he feared, had been the main cause of the recent war. And if it had been, it only added another melancholy proof to those with which history already abounds, that hard and unconscionable terms, extorted by the power of the sword and the right of conquest, served but to whet and stimulate revenge, and to give to old hostilities, smothered, not extinguished, by the pretended peace, greater expansion and more ferocity. A truce thus patched up with an unfortunate people, without the means of existence—without bread—is no real peace. The instant there is the slighest prospect of relief from such harsh and severe conditions, the conquered party will fly to arms, and spend the last drop of blood rather than live in such degraded bondage. Even if you again reduce him to submission, the expenses incurred by this second war, to say nothing of the human lives that are sacrificed, will be greater than what it would have cost you to have granted him liberal conditions in the first instance. This treaty, he repeated it, was, he apprehended, the cause of the war. It led to those excesses on our southern borders which began it. Who first commenced them it was, perhaps, difficult to ascertain. There was, however, a paper on this subject, communicated at the last session by the President, that told, in language so pathetic and feeling, an artless tale—a paper that carried such internal evidence, at least, of the belief of the authors of it that they were writing the truth, that he would ask the favor of the Committee to allow him to read it.* I should be

* The following is the letter from ten of the Seminole towns that Mr. C. read:

To the commanding officer at Fort Hawkins.

Dear Sir: Since the last war, after you sent me word that we must quit the war, we the red people have come over on this side. The white people have carried all the red people's cattle off. After the war, I sent to all my people to let white people alone, and stay on this side of the river; and they did so, but the white people still continue to carry off their cattle. Barnard's son was here, and I inquired of him what was to be done—and he said we must go to the head man of the white people and complain. I did so, and there was no white head man, and there was no law in this case. The whites first begun, and there is nothing said about that; but great complaint made about what the Indians do. This is now three years since the white people killed three Indians; since that they have killed three other Indians, and taken their horses, and what they had; and this Summer they killed three more, and very lately they killed one more. We sent word to the white people that these murders were done, and the answer was, that they were people that were outlaws, and we ought to go and kill them. The white people killed our people first—the Indians then took satisfaction. There are yet three men that the red people have never taken satisfaction for. You have wrote that there were houses burnt, but we know of no such thing being done; the truth in such cases ought to be told, but this appears otherwise. On that side of the river the white people have killed five Indians, but there is nothing said about that; and all that the Indians have done is brought up. All the mischief the white people have done, ought to be told to their head man. When there is anything done you write to us, but never write to your head man what the white people do. When the red people send talks, or write, they always send the truth. You have

very unwilling, Mr. C. said, to assert, in regard to this war, that the fault was on our side—but he feared it was. He had heard that that very respectable man, now no more, who once filled the executive chair of Georgia, and who, having been agent of Indian affairs in that quarter, had the best opportunity of judging of the origin of this war, deliberately pronounced it as his opinion that the Indians were not in fault. Mr. C. said that he was far from attributing to General Jackson any other than the very slight degree of blame which attached to him as the negotiator of the Treaty of Fort Jackson, and which would be shared by those who subsequently ratified and sanctioned that treaty. But if there were even a doubt as to the origin of the war, whether we were censurable or the Indians, that doubt would serve to increase our regret at any distressing incidents which may have occurred, and to mitigate, in some degree, the crimes which we impute to the other side. He knew, he said, that, when General Jackson was summoned to the field, it was too late to hesitate—the fatal blow had been struck in the destruction of Fowl Town, and the dreadful massacre of Lieutenant Scott and his detachment; and the only duty which remained to him was to terminate this unhappy contest.

The first circumstance which, in the course of his performing that duty, fixed our attention, had, Mr. C. said, filled him with regret. It was the execution of the Indian chiefs. How, he asked, did they come into our possession? Was it in the course of fair and open and honorable war? No; but by means of deception—by hoisting foreign colors on the staff from which the stars and stripes should alone have floated. Thus ensnared, the Indians were taken on shore, and without ceremony, and without delay, were hung. Hang an Indian! We, sir, who are civilized, and can comprehend and feel the effect of moral causes and considerations, attach ignominy to that mode of death. And the gallant, and refined, and highminded man, seeks by all possible means to avoid it. But what cares an Indian whether you hang or shoot him? The moment he is captured he is considered by his tribe as disgraced, if not lost. They, too, are indifferent about the manner in which he is despatched. But, Mr. C. said, he regarded the occurrence with grief, for other and higher considerations. It was the first instance that he knew of, in the annals of our country, in which retaliation, by executing Indian captives, had ever been deliberately practised. There may have been exceptions, but, if there were, they met with contemporaneous condemnation, and have been reprehended by the just pen of impartial history. The gentleman from Massachusetts may tell me, if he pleases, what he pleases about the tomahawk and scalping knife; about Indian enormities, and foreign miscreants and incendiaries. I, too, hate them; from my very soul I abominate them. But I love my country and its Constitution; I love liberty and safety, and fear military despotism more even than I hate these monsters. The gentleman, in the course of his remarks, alluded to the State from which I have the honor to come. Little, sir, does he know of the high and magnanimous sentiments of the people of that State, if he supposes they will approve of the transaction to which he referred. Brave and generous, humanity and clemency towards a fallen foe constitute one of their noblest characteristics. Amidst all the struggles for that fair land between the natives and the present inhabitants, Mr. C. said he defied the gentleman to point out one instance in which a Kentuckian had stained his hand by—nothing but his high sense of the distinguished services and exalted merits of General Jackson prevented his using a different term—the execution of an unarmed and prostrate captive. Yes, said Mr. C., there was one solitary exception, in which a man, enraged at beholding an Indian prisoner, who had been celebrated for his enormities, and who had destroyed some of his kindred, plunged his sword into his bosom. The wicked deed was considered as an abominable outrage when it occurred, and the name of the man had been handed down to the execration of posterity. I deny your right thus to retaliate on the aboriginal proprietors of the country; and unless I am utterly deceived, it may be shown that it does not exist. But, before I attempt this, said Mr. C., allow me to make the gentleman from Massachusetts a little better acquainted with those people, to whose feelings and sympathies he had appealed through their representative. During the late war with Great Britain, Colonel Campbell, under the command of my honorable friend from Ohio, (Gen. HARRISON,)

---

sent to us for your horses, and we sent all that we could find; but there were some dead. It appears that all the mischief is laid on this town; but all the mischief that has been done by this town is two horses; one of them is dead, and the other was sent back. The cattle that we were accused of taking, were cattle that the white people took from us. Our young men went and brought them back, with the same marks and brands. There were some of our young men out hunting, and they were killed; others went to take satisfaction, and the kettle of one of the men that was killed was found in the house where the woman and two children were killed; and they supposed it had been her husband who had killed the Indians, and took their satisfaction there. We are accused of killing up Americans, and so on; but since the word was sent to us that peace was made, we stay steady at home, and meddle with no person. You have sent to us respecting the black people on the Suwanee river; we have nothing to do with them: they were put there by the English, and to them you ought to apply for anything about them. We do not wish our country desolated by an army passing through it, for the concern of other people. The Indians have slaves there also—a great many of them. When we have an opportunity we shall apply to the English for them, but we cannot get them now. This is what we have to say at present.

Sir, I conclude, by subscribing myself your humble servant, &c. September, the 11th day, 1817.

N. B. There are ten towns have read this letter, and this is the answer.

A true copy from the original.

WM BELL, *Aid-de-Camp.*

was placed at the head of a detachment consisting chiefly, he believed, of Kentucky volunteers, in order to destroy the Mississinaway towns. They proceeded and performed the duty, and took some prisoners. And here is evidence of the manner in which they treated them. [Here Mr. C. read the general orders issued on the return of the detachment.*] I hope, sir, the honorable gentleman will be now able better to appreciate the character and conduct of my gallant countrymen than he appears hitherto to have done.

But, sir, I have said that you have no right to practise, under color of retaliation, enormities on the Indians. I will advance, in support of this position, as applicable to the origin of all law, the principle, that, whatever has been the custom, from the commencement of a subject, whatever has been the uniform usage, coeval and coexistent with the subject to which it relates, becomes its fixed law. Such was the foundation of all common law; and such, he believed, was the principal foundation of all public or international law. If, then, it could be shown that from the first settlement of the colonies, on this part of the American continent, to the present time, we have constantly abstained from retaliating upon the Indians the excesses practised by them towards us, we were morally bound by this invariable usage, and could not lawfully change it without the most cogent reasons. So far as his knowledge extended, he said that, from the first settlement at Plymouth or at Jamestown, it had not been our practice to destroy Indian captives, combatants or noncombatants. He knew of but one deviation from the code which regulated the warfare between civilized communities, and that was the destruction of Indian towns, which was supposed to be authorized upon the ground that we could not bring the war to a termination but by destroying the means which nourished it. With this single exception, the other principles of the laws of civilized nations are extended to them, and are thus made law in regard to them. When did this humane custom, by which, in consideration of their ignorance and our enlightened condition the rigors of war were mitigated, begin? At a time when we were weak, and they were comparatively strong; when they were the lords of the soil, and we were seeking, from the vices, from the corruptions, from the religious intolerance, and from the oppressions of Europe, to gain an asylum among them. And when is it proposed to change this custom, to substitute for it the bloody maxims of barbarous ages, and to interpolate the Indian public law with revolting cruelties? At a time when the situation of the two parties is totally changed—when we are powerful and they are weak: at a time when, to use a figure drawn from their own sublime eloquence, the poor children of the forest have been driven by the great wave which has flowed in from the Atlantic ocean to almost the base of the Rocky Mountains, and, overwhelming them in its terrible progress, has left no other remains of hundreds of tribes, now extinct, than those which indicate the remote existence of their former companion, the mammoth of the New World! Yes, sir, it is at this auspicious period of our country, when we hold a proud and lofty station, among the first nations of the world, that we are called upon to sanction a departure from the established laws and usages which have regulated our Indian hostilities. And does the honorable gentleman from Massachusetts expect, in this august body, this enlightened assembly of Christians and Americans, by glowing appeals to our passions, to make us forget our principles, our religion, our clemency, and our humanity?

Why was it, Mr. C. asked, that we had not practised towards the Indian tribes the right of retaliation, now for the first time asserted in regard to them? It was because it is a principle, proclaimed by reason and enforced by every respectable writer on the law of nations, that retaliation is only justifiable as calculated to produce effect in the war. Vengeance was a new motive for resorting to it. If retaliation will produce no effect on the enemy, we are bound to abstain from it by every consideration of humanity and of justice. Will it, then, produce effect on the Indian tribes? No; they care not about the execution of those of their warriors who are taken captive. They are considered as disgraced by the very circumstance of their captivity, and it is often mercy to the unhappy captive to deprive him of his existence. The poet evinced a profound knowledge of the Indian character, when he put into the mouth of the son of a distinguished chief, about to be led to the stake and tortured by his victorious enemy, the words—

"Begin, ye tormentors! your threats are in vain:
The son of Alknomok will never complain."

Retaliation of Indian excesses, not producing then any effect in preventing their repetition, was condemned by both reason and the principles upon which alone, in any case, it can be justified. On this branch of the subject much more might be said; but, as he should possibly again allude to it, he would pass from it, for the present, to another topic.

It was not necessary, Mr. C. said, for the purpose of his argument in regard to the trial and

* The following is the extract which Mr. C. read.

"But the character of this gallant detachment, exhibiting, as it did, perseverance, fortitude, and bravery, would, however, be incomplete, if, in the midst of victory, they had forgotten the feelings of humanity. It is with the sincerest pleasure that the General has heard that the most punctual obedience was paid to his orders, in not only saving all the women and children, but in sparing all the warriors who ceased to resist; and that, even when vigorously attacked by the enemy, the claims of mercy prevailed over every sense of their own danger, and this heroic band respected the lives of their prisoners. Let an account of murdered innocence be opened in the records of Heaven against our enemies alone. The American soldier will follow the example of his Government, and the sword of the one will not be raised against the fallen and the helpless, nor the gold of the other be paid for scalps of a massacred enemy."

execution of Arbuthnot and Ambrister, to insist on the innocence of either of them. He would yield, for the sake of that argument, without inquiry, that both of them were guilty; that both had instigated the war; and that one of them had led the enemy to battle. It was possible, indeed, that a critical examination of the evidence would show, particularly in the case of Arbuthnot, that the whole amount of his crime consisted in his trading, without the limits of the United States, with the Seminole Indians, in the accustomed commodities which form the subject of Indian trade; and that he sought to ingratiate himself with his customers by espousing their interests, in regard to the provision of the Treaty of Ghent, which he may have honestly believed entitled them to the restoration of their lands. And if, indeed, the treaty of Fort Jackson, for the reasons already assigned, were not binding upon the Creeks, there would be but too much cause to lament his unhappy if not unjust fate. The first impression made, on the examination of the proceedings in the trial and execution of those two men, is, that on the part of Ambrister there was the most guilt, but at the same time the most irregularity. Conceding the point of the guilt of both, with the qualification which he had stated, he would proceed to inquire, first, if their execution could be justified upon the principles assumed by General Jackson himself. If they did not afford a justification, he would next inquire if there were any other principles authorizing their execution; and he would, in the third place, make some observations upon the mode of proceeding.

The principle assumed by General Jackson, which may be found in his general orders commanding the execution of these men, is, "that it 'is an established principle of the law of nations, 'that any individual of a nation, making war 'against the citizens of any other nation, they 'being at peace, forfeits his allegiance, and be'comes an outlaw and a pirate." Whatever may be the character of individuals waging private war, the principle assumed is totally erroneous when applied to such individuals associated with a Power, whether Indian or civilized, capable of maintaining the relations of peace and war. Suppose, however, the principle were true, as asserted, what disposition should he have made of these men? What jurisdiction, and how acquired, has the military over pirates, robbers, and outlaws? If they were in the character imputed, they were alone amenable, and should have been turned over to the civil authority. But the principle, he repeated, was totally incorreet, when applied to men in their situation. A foreigner, connecting himself with a belligerent, becomes an enemy of the party to whom that belligerent is opposed, subject to whatever he may be subject, entitled to whatever he is entitled. Arbuthnot and Ambrister, by associating themselves, became identified with the Indians; they became our enemies, and we had a right to treat them as we could lawfully treat the Indians. These positions were so obviously correct, that he should consider it an abuse of the patience of the Committee to consume time in their proof. They were supported by the practice of all nations, and of our own. Every page of history, in all times, and the recollection of every member, furnish evidence of their truth. Let us look for a moment into some of the consequences of this principle, if it were to go to Europe, sanctioned by the approbation, express or implied, of this House. We have now in our armies probably the subjects of almost every European Power. Some of the nations of Europe maintain the doctrine of perpetual allegiance. Suppose Britain and America in peace, and America and France at war. The former subjects of England, naturalized or unnaturalized, are captured by the navy or the army of France. What is their condition? According to the principle of General Jackson, they would be outlaws and pirates, and liable to immediate execution. Were gentlemen prepared to return to their respective districts with this doctrine in their mouths, and to say to their Irish, English, Scotch, and other foreign constituents, that you are liable, on the contingency supposed, to be treated as outlaws and pirates?

Was there any other principle which justified the proceeding? On this subject, he said, if he admired the wonderful ingenuity with which gentlemen sought a colorable pretext for those executions, he was at the same time shocked at some of the principles advanced. What said the honorable gentleman from Massachusetts, (Mr. HOLMES,) in a cold address to the Committee? Why, that these executions were only a wrong mode of doing a right thing. A wrong mode of doing a right thing! In what code of public law; in what system of ethics; nay, in what respectable novel; where, if the gentleman were to take the range of the whole literature of the world, will he find any sanction for a principle so monstrous? He would illustrate its enormity by a single case. Suppose a man, being guilty of robbery, is tried, condemned, and executed for murder, upon an indictment for that robbery merely. The judge is arraigned for having executed, contrary to law, a human being, innocent at heart of the crime for which he was sentenced. The judge has nothing to do, to insure his own acquittal, but to urge the gentleman's plea, that he had done a right thing in a wrong way!

The principles which attached to the cases of Arbuthnot and Ambrister, constituting them merely *participes* in the war, supposing them to have been combatants, which the former was not, he having been taken in a Spanish fortress, without arms in his hands, all that we could possibly have a right to do was to apply to them the rules which we had a right to enforce against the Indians. Their English character was only merged in their Indian character. Now, if the law regulating Indian hostilities be established by long and immemorial usage, that we have no moral right to retaliate upon them, we consequently had no right to retaliate upon Arbuthnot and Ambrister. Even if it were admitted that, in regard to future wars, and to other foreigners, their

execution may have a good effect, it would not thence follow that you had a right to execute them. It is not always just to do what may be advantageous. And retaliation, during a war, must have relation to the events of that war, and must, to be just, have an operation upon that war, and upon the individuals only who compose the belligerent party. It became gentlemen, then, on the other side, to show, by some known, certain, and recognised rule of public or municipal law, that the execution of these men was justified. Where is it? He should be glad to see it. We are told in a paper, emanating from the Department of State, recently laid before this House, distinguished for the fervor of its eloquence, and of which the honorable gentleman from Massachusetts has supplied us in part with a second edition, in one respect agreeing with the prototype, that they both ought to be inscribed to the American public—we are justly told in that paper, that this is the first instance of the execution of persons for the crime of instigating Indians to war. Sir, there are two topics which, in Europe, are constantly employed by the friends and minions of legitimacy against our country. The one is an inordinate spirit of aggrandizement—of coveting other people's goods. The other is the treatment which we extend to the Indians.—Against both these charges, the public servants, who conducted at Ghent the negotiations with the British Commissioners, endeavored to vindicate our country, and he hoped with some degree of success. What will be the condition of future American negotiators, when pressed upon this head, he knew not, after the unhappy executions on our Southern border. The gentleman from Massachusetts seemed on yesterday to read, with a sort of triumph, the names of the Commissioners employed in the negotiation at Ghent. Will he excuse me for saying, that I thought he pronounced, even with more complacency and with a more gracious smile, the first name in the commission, than he emphasized that of the humble individual who addresses you. [Mr. Holmes desired to explain.] Mr. C. said there was no occasion for explanation; he was perfectly satisfied. [Mr. H. however proceeded to say that his intention was, in pronouncing the gentleman's name, to add to the respect due to the negotiator that which was due to the Speaker of this House.] Will the principle of these men, having been instigators of the war, justify their execution? It was a new one; there were no landmarks to guide us in its adoption, or to prescribe limits in its application. If William Pitt had been taken by the French army, during the late European war, could France have justifiably executed him, on the ground of his having notoriously instigated the continental Powers to war against France? Would France, if she had stained her character by executing him, have obtained the sanction of the world to the act, by appeals to the passions and prejudices, by pointing to the cities sacked, the countries laid waste, the human lives sacrificed in the wars which he had kindled, and by exclaiming to the unfortunate captive, you miscreant, you monster, have occasioned all these scenes of devastation and blood? What had been the conduct even of England towards the greatest instigator of all the wars of the present age? The condemnation of that illustrious man to the rock of St. Helena, was a great blot on the English name. And Mr. C. repeated, what he had once before said, that if Chatham or Fox, or even William Pitt himself, had been Prime Minister, in England, Bonaparte never had been so condemned. On that transaction history will one day pass its severe but just censure. Yes, although Napoleon had desolated half Europe; although there was scarcely a Power, however humble, that escaped the mighty grasp of his ambition; although in the course of his splendid career he is charged with having committed the greatest atrocities, disgraceful to himself and to human nature, yet even his life has been spared. The allies would not, England would not, execute him, upon the ground of his being an instigator of wars.

The mode of the trial and sentencing these men, Mr. C. said, was equally objectionable with the principles on which it had been attempted to show a forfeiture of their lives. He knew, he said, the laudable spirit which prompted the ingenuity displayed in finding out a justification for these proceedings. He wished most sincerely that he could reconcile them to his conscience. It had been attempted to vindicate the General upon grounds which he was persuaded he would himself disown. It had been asserted that he was guilty of a mistake in calling upon the court to try them, and that he might have at once ordered their execution without that formality. He denied that there was any such absolute right in the commander of any portion of our Army. The right of retaliation is an attribute of sovereignty. It is comprehended in the war-making power that Congress possesses. It belongs to this body not only to declare war, but to raise armies, and to make rules and regulations for their Government. It was in vain for gentlemen to look to the law of nations for instances in which retaliation is lawful. The laws of nations merely laid down the principle or rule, and it belongs to the Government to constitute the tribunal for applying that principle or rule. There was, for example, no instance in which the death of a captive was more certainly declared by the law of nations to be justifiable than in the case of spies. Congress has accordingly provided, in the rules and articles of war, a tribunal for the trial of spies, and consequently for the application of the principle of the national law. The Legislature had not left the power over spies undefined, to the mere discretion of the commander-in-chief, or of any subaltern officer in the Army. For, if the doctrines now contended for were true, they would apply to the commander of any corps, however small, acting as a detachment. Suppose Congress had not legislated in the case of spies, what would have been their condition? It would have been a *casus omissus*, and although the public law pro-

nounced their doom, it could not be executed because Congress had assigned no tribunal for enforcing that public law. No man could be executed in this free country without two things being shown; 1st. That the law condemns him to death; and, 2dly. That his death is pronounced by that tribunal which is authorized by the law to try him. These principles would reach every man's case, native or foreigner, citizen or alien. The instant quarters are granted to a prisoner, the majesty of the law surrounds and sustains him, and he cannot lawfully be punished with death, without the concurrence of the two circumstances just insisted upon. He denied that any commander-in-chief, in this country, had this absolute power of life and death, at his sole discretion. It was contrary to the genius of all our laws and institutions. To concentrate in the person of one individual the powers to make the rule, to judge, and to execute the rule, or to judge and execute the rule only, was utterly irreconcilable with every principle of free Government, and was the very definition of tyranny itself; and he trusted that this House would never give even a tacit assent to such a principle. Suppose the commander had made reprisals on property, would that property have belonged to the nation, or could he have disposed of it as he pleased? Had he more power, would gentlemen tell him, over the lives of human beings than over property? The assertion of such a power to the commander-in-chief was contrary to the practice of the Government. By an act of Congress which passed in 1799, "vesting the power of retaliation, in certain cases, in the President of the United States"—an act which passed during the *quasi* war with France, the President is authorized to retaliate upon any citizens of the French Republic, the enormities which may be practised, in certain cases, upon our citizens. Under what Administration was this act passed? It was under that which has been justly charged with stretching the Constitution to enlarge the Executive powers. Even during the mad career of Mr. Adams, when every means was resorted to for the purpose of infusing vigor into the Executive arm, no one thought of claiming for him the inherent right of retaliation. He would not trouble the House with reading another law, which passed thirteen or fourteen years after, during the late war with Great Britain, under the Administration of that great Constitutional President, the father of the instrument itself, by which Mr. Madison was empowered to retaliate on the British, in certain instances. It was not only contrary to the genius of our institutions and to the uniform practice of the Government, but it was contrary to the obvious principles on which the General himself had proceeded; for, in forming the court, he had evidently intended to proceed under the rules and articles of war. The extreme number which they provide for is thirteen, precisely that which is detailed in the present instance. The court proceeded, not by a bare plurality, but by a majority of two-thirds. In the general orders issued from the Adjutant General's office, at headquarters, it is described as a court martial. The prisoners are said in those orders to have been tried, "on the following charges and specifications." The court understood itself to be acting as a court martial. It was so organized; it so proceeded, having a judge advocate, hearing witnesses, the written defence of the miserable trembling prisoners, who seemed to have a presentiment of their doom. And the court was finally dissolved. The whole proceeding manifestly shows that all parties considered it as a court martial, convened and acting under the rules and articles of war. In his letter to the Secretary of War, noticing the transaction, the General says: "These individuals were tried under my orders, legally convicted as exciters of this savage and negro war, legally condemned, and most justly punished for their iniquities." The Lord deliver us from such legal convictions and such legal condemnations! The General himself considered the laws of his country to have justified his proceedings. It was in vain, then, to talk of a power in him beyond the law, and above the law, when he himself does not assert it. Let it be conceded that he was clothed with absolute authority over the lives of these individuals, and that, upon his own fiat, without trial, without defence, he might have commanded their execution. Now if an absolute Sovereign, in any particular respect, promulgates a rule which he pledges himself to observe, if he subsequently deviates from that rule, he subjects himself to the imputation of odious tyranny. If General Jackson had the power, without a court, to condemn these men, he had also the power to appoint a tribunal. He did appoint a tribunal, and he became, therefore, morally bound to observe and execute the sentence of that tribunal. In regard to Ambrister, it was with grief and pain he was compelled to say, that he was executed in defiance of all law; in defiance of the law to which General Jackson had voluntarily, if you please, submitted himself, and given, by his appeal to the court, his implied pledge to observe. He knew but little of military law, and he had not a taste, by what had happened, created in him for acquiring a knowledge of more; but he believed there was no example on record where the sentence of the court has been erased, and a sentence not pronounced by it carried into execution. It had been suggested that the court had pronounced two sentences, and that the General had a right to select either. Two sentences! Two verdicts! It was not so. The first, by being revoked, was as though it had never been pronounced. And there remained only one sentence, which was put aside upon the sole authority of the commander, and the execution of the prisoner ordered. He either had or had not a right to decide upon the fate of that man without the intervention of a court. If he had the right, he waived it, and having violated the sentence of the court, there was brought upon the judicial administration of the Army a reproach, which must occasion the most lasting regret.

However guilty these men were, they should not have been condemned or executed without the authority of the law. He would not dwell, at this time, on the effect of these precedents in foreign countries, but he would not pass unnoticed their dangerous influence in our own country. Bad examples are generally set in the cases of bad men, and often remote from the central Government. It was in the provinces were laid the abuses and the seeds of the ambitious projects which overturned the liberties of Rome. He beseeched the Committee not to be taken captive by the charms of eloquence and the appeals made to our passions and our sympathies, so as to forget the fundamental principles of our governments. The influence of a bad example would often be felt when its authors and all the circumstances connected with it were no longer remembered. He knew of but one analogous instance of the execution of a prisoner, and that had brought more odium than almost any other incident on the unhappy Emperor of France. He alluded to the instance of the execution of the unfortunate member of the Bourbon house. He had sought an asylum in the territories of Baden. Bonaparte despatched a corps of gen d'armes to the place of his retreat, seized him and brought him to the dungeons of Vincennes. He was there tried by a court martial, condemned, and shot. There, as here, was a violation of neutral territory; there the neutral ground was not stained with the blood of him whom it should have protected. And there was another most unfortunate difference, for the American example. The Duc D'Enghein was executed according to his sentence. It is said by the defenders of Napoleon that the Duke had been machinating not merely to overturn the French Government, but against the life of its chief. If that were true, he might, if taken in France, have been legally executed. Such was the odium brought upon the instruments of this transaction, that those persons who have been even suspected of participation in it have sought to vindicate themselves, from what they appear to have considered as an aspersion, before foreign Courts. In conclusion of this part of the subject, Mr. C. said that he most cheerfully and entirely acquitted General Jackson of any intention to violate the laws of the country, or the obligations of humanity. He was persuaded, from all that he had heard, that he thought himself equally respecting and observing both. With respect to the purity of his intentions, therefore, he was disposed to allow it in the most extensive degree. Of his acts, said Mr. C., it is my duty to speak with the freedom which belongs to my station. And I shall now proceed to consider some of them, of the most momentous character, as it regards the distribution of the powers of Government.

Of all the powers conferred by the Constitution of the United States, not one is more expressly and exclusively granted than that is to Congress of declaring war. The immortal convention who framed that instrument had abundant reason for confiding this tremendous power to the deliberate judgment of the Representatives of the people, drawn from every page of history. It was there seen that nations are often precipitated into ruinous war from folly, from pride, from ambition, and from the desire of military fame. It was believed, no doubt, in committing this great subject to the Legislature of the Union, we should be safe from the mad wars that have afflicted and desolated and ruined other countries. It was supposed that before any war was declared the nature of the injury complained of would be carefully examined, the power and resources of the enemy estimated, and the power and the resources of our own country, as well as the probable issue and consequences of the war. It was to guard our country against precisely that species of rashness, which has been manifested in Florida, that the constitution was so framed. If then this power, thus cautiously and clearly bestowed upon Congress, has been assumed and exercised by any other functionary of the Government, it is cause of serious alarm, and it became that body to vindicate and maintain its authority by all the means in its power, and yet there are some gentlemen who would have us not merely to yield a tame and silent acquiescence in the encroachment, but to pass even a vote of thanks to the author.

On the 25th of March, 1818, Mr. C. continued, the President of the United States communicated a Message to Congress in relation to the Seminole war, in which he declared that, although in the prosecution of it, orders had been given to pass into the Spanish territory, they were so guarded as that the local authorities of Spain should be respected. How respected? The President, by the documents accompanying the Message, the orders themselves which issued from the Department of War to the commanding General, had assured the Legislature that, even if the enemy should take shelter under a Spanish fortress, the fortress was not to be attacked, but the fact to be reported to that department for further orders. Congress saw, therefore, that there was no danger of violating the existing peace. And yet, on the same 25th day of March, (a most singular concurrence of dates,) when the Representatives of the people receive this solemn Message, announced in the presence of the nation and in the face of the world, and in the midst of a friendly negotiation with Spain, does General Jackson write from his headquarters that he shall take St. Marks as a necessary depot for his military operations! The General states, in his letter, what he had heard about the threat on the part of the Indians and negroes, to occupy the fort, and declares his purpose to possess himself of it in either of the two contingencies of its being in their hands or in the hands of the Spaniards. He assumed a right to judge what Spain was bound to do by her treaty, and judged very correctly; but then he also assumed the power, belonging to Congress alone, of determining what should be the effect and consequence of her breach of engagement. General Jackson generally performs what he intimates his intention to

do. Accordingly, finding St. Marks yet in the hands of the Spaniards, he seized and occupied it. Was ever, he asked, the just confidence of the legislative body, in the assurances of the Chief Magistrate, more abused? The Spanish commander intimated his willingness that the American army should take post near him, until he could have instructions from his superior officer, and promised to maintain, in the mean time, the most friendly relations. No! St. Marks was a convenient post for the American army, and delay was inadmissible. He had always understood that the Indians but rarely take or defend fortresses, because they are unskilled in the modes of attack and defence. The threat, therefore, on their part, to seize on St. Marks, must have been empty, and would probably have been impracticable. At all events, when General Jackson arrived there, no danger any longer threatened the Spaniard from the miserable fugitive Indians, who fled on all sides upon his approach.

And, sir, upon what plea is this violation of orders, and this act of war upon a foreign Power, attempted to be justified? Upon the ground of convenience of the depot and the Indian threat. The first he would not seriously examine and expose. If the Spanish character of the fort had been totally merged in the Indian character, it might have been justifiable to seize it. But that was not the fact; and the bare possibility of its being forcibly taken by the Indians, could not justify our anticipating their blow. Of all the odious transactions which occurred during the late war between France and England, none was more condemned in Europe and in this country than the seizure of the fleet of Denmark at Copenhagen. And he lamented to be obliged to notice the analogy which existed in the defences made of the two cases. If his recollection did not deceive him, Bonaparte had crossed the Rhine and the Alps—had conquered Italy, the Netherlands, Holland, Hanover, Lubec, and Hamburg—and extended his empire as far as Altona, on the side of Denmark. A few days' march would have carried him through Holstein, over the two Belts, through Funen, and into the island of Zealand. What then was the conduct of England? It was my lot, Mr. C. said, to fall into conversation with an intelligent Englishman on this subject. "We knew (said he) that we were fighting for our existence. It was absolutely necessary that we should preserve the command of the seas. If the fleet of Denmark fell into the enemy's hands, combined with his other fleets, that command might be rendered doubtful. Denmark had only a nominal independence. She was in truth subject to his sway. We said to her, give us your fleet; it will otherwise be taken possession of by your secret and our open enemy. We will preserve it, and restore it to you whenever the danger shall be over. Denmark refused. Copenhagen was bombarded, gallantly defended, but the fleet was seized." Everywhere the conduct of England was censured; and the name even of the negotiator who was employed by her, and who was subsequently the Minister near this Government, was scarcely ever pronounced here without coupling with it an epithet indicating his participation in the disgraceful transaction. And yet we are going to sanction acts of violence, committed by ourselves, which but too much resemble it! What an important difference, too, between the relative condition of England and of this country! She perhaps was struggling for her existence. She was combating, single-handed, the most enormous military Power that the world has ever known. Who were we contending with? With a few half-starved, half-clothed, wretched Indians and fugitive slaves. And, whilst carrying on this inglorious war—inglorious as it regards the laurels or renown won in it—we violate neutral rights, which the Government had solemnly pledged itself to respect, upon the principle of convenience, or upon the light presumption that, by possibility, a post might be taken by this miserable combination of Indians and slaves.

On the 8th of April the General writes from St. Marks that he shall march for the Suwaney river; the destroying of the establishments on which will, in his opinion, bring the war to a close. Accordingly, having effected that object, he writes on the 20th of April that he believes he may say the war is at an end for the present. He repeats the same opinion in his letter to the Secretary of War, written six days after. The war being thus ended, it might have been hoped that no further hostilities would have been committed. But, on the 23d of May, on his way home, he receives a letter from the commandant of Pensacola, intimating his surprise at the invasion of the Spanish territory, and the acts of hostility performed by the American army, and his determination, if persisted in, to employ force to repel them. Let us pause and examine this proceeding of the Governor, so very hostile and affrontive in the view of General Jackson. Recollect that he was Governor of Florida; that he had received no orders from his superiors to allow a passage to the American army; that he had heard of the reduction of St. Marks; and that General Jackson, at the head of his army, was approaching in the direction of Pensacola. He had seen the President's Message of the 25th of March, and reminded General Jackson of it, to satisfy him that the American Government could not have authorized all those measures. Mr. C. said he could not read the allusion made by the Governor to that Message, without feeling that the charge of insincerity which it implied had at least but too much the appearance of truth in it. Could the Governor have done less than write some such letter? We have only to reverse situations, and to suppose him to have been an American Governor. General Jackson says, that when he received that letter, he no longer hesitated. No, sir, he did no longer hesitate. He received it on the 23d; he was in Pensacola on the 24th, and immediately after set himself before the fortress San Carlos de Barancas, which he shortly reduced. *Veni, vidi, vici.* Wonderful energy! Admirable promptitude! Alas! that it

had not been an energy and a promptitude within the pale of the Constitution, and according to the orders of the Chief Magistrate! It was impossible to give any definition of war that would not comprehend these acts. It was open, undisguised, and unauthorized hostility.

The honorable gentleman from Massachusetts had endeavored to derive some authority to General Jackson from the Message of the President, and the letter of the Secretary of War to Governor Bibb. The message declares that the Spanish authorities are to be respected wherever maintained. What the President means by their being maintained, is explained in the orders themselves, by the extreme case being put of the enemy seeking shelter under a Spanish fort. If even in that case he was not to attack, certainly he was not to attack in any case of less strength. The letter to Governor Bibb admits of a similar explanation. When the Secretary says, in that letter, that General Jackson is fully empowered to bring the Seminole war to a conclusion, he means that he is so empowered by his orders, which, being now before us, must speak for themselves. It does not appear that General Jackson ever saw that letter, which was dated at this place after the capture of St. Marks. He would take a momentary glance at the orders. On the 2d of December, 1817, General Gaines was forbidden to cross the Florida line. Seven days after, the Secretary of War having arrived here, and infused a little more energy into our councils, he was authorized to use a sound discretion in crossing it or not. On the 16th, he was instructed again to consider himself at liberty to cross the line, and pursue the enemy; but, if he took refuge under a Spanish fortress, the fact was to be reported to the Department of War. These orders were transmitted to General Jackson, and constituted, or ought to have constituted, his guide. There was then no justification for the occupation of Pensacola, and the attack on the Barancas, in the Message of the President, the letter to Governor Bibb, or in the orders themselves. The gentleman from Massachusetts would pardon him for saying that he had undertaken what even his talents were not competent to—the maintenance of directly contradictory propositions, that it was right in General Jackson to take Pensacola, and wrong in the President to keep it. The gentleman has made a greater mistake than he supposes General Jackson to have done in attacking Pensacola for an Indian town, by attempting the defence both of the President and General Jackson. If it were right in him to seize the place, it is impossible that it should have been right in the President immediately to surrender it. We, sir, are the supporters of the President. We regret that we cannot support General Jackson also. The gentleman's liberality is more comprehensive than ours. I approved, with all my heart, of the restoration of Pensacola. I think St. Marks ought, perhaps, to have been also restored; but I say this with doubt and diffidence. That the President thought the seizure of the Spanish posts was an act of war, is manifest from his opening Message, in which he says, that to have retained them, would have changed our relations with Spain, to do which the power of the Executive was incompetent, Congress alone possessing it. The President has, in this instance, deserved well of his country. He has taken the only course which he could have pursued, consistent with the Constitution of the land. And he defied the gentleman to make good both his positions, that the General was right in taking, and the President right in giving up the posts. [Mr. Holmes explained. We took these posts, he said, to keep them from the hands of the enemy, and, in restoring them, made it a condition that Spain should not let our enemy have them. We said to her, here is your dagger; we found it in the hands of our enemy, and having wrested it from him, we restore it to you in the hope that you will take better care of it for the future.] Mr. C. proceeded. The gentleman from Massachusetts was truly unfortunate; fact or principle was always against him. The Spanish posts were not in the possession of the enemy. One old Indian only was found in the Barancas, none in Pensacola, none in St. Marks. There was not even the color of a threat of Indian occupation as it regards Pensacola and the Barancas. Pensacola was to be restored unconditionally, and might, therefore, immediately have come into the possession of the Indians, if they had the power and the will to take it. The gentleman was in a dilemma, from which there was no escape. He gave up General Jackson when he supported the President; and gave up the President when he supported General Jackson. Mr. C. said he rejoiced to have seen the President manifesting, by the restoration of Pensacola, his devotedness to the Constitution. When the whole country was ringing with plaudits for its capture, he said and he said alone, in the limited circle in which he moved, that the President must surrender it; that he could not hold it. It was not his intention, he said, to inquire whether the army was or was not constitutionally marched into Florida. It was not a clear question, and he was inclined to think that the express authority of Congress ought to have been asked. The gentleman from Massachusetts would allow him to refer to a part of the correspondence at Ghent different from that which he had quoted. He would find the condition of the Indians there accurately defined. And it was widely variant from the gentleman's ideas on this subject. The Indians, according to the statements of the American Commissioners at Ghent, inhabiting the United States, have a qualified sovereignty only, the supreme sovereignty residing in the Government of the United States. They live under their own laws and customs, may inhabit and hunt their lands; but acknowledge the protection of the United States, and have no right to sell their lands but to the Government of the United States. Foreign Powers or foreign subjects have no right to maintain any intercourse with them, without our permission. They are not, therefore, independent nations, as the gentleman supposed. Maintaining the relation described with them,

we must allow a similar relation to exist between Spain and the Indians residing within her dominions. She must be, therefore, regarded as the sovereign of Florida, and we are accordingly treating with her for the purchase of it. In strictness, then, we ought first to have demanded of her to restrain the Indians, and, that failing, we should have demanded a right of passage for our army. But, if the President had the power to march an army into Florida without consulting Spain, and without the authority of Congress, he had no power to authorize any act of hostility against her. If the gentleman had even succeeded in showing that an authority was conveyed by the Executive to General Jackson to take the Spanish posts, he would only have established that unconstitutional orders had been given, and thereby transferred the disapprobation from the military officer to the Executive. But no such orders were, in truth, given. The President had acted in conformity to the Constitution, when he forbade the attack of a Spanish fort, and when, in the same spirit, he surrendered the posts themselves.

He would not trespass much longer upon the time of the Committee; but he trusted he should be indulged with some few reflections upon the danger of permitting the conduct, on which it had been his painful duty to animadvert, to pass, without a solemn expression of this House. Recall to your recollection, said he, the free nations which have gone before us. Where are they now, and how have they lost their liberties? If we could transport ourselves back to the ages when Greece and Rome flourished in their greatest prosperity, and, mingling in the throng ask a Grecian if he did not fear some daring military chieftain, covered with glory, some Philip or Alexander, would one day overthrow his liberties? No! no! the confident and indignant Grecian would exclaim, we have nothing to fear from our heroes; our liberties will be eternal. If a Roman citizen had been asked, if he did not fear the conqueror of Gaul might establish a throne upon the ruins of the public liberty, he would have instantly repelled the unjust insinuation. Yet Greece had fallen, Cæsar had passed the Rubicon, and the patriotic arm even of Brutus could not preserve the liberties of his country! The celebrated Madame de Stael, in her last and perhaps best work, has said, that in the very year, almost the very month, when the President of the Directory declared that monarchy would never more show its frightful head in France, Bonaparte, with his grenadiers, entered the palace of Saint Cloud, and, dispersing with the bayonet the deputies of the people, deliberating on the affairs of the State, laid the foundations of that vast fabric of despotism which overshadowed all Europe. He hoped not to be misunderstood; he was far from intimating that General Jackson cherished any designs inimical to the liberties of the country. He believed his intentions pure and patriotic. He thanked God that he would not, but he thanked him still more that he could not, if he would, overturn the liberties of the Republic.. But precedents, if bad, were fraught with the most dangerous consequences. Man has been described, by some of those who have treated of his nature, as a bundle of habits. The definition was much truer when applied to Governments. Precedents were their habits. There was one important difference between the formation of habits by an individual and by Governments. He contracts it only after frequent repetition. A single instance fixes the habit and determines the direction of Governments. Against the alarming doctrine of unlimited discretion in our military commanders, when applied even to prisoners of war, he must enter his protest. It began upon them; it would end on us. He hoped that our happy form of Government was destined to be perpetual. But if it were to be preserved, it must be by the practice of virtue, by justice, by moderation, by magnanimity, by greatness of soul, by keeping a watchful and steady eye on the Executive; and, above all, by holding to a strict accountability the military branch of the public force.

We are fighting, said Mr. C., a great moral battle for the benefit, not only of our country, but of all mankind. The eyes of the whole world are in fixed attention upon us. One, and the largest portion of it, is gazing with contempt, with jealousy, and with envy; the other portion, with hope, with confidence, and with affection. Everywhere the black cloud of legitimacy is suspended over the world, save only one bright spot, which breaks out from the political hemisphere of the West, to brighten, and animate, and gladden the human heart. Obscure that, by the downfall of liberty here, and all mankind are enshrouded in one universal darkness. To you, Mr. Chairman, belongs the high privilege of transmitting unimpaired, to posterity, the fair character and the liberty of our country. Do you expect to execute this high trust by trampling, or suffering to be trampled, down law, justice, the Constitution, and the rights of other people? By exhibiting examples of inhumanity, and cruelty, and ambition? When the minions of despotism heard in Europe of the seizure of Pensacola, how did they chuckle, and chide the admirers of our institutions, tauntingly pointing to the demonstration of a spirit of injustice and aggrandizement made by our country, in the midst of amicable negotiation. Behold, said they, the conduct of those who are constantly reproaching Kings. You saw how those admirers were astounded and hung their heads. You saw, too, when that illustrious man, who presides over us, adopted his pacific, moderate, and just course, how they once more lifted up their heads, with exultation and delight beaming in their countenances. And you saw how those minions themselves were finally compelled to unite in the general praises bestowed upon our Government. Beware how you forfeit this exalted character. Beware how you give a fatal sanction, in this infant period of our Republic, scarcely yet two score years old,

to military insubordination. Remember that Greece had her Alexander, Rome had her Cæsar, England her Cromwell, France her Bonaparte, and, that, if we would escape the rock on which they split, we must avoid their errors.

How different has been the treatment of General Jackson, and that modest, but heroic young man, a native of one of the smallest States in the Union, who achieved for his country, on Lake Erie, one of the most glorious victories of the late war. In a moment of passion he forgot himself, and offered an act of violence, which was repented as soon as perpetrated. He was tried, and suffered the judgment pronounced by his peers. Public justice was thought not even then to be satisfied. The press and Congress took up the subject. My honorable friend from Virginia, (Mr. Johnson,) the faithful and consistent sentinel of the law and of the Constitution, disapproved, in that instance, as he does in this, and moved an inquiry. The public mind remained agitated and unappeased until the recent atonement, so honorably made by the gallant Commodore. And was there to be a distinction between the officers of the two branches of the public service? Are former services, however eminent, to protect from even inquiring into recent misconduct? Is there to be no limit, no prudential bounds to the national gratitude? He was not disposed to censure the President for not ordering a court of inquiry or a general court martial. Perhaps, impelled by a sense of that gratitude, he determined, by anticipation, to extend to the General that pardon which he had the undoubted right to grant after sentence. Let us, said Mr. C., not shrink from our duty. Let us assert our Constitutional powers, and vindicate the instrument from military violation.

He hoped gentlemen would deliberately survey the awful position on which we stand. They may bear down all opposition; they may even vote the General the public thanks; they may carry him triumphantly through this House. But, if they do, in my humble judgment, it will be a triumph of the principle of insubordination—a triumph of the military over the civil authority—a triumph over the powers of this House—a triumph over the Constitution of the land. And he prayed most devoutly to Heaven, that it might not prove, in its ultimate effects and consequences, a triumph over the liberties of the people.

Mr. Johnson, of Kentucky, rose immediately after Mr. Clay. He felt himself called on, having been a member of the committee which had had this subject under consideration, and as one of the minority on the report made by it, to express his views of the questions involved in the report, and in the propositions moved by way of amendment to it. Without further preface, he proceeded to state that the conduct of General Jackson, in regard to the trial and execution of Arbuthnot and Ambrister, had been the subject of censure, from a *misconception* of the law and of the facts connected with it; and, particularly, by confounding two principles of the laws of nations, which were in themselves separate and distinct. The general order directing the execution of these men asserted, that the subject of any nation, making war upon a nation at peace with that to which he belongs, is an outlaw and a pirate; and, Mr. J. said, it was correctly asserted. And the very same page of *Vattel*, on which gentlemen relied for the support of their doctrine, would bear him out in that for which he contended, and with which gentlemen had confounded one entirely different. That, where persons have joined the standard of a belligerent, they may claim the character and privileges of the belligerent party, was a principle of public law, was not to be denied; but, if an individual takes upon himself to create and carry on a war, without authority from any Government, it was a principle equally undeniable that he is an outlaw and a pirate—not that he is either technically, but that, in fact and by analogy, he is so to be regarded. It is an established principle of public law, that the crew of any vessel, engaging in war without the authority of any commission, may be treated as pirates, and put to the sword. If, on the land, the like course be pursued, he who is guilty of it is an outlaw and a bandit, and may be put to the sword. This was one principle of public law, and that which gentlemen had triumphantly asserted, (and which nobody denied,) was a wholly different one; both not only clearly supported by the authority of *Vattel*, but in the same page of that respected and excellent writer.

Mr. J. said he would venture to say, that every ground taken by that man whose valor and conduct on the memorable eighth day of January, in the darkest period of the late war, had caused joy to beam from every face, would be found tenable on principles which have prevailed from the commencement of civilization to the present day. He pledged himself to produce chapter and verse to support his conduct in every incident of that war. He considered the essential interests of justice and of mercy to have been served in the execution of the foreign incendaries who stimulated the Indians to barbarities on our frontier settlers; and that the military occupation of Florida by General Jackson was justifiable on the broad basis of national law, and of sacred duty to his country. When gentlemen undertook to say, that General Jackson had not the right of retaliation, let them recollect the case of proposed retaliation, during the Revolutionary war, for the barbarous murder of Captain Huddie. And on whom of the prisoners in our power did the lot fall? Not on a miserable interloper, but on Captain Asgill, an amiable and accomplished officer. What then said the Congress of the United States—that venerable and enlightened body which carried us through the Revolutionary conflict? What did they say? Why, sir, not only that the Commander-in-chief, but that every officer on separate command, possessed the right of retaliation, and that they would support him in the exercise of it. It was true, that Asgill was released, for reasons of policy; but

the right of retaliation was fully sustained.—Four months, Mr. J. said, after the first blood was spilt in the Revolution, at the battle of Lexington, and two months after the memorable battle of Bunker Hill, which shed such a lustre upon our arms, and nearly a year before the Declaration of Independence, this question of the right of retaliation was solemnly discussed and settled in the correspondence between General Washington and General Gage; in which the former broadly asserted the right of retaliation, and declared that he should be governed by it. In order to take from our commanding General this right at the present day, Mr. J. said, gentlemen had again blended and confounded principles of the laws of nations, which in themselves were entirely distinct. In case of individuals in an army violating the laws of nations, and the known rules of war, it is a clear principle that they may be punished with death; and it was a principle equally clear, that in contending with a savage foe, you are at liberty to retaliate on them their own usages. But gentlemen had blended these powers and rights with the right of reprisal; and had confounded the power of putting to instant death a captive—a right inherent in the military power with which we have clothed the commander, and the exercise of which is a question between himself and his God.

I rejoice, said Mr. J., that the honorable gentleman who last addressed you, has expressed his opinion that the intentions of General Jackson, in what he has done, were good. I rejoice in it, sir, from my respect for that gentleman, whose opinion has with me more weight than that of any other individual; but this is a case in which the obstinacy of nature will not permit me to surrender my opinion to any individual whatever.

It had been denied, that any example could be produced of military execution, at the fiat of the commanding General, in our country. Mr. J. said, he would give an instance, in which two individuals were put to death by General Washington. Being given up by the revolted State line of Pennsylvania, as emissaries, sent by General Carlton, these men were instantly executed. For this fact, Mr. J., referred gentlemen to the Annual Register, which now lay before him.

It had been stated, that the crimes for which these men were executed, were offences not recognised by the laws of the United States. Mr. J. denied the fact, and in doing so meant offence to no one. These miscreants, who had imbrued their hands in the blood of our countrymen—the instigators of the murders, the fruits of which were three hundred scalps in one place, and in another, although, according to the documents read by the Speaker, it would appear that the Indians were threee murders in arrear of us—these individuals had been condemned and executed in conformity to the letter, if not to the spirit, of the laws of the United States. According to our rules and articles of war, whoever should relieve the enemy with money, victuals, or ammunition, or should knowingly harbor or protect them, or hold correspondence with the enemy, were subjected to death. So far the rule as to our army, which, by subsequent articles, was made so broad as to apply to the whole human family. But, if there was, in this point, any defect of power, here came in the law of nations to supply the deficiency; for that which subjects to death one of our own citizens, shall much more subject to death the foreign incendiary. Examples, in illustration of this doctrine, were plentifully scattered on the page of history. What was the fact, said he, as to the trial of the distinguished officer who was Adjutant General of the British forces, during the Revolution? He was convicted *on his own confession*, and by a court composed of six major generals and eight brigadier generals. General Jackson, Mr. J, said, was only following in the steps of those who had gone before. He was not here, he said, about to maintain that General Jackson was faultless; if he had no faults, he would not be human—but he stood here to maintain his devotion to his country; and that, in the course he had pursued in the trial and execution of Arbuthnot and Ambrister, he had only trodden in the footsteps of the immortal Washington.

As to the execution of the two Indian warriors, by the exercise of a summary jurisdiction over them, and the distinction made between their case and that of the white men, the reason was obvious to every man who had ears and would hear, or who had eyes and would see. In relation to the Indian chiefs, their color was sufficient evidence of their subjection to his right of disposing of them as justice required. The law of nations clothed him with the power to put an end to their existence. As to the stratagem of which gentlemen had complained, no one was less disposed than himself to look with a favorable eye on such stratagems as were contrary to morality. But there was no immorality in hoisting the flag of a foreign Power, nor in capturing the person of your enemy when he unwarily puts himself in your power. Nor, in what had been done in relation to these Indians, was there any violation of humanity or of public law. Do they meet us in honorable combat? said Mr. J. In the case of the unfortunate Mrs. Garret, did they meet us in honorable conflict there? When they burnt the seaman alive, whom they had previously tarred and feathered, did they meet us in open combat? Was the war one in which Greek met Greek, or an American met the citizen or subject of any civilized nation? If it were, the course of General Jackson, so far from receiving approbation, would deserve execration. But, considering the treacherous enemy he had to cope with, and the object of his measures, which was to give security to the frontier, and to save the wasteful expenditure of the blood, and even of the treasure of the nation; when I think on this, said Mr. J., I do not censure General Jackson, but, as before my God, I give him my thanks. But for his energy, what would have been the consequence? The frontier of Georgia would have been deluged with blood, as it has been once before, and the

gentleman from Georgia (Mr. Cobb) would again have called upon us, with a voice of patriotism, and a voice of thunder, too, to pay the gallant Georgians for going against the Seminoles.

With regard to the treaty of Fort Jackson, Mr. J. said, he should enter into no long argument, but he differed exceedingly from his honorable colleague. Have we not a right, said he, to dictate terms to a conquered enemy? Was not the war which was terminated by that treaty an unprovoked war? Was it not instigated against us, and without cause, on the part of the Indians? On whose head should the blood fall, if you cannot control the Indians with the bible? I wish to God you could, said Mr. J., and towards that object I will do, and have done, as much in my sphere as any one. There is at this moment, in the heart of my country, a school for the education of the Indians in the arts of civil life. But when you come into contact with them—when they flourish their tomahawk over your head—are you to meet them with the bible in your hands, and invoke their obedience of that holy religion of which the Speaker tells us? I should be the last to raise the sword against them, if the employment of such means would appease their fury. Experience had shown it would not; and it became necessary to meet and chastise them. And would any man say that, having put down their hostility by force, we had not a right to dictate to them the terms of peace? We had the right, and we made the treaty. That treaty received the sanction of every part of the Government—this House among them—(by the appropriation to carry it into effect,) and it was too late now to disturb it.

But, in regard to the Indian tribes, an extraordinary doctrine had been advanced—that they are to be considered, in every respect, in negotiating with them, as independent nations. What, then, Mr. J. asked, should we say of the Treaty of Grenville, depriving those tribes with whom it was made of all the superior rights of sovereignty? What was to become of the declarations of our Commissioners at Ghent, where the British Government demanded, as a *sine qua non*, that we should not only acknowledge the independence of the Indians, but should establish certain boundaries, within which the lands belonging to the Indians should never be sold to us? With what indignation had that proposition been met! The Indians, Mr. J. said, were in fact mere tenants at sufferance; not that he would treat them with harshness—for he never would. That the principle that we have a right to occupy the country, independently of the qualified right of the Indians, was recognised, not only by the Treaty of Grenville, but by the treaty with Spain herself, who, in the Treaty of 1795, stipulated to keep the Indians within her boundaries from disturbing our frontiers. And yet, after all this, it was contended that we had been fighting with a sovereign and independent Power.

As to the war, the constitutionality of which had been doubted, Mr. J. said, the President of the United States was not only authorized, but it was his bounden duty, to make war on the Seminole Indians. Admit, for the sake of argument, that, beyond our boundary, they were to be considered as exercising a sovereign and independent authority, what would gentlemen gain by that admission? If it were true, had we not a right to trace them to their strong holds, even in a neutral country? On that point the expositors of the laws of nations were not silent. It was there laid down, that you may pursue a retreating enemy into a neutral country, if the Government of that country, either from partiality to him, or from inability to prevent it, shall not stop the progress of the retreating army.

Now, as to another point which, perhaps, considering it as too delicate, the Military Committee had not thought proper to approach. Mr. J. said he should be deterred by no such motive, from examining the question of the power of the President to prosecute this Indian war, and from censuring him, if, in doing so, he usurped power or exceeded his duty. As early as the year 1787, the Congress had authorized the stationing of troops on the frontier, to protect it from the Indians, and the calling out of the militia for the same purpose. And this power had been acted on, from year to year, until the law of 1795 settled the point conclusively that, without a declaration of war by Congress, the President had the right to make war upon the savages; or, in the words of the law, on the Indian tribes. Let us, said Mr. J., look at our own powers—and how have we discharged them—instead of attempting to divest other branches of the Government of their powers. What was our duty? To provide for calling out the militia—for what? To execute the laws, to suppress insurrection, and to repel invasion. It was on that principle that the power was granted to the Executive of this country to chastise the ruthless savages for individual murders, or for murders committed with their combined force. Has the President, then, said Mr. J., violated his authority? Certainly not. And if you take from him this authority, which he has so rightfully exercised, what is to become of our citizens on the frontiers? The heart of our country might be penetrated, and the savages besiege our very doors, whilst we are making long speeches about the policy and humanity of repressing their hostilities. Had such been the case in the recent instance, either from a defect in the law or in the execution of the law, the people would have said, our Government is a rope of sand, and the blood and treasure spent in its establishment have been lavished in vain. According to the first word of military command, a little varied, it is made the duty of the Executive to take care that the laws of the Union are executed, and that invasion is repelled; and for this purpose he may use the regular or militia force of the country. Would it not be an invasion to have our helpless women, and the infant descendants of those who have fought our battles, butchered by the indiscriminate tomahawk and scalping knife? And would it not be a violation of the laws of the country to permit the hands

of the Indian to be imbrued in the blood of our citizens?

It had been represented, in palliation of Indian hostility, and in derogation from the justice of the war, that individuals of the whites had stolen cattle belonging to the Indians. If such were the fact, Mr. J. said, was it not known that these offenders might be individually punished? But was it not known that the character of Indian war, unless where the Indians had in some degree received the light of civilization, was indiscriminate murder? Did not President Washington make war on them for eleven years, from 1783 to 1794, without an express authority by law for doing so? When the gallant Scott, of Kentucky, led his Kentucky brethren against the Indian enemy, was it in consequence of a formal authority to make war, or under an appropriation for the expense, merely, of the expedition? And if we were not at liberty to pursue this course, in what condition would be placed the unfortunate settler on the frontier of Georgia, in Alabama, in Mississippi, and in Michigan?

If he was justified in right, and in the strictest interpretation of law, in what he had done, as Mr. J. contended General Jackson was, he could not see on what principle so great a hostility was raised against one of the most distinguished officers of the country, who had borne the helmet in the front of battle in fighting its cause; whose every object was the good of his country; and who enjoyed the affection of the country in a degree not to be taken from him but by treason or the imputation of improper motives. Do we not, said Mr. J., stand in need of military fame? Do we not want it to secure us respect in Europe? Do we not want it at home?

Mr. J. then proceeded to touch upon the opinion of his honorable friend and colleague—for whom he felt not only friendship, but affection—that these incendiaries were put to death without necessity. He argued that, though after destroying Mickasuky and burning the Suwaney towns, General Jackson thought the war was at an end, he was afterwards convinced he had been mistaken; so much so, that he had found it necessary afterwards to go to Pensacola, and to leave two companies to scour the country around it, who were now fighting gallantly against the savages, who would have deluged the country in blood but for these measures. It was kind, if not just, to General Jackson, to take the reasons which he himself assigned as the ground of his measures. He stood before this House not only as a great captain, but as a man of sound sense and discretion. Gentlemen had said the war was at an end. But how many of the enemy had been killed? Look to the fact, in relation to the power of the enemy. They yet existed, when the sentence of death was carried into effect against Arbuthnot and Ambrister, in a force of greater amount than that which General Jackson had with him. Look at the communication of Arbuthnot, stating their force to be three thousand five hundred men; suppose these instigators of the war had been suffered to remain and go at large; suppose the benign influence of mercy, in the breast of this honorable and respectable court martial, had weighed down the scale of justice, and these men had been discharged, what would have been the situation of the frontier of Georgia? Would it not have been the same as during the British war? These ignorant savages were deluded by their abettors into a belief that they were competent to cope with the forces of the United States. Of the twelve chiefs who signed the power of attorney to Arbuthnot, though two had been hung, there yet remained ten, and three thousand men who formed their command, to make battle against our forces under the instigation of the miscreants who had before stimulated them to war against us, and to their own ultimate ruin. Mr. J. was proceeding to show that these men deserved the name of miscreants, when, on suggestion of a gentleman near him, he gave way for a moment, and the Committee rose.

THURSDAY, January 21.

Mr. LIVERMORE, from the Committee on the Post Office and Post Roads, reported a bill authorizing the Postmaster General to contract, as in other cases, for carrying the mail, in steamboats, between New Orleans, in the State of Louisiana, and Louisville, in the State of Kentucky; which was read twice, and ordered to be engrossed and read a third time.

Mr. BLOOMFIELD made a report on the petition of Lewis Joseph de Beaulieu; which was read, when Mr. B. reported a bill for the relief of the said Lewis Joseph de Beaulieu; which was read twice, and committed to the Committee of the Whole, to which is committed the bill for the relief of Hannah Ring and Luther Frink.

On motion of Mr. PLEASANTS, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of authorizing the sale of a lot of land with the house thereon, situated at Bermuda Hundred on James river, in Virginia, belonging to the United States, and formerly used as a custom-house.

An engrossed bill, entitled "An act supplementary to the act entitled an act to provide for the prompt settlement of public accounts," was read the third time and passed.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting the information called for by the resolution of this House of the 4th instant in relation to ships engaged in the slave trade, which have been seized and condemned; and of the disposition which has been made of the negroes by the several State governments under whose jurisdiction they have fallen; which was read and committed to the Committee of the Whole, to which is committed the bill supplementary to the several acts prohibiting the importation of slaves.

Mr. HARRISON, from the committee upon the improvement in the organization and discipline of the militia, made a report; which was read, and ordered to lie on the table.

THE SEMINOLE WAR.

The Committee having again up the the subject of the Seminole war—

Mr. Johnson resumed the speech which was interrupted by yesterday's adjournment. He congratulated himself, he said, that the difference of opinion on this occasion was not a factious difference. When he glanced at the characters of those who had already spoken on opposite sides of the question, he saw with pleasure that this was no mere party squabble. He took this opportunity to disclaim, in the most direct and positive manner, any intention to wound the feelings of any of his valued friends who were opposed to him on this question; and, though the interest and welfare of the community required a free and unreserved discussion, he declared he should feel the same warmth of friendship to-day towards gentlemen, as friends and politicians, which he did before the commencement of this debate.

He had already stated, he said, that General Jackson displayed more knowledge in the wilds of Florida, on this subject, than any member who had taken part in this discussion; and that gentlemen had blended two principles in the laws of nations together, the distinction between which General Jackson had seen and observed. The one was the case of volunteers entering a foreign service, for the purpose of improving themselves in the use of arms and the knowledge of the art of war—which case is thus stated in Vattel, p. 401, sec. 230: "The noble view of gaining in' struction in the art of war, and thus acquiring a ' greater degree of ability to render useful ser' vices to their country, has introduced the cus' tom of serving as volunteers even in foreign ' armies; and the practice is undoubtedly justi' fied by the sublimity of the motive. At present, ' volunteers, when taken by the enemy, are treated ' as if they belonged to the army in which they ' fight. Nothing can be more reasonable; they, ' in fact, join that army, and unite with it in ' supporting the same cause; and it makes little ' difference in the case whether they do this in ' compliance with any obligation, or at the spon' tancous impulse of their own free choice." Such was the case of Kosciusko, of Lafayette, and the other illustrious foreigners who entered our armies during the Revolution, who were volunteers in the best of causes, but whose rights would not have been lessened had the cause been that of despotism and tyranny, instead of that of freedom and independence. But this case was widely different from that of interlopers, exciters of wars, and enemies of the human race, who might be hung up, and ought to be, by military law, as so many robbers and pirates. In the course pursued by General Jackson, then, and in his doctrine to which exception has been taken, he is even more than borne out by writers on the laws of nations, as Mr. J. showed by the following references: Vattel, p. 400, sec. 226. "Even after a declara' tion of war between two pations, if the peasants ' of themselves commit any hostilities, the enemy ' shows them no mercy, but hangs them up as he ' would so many robbers or banditti. The crews ' of private ships of war stand in the same pre' dicament: a commission from the Sovereign or ' Admiral can alone, in case they are captured, ' insure them such treatment as is given to prison' ers taken in regular warfare." Martens, p. 272, ' b. 8. "The violences committed by the subjects ' of one nation against those of another, without ' authority from their Sovereign, are now looked ' upon as robberies, and the perpetrators are ex' cluded from the rights of lawful enemies." Page 280. "Those, not authorized from their ' Sovereign, who take upon themselves to attack ' the enemy, are treated by him as banditti." Page 284. "Those who, unauthorized by the ' order of their Sovereign, exercise violences ' against an enemy, and fall into that enemy's ' hands, have no right to expect the treatment ' due to prisoners of war: the enemy is justifiable ' in putting them to death as banditti." The evidence before the court sufficiently established the facts on which, under the above passages of the law of nations, General Jackson was authorized, if not bound to proceed.

Was it supposed by gentlemen, Mr. J. asked, that General Jackson was so ignorant of the language of his country that he did not understand the meaning of the words "pirate and outlaw?" An outlaw the convict certainly was, as out of the protection of the sovereignty of Great Britain or of any other nation. In relation to the term "pirate," it had other meanings than its technical one: there were pirates on land as well as on the ocean. We are not here, said Mr. J., to inquire whether General Jackson used technical terms, but whether he did substantially and legally right. While we are searching our law books and libraries for our definitions, I hope we shall not lose sight of the difference between our situation and that of the General while in the field; while our heads repose on downy pillows, and we can rise up and lie down when we please, he had an object to accomplish, at every hazard, and at every cost, which he could not have attained if he had not acted as he did. Would you rather, said Mr. J., that these men were living and the country deluged in blood, or that those men should have suffered according to their deserts? These men had been guilty of that for which one of our own citizens would have been put to death;* and they were properly as well as legally put to death, in pursuance of General Jackson's object, which was, according to his instructions, to put a speedy and effectual end to hostilities so unprovoked. These men living, said Mr. J., the tomahawk and scalping knife would have been sharpened anew, and other emissaries would have derived encouragement from their impunity. Answer me this, Mr. Chair-

* Articles of War.—56. "Whosoever shall relieve the enemy with money, victuals, or ammunition, or shall knowingly harbor or protect an enemy, shall suffer death, &c.

57. "Whosoever shall be convicted of holding correspondence with, or giving intelligence to the enemy, either directly or indirectly, shall suffer death," &c

man—had you rather that the Mississippi and its various waters, the country to the Lakes, and beyond them to the North Pole, should have been jeopardized, that New Orleans should have passed from your power into the hands of the British during the late war, or that martial law should have been there established for a short time? For even that is now brought into view, which contributed so much to the glory as well as safety and honor of the country. If a man did not present himself in the attitude of suspicion, martial law did not affect him. I presume, sir, at least I hope, had I been there, I should have had no reason to dislike it. I have no particular respect for that desire of locomotion which could not bear to be restrained within certain bounds when the veterans of Wellington were to be met by the raw men of Kentucky and of Tennessee: I do not like that delicate fastidiousness of martial law, when the enemy is knocking at the gate. All men worthy of their country would make the sacrifice required of them on such occasions. If, for want of proper energy on the part of the commanding General, New Orleans had fallen into the possession of our enemy, what would have befallen the inhabitants, independently of the sacrifice of property and life? Beauty and booty was the watchword of the enemy. Had you rather, sir, that the enemy had succeeded in his object, or that this patriot should have put military law in force? As to the General, whose conduct I am proud to vindicate, said Mr. J., I consider him in the grave as to ambition—if he ever had any—which I never saw in him, except the ambition to serve his country. I do not speak of him because he is living, and that I ever expect to see again those eyes that never winked at danger when he was called upon to meet it. He has added to the military glory of his country more, perhaps, than any other living citizen; and, in the view of all statesmen and all writers on national law, the glory of a nation constitutes one of its greatest bulwarks of strength.

I now come, said he, to the consideration of the right of the President to make war on the savages; and on that point I contend that we have on the statute book a perpetual declaration of war against them. I hope gentlemen will take down the expression, and attend to my explanation—I say we have a permanent and everlasting declaration of war—and why? The reason is very obvious. I shall not differ from gentlemen as to the policy and justice of observing the duties of humanity towards that unfortunate people. God forbid that a drop of Indian blood should be spilt except on the principles of civilized man. But the President would be wanting in his duty to his country and to his God, if he did not use the strong arm of power in putting down the savages by the force he is authorized to employ, if they cannot be put down by the precepts of our holy religion; and Congress, had they not passed such a statute, would be wanting in duty to their country. Do the Indians ever declare war against their enemy? Do they embody themselves and engage in open conflict with their adversary, or do they come, like a thief in the night, and carry death to the unfortunate women, to the aged and infirm men, and the children whom they meet in their incursions? Is or is not that the universal practice? Let history answer the question. Should we, under these circumstances, have acted rightly, to take no precaution, but fold our arms in listless apathy, until roused by the Indian yell? Our predecessors too well knew their duty to do that. As early as 1787, and farther back if it were necessary to trace, provisions of the same nature as those now existing were enacted by the venerable Congress of the Confederation. By various statutes the same provisions had been continued to the present day. The statute gave to the President a discretionary power to employ the forces of the United States and to call forth the militia to repress Indian hostility; and gave it to him properly, on the principles of the Constitution. By the Constitution, the President is made Commander-in-Chief of the Army; and it is made his duty to take care that the laws are executed, to suppress insurrections and repel invasions; and, by the same instrument, it is made our duty to provide for calling forth the militia to be employed in these objects. That power has been exercised in the manner which will be shown by the law of the United States. [Mr. J. here requested the Clerk to read the statute to which he alluded;* and it was read accordingly.] Now, Mr. J. said, he thought this was a declaration of war of at least equal dignity to the manner in which the savages make war against us, and to the light in which we view them. We treat them, it is true, and we ought to treat them, with humanity; we have given them privileges beyond all other nations; but we reserve the right to repel their invasions, and to put to death murderers and violators of our peace, whether Indians or white men.

Having attempted to prove that General Jackson was correct in his principle of public law, and that, both by law and the Constitution, it was the right and bounden duty of the Executive to carry on war against the savage tribes when they took up arms against us, Mr. J. said, he would pass on to the power of General Jackson as commanding General, to do what he did in relation to these two incendiaries.

And, first, he referred to the resolutions of the Revolutionary Congress, in the case of Captain Huddie, which he read as follows:

"*Be it declared, and it is hereby declared,* That the Commander-in-Chief, or the commander of a separate army, is, in virtue of the power vested in them, re-

* The following was the part of the act passed February 28, 1795, which was read:

SEC. 1. That, whenever the United States shall be invaded, or be in imminent danger of invasion, from any foreign nation or Indian tribe, it shall be lawful for the President of the United States to call forth such number of the militia of the State or States most convenient to the place of danger or scene of action, as he may judge necessary to repel such invasion, &c.

spectively, fully authorized and empowered, whenever the enemy shall commit an act of cruelty or violence contrary to the laws or usage of war, to demand adequate satisfaction for the same, and, in case such satisfaction shall not be given in a reasonable or limited time, or shall be refused or evaded under any pretence whatever, to cause suitable retaliation forthwith to be made, and the United States, in Congress assembled, will support them in such measures."

Thus it appears to have been solemnly established, at that early date of our history, not only that the commanding General, but every commander of a separate army, was vested with the power of retaliation. Mr. J. next quoted from Lendrum's History of the Revolution (page 226) the correspondence, in the commencement of the war, between General Washington and the British General Gage, and read the following passage of General Washington's letter to General Gage at Cambridge, August 11, 1775:

"The obligations arising from the right of humanity, are universally binding, except in the case of retaliation.

"My duty now makes it necessary to apprize you, that, for the future, I shall regulate my conduct towards those gentlemen of your army, who are or may be in our possession, exactly by the rule you may observe towards those of ours, who may be in your custody.

"If severity and hardship mark the line of your conduct, (painful as it may be to me,) your prisoners will feel its effects; but if kindness and humanity are shown to ours, I shall, with pleasure, consider those in our hands only as unfortunate, and they shall receive from me that treatment to which the unfortunate are ever entitled."

Here, said Mr. J., the Revolution was commenced with the assertion of the principle, and terminated with its recognition. It was solemnly confirmed by the illustrious Revolutionary Congress, who were afraid that the act of mercy in regard to Captain Asgill might be presumed to disarm their commanding Generals of the power of retaliation. On this subject, having shown that the power had never before been questioned, but from the earliest date invariably asserted, it was scarcely necessary to say more.

Are you afraid, said Mr. J., of your military commanders? Let us cease to appoint and maintain them—let us fold our arms, and see who will fight our battles. But if we must continue to use our muskets, rifles, and cannon, to defend ourselves from violence, the power of directing their management must be trusted somewhere. If General Jackson be unworthy of his station, it is in our power to displace him. Have we not almost omnipotent power? And if we were not men of honor and integrity, loving wisdom, virtue, and our country, might we not abuse power and prostrate liberty? Take from the General the power of immediately heading our army in the field, and it must be reposed somewhere else. When at war, will you attempt in person to lead your armies to battle? Or, when armies are contending and blood is flowing, are our Generals to send to Congress to know whether they shall exercise the power of retaliation, or whether they shall give or refuse quarter? The power must be committed to the commanders of your armies, and if you are afraid to confide it to them, you can have no army; for it is not expected that we are to march to Mickasuky or to Suwaney, to fight the battles of our country. Other duties are assigned to us; and if we assume those which belong to other departments, the separation of powers in our Government is a mere nullity.

Gentlemen dwelt on the danger of acting on the principle of necessity. Mr. J. admitted it. But was necessity alone the tyrant's plea? or was it the plea of the good man as well as the tyrant? And is the good man to fold his arms and say necessity is the tyrant's plea, and I will therefore surrender this right and this power which commenced with the foundation of the earth and is as old as time itself? Mr. J. said he was the advocate of mercy, not of cruelty; but it was of a mercy compatible with justice, and not that mistaken clemency which is in itself cruelty. Justice ought not to be lost sight of in the pursuit of mercy. If it is, the foundations of our Government may be overturned, and our weakness and imbecility will invite that fate which has overtaken the nations that have passed away. Is it, said he, of the Cæsars, the Philips, and the Cromwells alone we have reason to be afraid? Let us rather avoid the treatment of an ungrateful country to Belisarius—let us avoid the example of the banishment of Aristides—let us rather fear to take from our aged warrior the only recompense he asks or can receive for his services—the gratitude of his country. Is there no danger of this? Has not the time arrived in which we have reason to apprehend it? Joab, notwithstanding his fidelity to David, was slain at the horns of the altar; and Saul could not bear to hear the praises of the gallant Captain who had slain Goliah. I am equally afraid, with the Speaker, of the ambition of a Cæsar, or a Napoleon, should such arise, but I am more afraid of that sickliness of feeling towards convicted incendiaries which would show itself in ingratitude towards him who has risked his all in the service of his country, and has done for it so much. What reward does this gallant Captain ask of his country? Does he desire wealth? No; he fought for glory, for liberty, for his country; he expected at least her gratitude; and now it was proposed to hold him up, as an example to all mankind, of the danger of incurring responsibility in the service of the nation.

Mr. J. then proceeded to remark on the case of Major Andre, which was a strong example of military execution in the face of great difficulties; Major Andre having come in with a flag, &c., and the treason of Arnold only involving him in guilt. What was the fate of that gallant and distinguished young man? And who was the individual who brought him to the bar of justice, and rigorously executed on him the sentence of a court martial? What was the foundation of the proceedings of the board of fourteen general officers who condemned him to death?

It was upon the law of nations, and upon the magnanimous, open, and honorable confession of the prisoner himself that he was condemned. It was no reason why we should divest ourselves of this right, that it was not recognised by statute. What was admitted public law, what was, indeed, the common law of the world, could gain no strength by being imbodied in the technical phrases of statute law. The principle is universal, that, in fighting against savages, you may meet them with their own weapons, and put any individual of them to death. On the ground of reprisal the same right exists. On this point Mr. J. quoted the following passages from *Vattel*, page 34, sec. 14:

"There is, however, one case in which we may refuse to spare the life of an enemy who has surrendered. It is when the enemy has been guilty of some enormous breach of the laws of nations, and particularly when he has violated the laws of war."

"When we are at war with a savage nation who observe no rules, and never give quarter, we may punish them in the persons of any of their people whom we take, (these belonging to the number of the guilty,) and, by this rigorous proceeding, endeavor to force them to respect the laws of humanity."

"If the hostile General has, without any just reason, caused some prisoners to be hanged, we hang an equal number of his people."—*Idem*, sec. 142.

"In time of war, a prisoner of war may sometimes be put to death in order to punish a nation that has violated the laws of war."—*Martens*, page 268, sec. 3.

"It is lawful for a General to put prisoners to death: 1st. When sparing their lives would be inconsistent with his own safety; 2d. In cases where he has the right to exercise the *talio*, or to make reprisals; 3d. When the crime committed by those who fall into his hands justifies the taking of their lives."—*Idem*, page 283, sec. 4.

Notwithstanding the great difference of opinion which was here entertained, Mr. J. said, it was fortunate for General Jackson—the evening of whose life would be cheered by the recollection of the plaudits of a grateful people, and a consciousness of his own services—that he did not violate, in this case, the rights of captives nor inflict punishment on innocent men, but on the most guilty of the guilty. Wherever severity is not absolutely necessary clemency becomes a duty; but here clemency had no claim to interpose. There could be no harshness or severity in putting to death two incendiaries, when the rest of their confederates and deluded followers were suffered to roam at large. Instead of bestowing our commiseration on the guilty, who suffered death for their crimes, said Mr. J., we should open our bosoms to the bleeding wounds of our own country, and thank Heaven they have been staunched by the vigorous arm of an energetic commander.

As to the necessity of putting these men to death, Mr. J. said, he thought when we said there was not a show of necessity for it, we ought to hear what General Jackson himself had to say on that subject. It would be seen that he had connected the capture of these two men with his ability to return home; that it was this circumstance which he considered as putting a period to the war, they being the promoters of it, &c. Mr. J. then read the following passages from General Jackson's letters:

"These individuals (Arbuthnot and Ambrister) were tried under my orders by a special court of select officers; legally convicted as exciters of this savage and negro war; legally condemned, and most justly punished for their iniquities. The proceedings of the court martial in the case, with the volume of testimony justifying their condemnation, present scenes of wickedness, corruption, and barbarity, at which the heart sickens."

"I hope the execution of these two unprincipled villains will prove an awful example to the world, and convince the Government of Great Britain, as well as her subjects, that certain, if slow, retribution awaits those unchristian wretches, who, by false promises, delude and incite an Indian tribe to all the horrid deeds of savage war."

"So long as the Indians within the territory of Spain are exposed to the delusions of false prophets, and the poison of foreign intrigue; so long as they can receive ammunition and munitions of war, &c., from pretended traders and Spanish commandants, it will be impossible to restrain their outrages."

Mr. J. asked whether this reasoning was false or correct; whether it was founded on matter of fact, or on what was not fact? If it was true he should like to hear gentlemen answer it. Nine-tenths of the Indians were left in their own country, and, if proper precaution was not taken, the same scenes as had already been exhibited would be acted over again. General Jackson, at one time, thought the war was at an end, and that he might go home. But he found he was mistaken, and that it was necessary to scour the country west of Appalachicola; and, after he got into it, he was obliged to take Pensacola before he could conclude the war.

In regard to the origin of this war, was it, indeed, as has been said, a contest for a hunting ground and a few cattle? It was for about ten or fifteen millions of acres of land. It was not a common Indian war, in which we could have dispensed with rigorous proceedings. One of two alternatives we were obliged to take: either to admit that we had made a treaty with the savages which was a disgrace to the country, and cede back to the Creek nation of Indians from ten to fifteen millions of acres of land which the people of Georgia are now prepared to occupy and cultivate; or to hold on to it, and put down the Indian war by force. This was not a common petty larceny war, in which a few individuals were murdered, but it was a solemn declaration of war on the part of the Indians, and Mr. Arbuthnot was the author of it. Mr. J. here quoted Arbuthnot's letter to General Mitchell, Indian agent, in which he says:

"SIR: King Hatchy, the head chief of the Lower Creek nation, has called on me, to request that I would represent to you the cruel and oppressive conduct of the American people living on the borders of the Indian nation, &c. But, far from any stop being put to their inroads and encroachments, they are pouring in

by hundreds at a time. Thus the Indians have been compelled to take up arms to defend their homes from a set of lawless invaders, &c. In taking this liberty of addressing you, sir, in behalf of the unfortunate Indians, believe me, I have no wish but to see an end put to a war, which, if persisted in, I foresee must eventually be their ruin; and, as they were not the aggressors, if, in the height of their rage, they committed any excesses, that you will overlook them, as the just ebullitions of an indignant spirit against an invading foe."

Sir, when this letter was written, Lieutenant Scott and his detachment had been destroyed, the women butchered, and the children's brains dashed out against the side of the boat. These were what he calls the just ebullitions of an indignant spirit! Who would pronounce innocent the man who made this declaration on the part of the enemy! Did Arbuthnot supply the Indians with intelligence? Was he at Fort St. Marks, identified with the Spanish commander? Did not the commandant of St. Marks make contracts with the Indians to go and steal cattle from the Georgians? Let documents answer these questions. Did the twelve chiefs say, in their letter to the Governor of the Bahamas, that they had consulted the commandant at St. Marks; and did not the commandant himself, approving that letter, sanction the call upon the British for aid to fight against the Government of the United States? Under the circumstances of the case, were we prepared to recede fifteen millions of acres of country conquered from a foe who had, without provocation, assailed our frontier, and deluged our country with blood, at a moment when we were engaged with a powerful foreign enemy? Surely not. Mr. J. said he defied any gentleman to prove a single instance, except by the asseverations of the Indians themselves, in which our people had plundered or murdered any of the Indians, without our having endeavored to detect and punish them. He defied them to prove any act of aggression on them, except those alleged to have been committed in our territory, which we conquered, and which was ceded to the United States, and over which, therefore, the Indians had no jurisdiction. If, by the Treaty of Ghent, we had been compelled to recede the land to them, there would have been some sort of apology for their murdering our citizens, as trespassers, &c.; but, as it was, no such plea could be set up, and gentlemen knew it, and the Indians knew it too.

With respect to the taking of Pensacola, the last point in order, Mr. J. said he had been gratified to find that, whilst General Jackson was said to have violated his duty, (though previous or subsequent orders sanctioned all he had done,) there was a free admission, on all hands, that we owed nothing to Spain, notwithstanding this very violent aggression and hostility committed on her territory. Why this, Mr. J. said, was giving up the question; that being the ground on which he acted, and on which justification was plead by the Administration and by himself. Was there no possible case, Mr. J. asked, in which a General ought to act for himself? If he had returned home without having visited Pensacola, after what had passed, he would have made a cowardly retreat; which is not his habit, for victory never failed to follow his arms. What had been the conduct of the Governor of Pensacola? He had refused a passage up the Escambia of the vessels carrying provisions for the support of our troops on the territory of Spain, where they were found, because Spain either had not the power, or had not the will, to maintain for her territory the character of neutrality—and where they were, further, under the positive orders to go. Was this all, said Mr. J., that the Governor of Pensacola did? No; he threatens to drive our forces at the point of the bayonet from—where? Where the pursuit of the Seminole Indians, and the orders of the Executive, had carried them. Of the orders to go there we were apprized at the last session, and no exception was taken to them. What was the basis of the permission to our commander to enter the Spanish territory? Had he not demanded the murderers? Was an ideal line of the 31st degree of latitude to arrest our progress in pursuit of them? General Jackson was in the performance of his duty when the challenge was given to him by the commandant of Pensacola, and the enemy in free and constant ingress and egress to and from the fort, as the documents establish. Some had called Hambly a miscreant; but, Mr. J. said, the testimony contained in the papers before the House was favorable to him. It appeared that he had been for two years endeavoring to bring the Indians into friendship with the United States, as they themselves said; but they preferred to "stick close to their old friends, the British." The Indians had undoubtedly free intercourse with Pensacola. How often, said Mr. J., has it been proclaimed on this floor that Spain has forfeited her neutral character and prostrated her sovereignty! The principle of self-defence, as a rule of conduct for nations, came from the tomb—it sprung from the ashes of those who had written on public law centuries ago. The savages being constantly nursed and supplied at Pensacola, during their hostility with us, it would, after the threat of the commandant, have been a disgrace for General Jackson to have waited for orders from his Government. He did not wait; it was true, as my colleague says, "he came, he saw, he conquered." I thank my God he did, and that the Executive has not censured him for so doing. The nation will not, and I hope this Committee will not condemn him for it. If we go to war, we must exercise the rights of belligerents, and the powers of sovereignty. If we are never to go to war, but suffer inroads to be made on our borders; if we are to invite the Goths and Vandals to come and take our country by the weakness and imbecility with which our Government is administered; then, sir, and then only, let us pronounce censure on General Jackson and on the Executive.

What, Mr. J. asked, would be the consequence of an admission, by this House, of the truth of the imputations which had been cast on General

Jackson? There will be an obligation incurred to Spain, to indemnify her for injury sustained; on our refusal to do which she would be authorized, if able, to take compensation from us. The post is surrendered, it is true, by the Executive, but it is with the condition of a force being put there adequate to maintain the authority of Spain. If General Jackson be pronounced an aggressor, said Mr. J., you must agree to punish him and indemnify Spain. And what punishment will you inflict, to gratify the nice feelings of Old Spain? Are you prepared, when you find the Spanish authorities identified with your savage enemy, and your General is ordered by these authorities to march from where the orders of his Government had placed him—will you, under such circumstances, bring censure and sorrow for his punishing this contempt, on the gray hairs of him whose hand never faltered in the discharge of duty to the country? You knew his character, sir, when you sent him there, and knew he would finish what he begun. Suppose he had disbanded his men at St. Marks, and a handful of Spaniards had put him to flight—what then should we have heard, in a voice of thunder, reverberating from all sides of the House? Sir, such denunciation would have ensued from every part of the nation, that Jackson must have sunk under it. But victory he has achieved; he has put a speedy end to an unprovoked war. Did I say he put an end to it? Yes, as far as any human could. But at this moment I have received information from a friend at St. Marks, that, the moment the Indians understood that Florida was to return to the possession of Spain, they ceased to come in, and were rallying their forces again, King Haijo at their head. I am not willing to give up the land ceded to us by the Treaty of Fort Jackson, because it secures the settlement of our frontier. And if you offer me the alternative of war, I will take it in preference. I feel, sir, as little warlike as any individual on earth; I feel as if I never again wished to hear the drum or trumpet's sound; I wish that the halcyon days of peace could last until the consummation of all things; but when the bayonet is at our breast, and we are called on to arrest the ravages of a savage foe, I will take up the hatchet and wield it against them. I will meet the foe, and let no false feeling of mercy in my bosom extinguish the obligations of duty to my country. This is the situation of General Jackson, and what punishment will you inflict on him? Do you think you will ever stand in need of the arm of such a man again? A man, sir, little understood—violent, perhaps, in his enmities, and equally ardent in his friendships—but who, as an officer, is vested with all the energies of a Cæsar, or a Napoleon, making allowance for the difference of his materials; who meets with equal courage and conduct the Indians or the invincibles of Wellington. Though he is thought a desperate character, said Mr. J., look at the deliberation with which he has acted, and see whether he has not, in the discharge of his military duties, maintained his character as a great man and as an officer.

With regard to the case of Copenhagen, if the fact had been true, instead of being supposed, that the question had been presented, Shall France or England have the Danish navy? would infamy have attached, as it has done, to that transaction? Certainly not. In the case of St. Marks, Mr. J. said, that post was virtually in possession of the enemy. In regard to Pensacola, every evidence had been given of hostility to us, and co-operation with our enemy. There was, in both cases, sufficient justification.

As to the case of the Kentuckian, referred to by his colleague, as having been generally execrated for killing an Indian in cold blood, it had no reference whatever to the present question. It was the case of an unauthorized individual killing a captive. The act proved him a coward; and it would be a monstrous doctrine that would make every individual an arbiter on the subject of retaliation. If the commanding officer had done the same act which was done by the individual, although a proper policy might not have been pursued, public execration would not have followed the act.

Mr. J. here concluded his observations, by returning his thanks to the Committee for the attention which had been paid to his remarks, and expressing his regret at having been obliged to trespass on their time so long.

Mr. SMYTH, of Virginia, addressed the Chair. I promised, said he, when the House received the report of the Military Committee, that I would, when the time for discussing it arrived, attempt to show, that all the proceedings of Gen. Jackson, in prosecuting the Seminole war, were justified by the law of nations. I will proceed to fulfil that promise.

In examining the proceedings of the armed force of the United States in Florida, I propose to make these inquiries; 1. Have the rights of the United States been transcended? 2. Have the Constitutional powers of the President been exceeded? 3. Has General Jackson transcended his powers, or violated the laws of nations?

I proceed with the first inquiry: Have the rights of the United States been transcended?

The law of nations, like the common law of the land, is founded on reason and usage. To prove that it is reasonable that a nation should possess a certain right, is to prove that it does possess that right; unless it is shown that the custom and usage of nations is otherwise. We find those customs and usages in treatises compiled by writers on the law of nations.

The right of security, or of self-preservation, is one of the most important, and most unquestionable rights of nations. A nation has a right not to suffer any other to obstruct its preservation. This is one of those rights called perfect rights. The definition of a perfect right is, that it may be asserted by force. It is, therefore, the duty of the Government to preserve the people. "The safety of the people is the first law." And we have a right to do whatever is necessary to the discharge of our duties.

We have a right, by the law of nations, to de-

stroy hostile savages residing within the territorial limits of a neighboring Power, but not amenable to the civil laws. A neighboring territory is not to become a safe asylum for banditti, who carry on against us predatory and murderous hostilities. You may not pursue a fugitive from justice on the territory of a neighboring nation: there is no necessity to authorize you to do so. But, if you cannot otherwise deliver yourself from an imminent danger, you may enter the territory of a neighboring Power—(*Vattel*, page 167.) In short, the Government, being bound to preserve the people, has a right to all the means necessary to preserve the people, whatever they may be. Nothing can dispense with the obligation, and nothing can destroy the right to the means.

The right of necessity, and the right of self-defence, are paramount to all other rights claimed under the law of nations. The inviolability of Ambassadors, and even the inviolability of crowned heads, must yield to the security of nations.

Thus, a conspiracy having been formed in 1717, in England, contrived by the Swedish Ambassador, to invade the country and dethrone the King, the Ambassador was arrested and his papers seized, (*Ward*, vol. 2, p. 330;) the other foreign Ministers expressed their satisfaction, except the Ambassador from Spain, who observed that he was sorry no other way could be fallen on for preserving the peace of the kingdom. He then assigned a satisfactory reason for adopting the measure; there was no other way of preserving the peace of the kingdom; therefore, the measure was necessary for self-preservation, and consequently lawful.

The Speaker (Mr. Clay) has questioned the right of the United States to enter the country of the Seminoles in Florida, to suppress them, and put an end to their hostile incursions. It is a strange doctrine that there is no way to put an end to the hostilities of a subject savage community, whose country lies within the territorial limits of a Power with which we are at peace, but by declaring war against that Power. The law of nations allows you to enter the territory of a neutral Power in quest of an enemy, (*Vattel*, p. 318.) It is even still more reasonable that you should possess the right, when the territory claimed by the neutral Power is, in fact, the country, the residence, of your savage enemy, where alone effectual hostilities can be carried on against him.

The right of a sovereign Power to exclusive jurisdiction within a territory, is founded on the engagement to govern the inhabitants, and restrain them from injuring other nations. When the Government is no longer able to restrain the inhabitants from injuring other nations, they have an undoubted right to attack such inhabitants, and suppress them, without going to war with that Power which has become too feeble to restrain them. Should Buenos Ayres, or the Banda Oriental, having shaken off the authority of Spain, make war on the Brazilians, the latter would seem to have an undoubted right to invade them without going to war with Spain. Should Mexico set at naught the Spanish Government, and make war against the United States, the latter would have a right to invade Mexico without declaring war against Spain. So, in the case under consideration, Spain being unable to restrain the savages of Florida, has no right to complain that the United States have entered that country to restrain them.

The law of nations may be illustrated by cases in municipal law. I may pursue and destroy on your land a noxious animal which I have started on my own. If your house adjacent to mine is on fire, I may enter on your premises, and pull it down, for the preservation of mine. Where the reason is the same, the law is the same.

Such being the right of the United States, by the law of nations, it is proper to inquire, what effect on those rights has been produced by the treaty between the United States and Spain. By that treaty both parties bind themselves "expressly to restrain by force all hostilities on the part of the Indian nations within their boundary; so that Spain will not suffer her Indians to attack the United States"—(*Laws*, v. 2, p. 266.) Spain, then, is bound to restrain her savage subjects, and is liable to pay all damages that may be sustained by her failure; and should she fail, from inability to suppress them, she is still bound to use all the means in her power, and to furnish all the aid in her power for that purpose. The engagements of a treaty impose a perfect obligation, and give a perfect right; a right which may, if necessary, be asserted by force—(*Vattel*, p. 182.) Spain then agrees, and is bound, that the Indians shall be suppressed, and the United States have a right that the Indians shall be suppressed. It is preposterous to contend, that because Spain is unable to restrain the hostilities of her Indians, that therefore they are to remain unrestrained, when Spain has agreed that they shall be restrained, and the United States have a right that they shall be restrained. The consequence of the inability of Spain is, that the United States may use force in restraining the Indians of Spain; and have a right to all the means of effecting that object that Spain can furnish. When the performance of the duties of Spain devolves on the United States, they have a right to the means of performing those duties. Therefore, if the possession of the forts in Florida is necessary to the suppression and restraint of those savages, the United States have a right to the possession of them.

The law of nations also recognises the right, arising from necessity, of seizing a place of strength belonging to a neutral Power, and putting a garrison into it, either for defending itself against an enemy, or for the purpose of preventing him in his designs of seizing this place, when the neutral Government is not able to defend it—(*Vattel*, p. 315.) The treaty with Spain certainly neither diminishes nor weakens the rights of the United States. It increases and strengthens them. The object of the article under consideration is the suppression of the hostile sav-

ages. This object is to be, and must be, effected. The two nations have agreed and bound themselves that it shall be effected; and that agreement is as to them a written law of nations.

Our right being established, and the incapacity of Spain to fulfil her obligation notorious, the law of nations allowed the United States, when they could not obtain due satisfaction by amicable means, or foresaw that it would be useless to try such means, to have recourse to forcible means in pursuit of their rights—(*Martens*, pp. 265, 268.) Indeed, the right claimed by the United States was of such a nature that a specific performance of the agreement to suppress the hostilities of the savages was indispensable. If that could not be performed by Spain, it must be performed by the United States, who would then be entitled to demand of Spain satisfaction for her failure to perform her engagements.

It therefore seems to me that there can be no doubt that the United States had a right to enter Florida in pursuit of the Seminole savages; to possess the means necessary to restrain them—and to restrain them.

The next inquiry that I propose to make is, Have the Constitutional powers of the President been exceeded?

An honorable gentleman from Georgia was of opinion that there should have been a declaration of war against the Seminoles. He says, "the war-declaring power has been snatched from Congress." Let me here remark, that I think this objection would have come better from any other quarter than from the State of Georgia, for the safety of whose people this war has been commenced and prosecuted. I would also remark, that this objection would have come better from any other gentleman than him who made it; yet no doubt he made it in obedience to what he now deems his duty.

On examining the journals of the last session, I find, on the third of April, this entry: "On motion of Mr. COBB, resolved, that the Committee on Military Affairs be instructed to inquire into the expediency of increasing the pay of the militia now in service, or which may hereafter be called into the service of the United States, in the war now prosecuting against the Seminole tribe of Indians." This was ten days after the President had informed the House that the army was authorized to enter Florida. An acknowledgment that war exists, is a declaration of war.* It then appears, that at least the gentleman and this House have declared the war. Another proof that the war was authorized by Congress, is found in the appropriation for the pay of militia employed therein. A third piece of evidence, which will prove satisfactory to the gentleman, is an act passed in pursuance of his resolution, which recognises "the war against the Seminole tribe of Indians," and is a complete declaration of war by Congress.†

But all this was unnecessary to enable the President to make war against the Seminoles; for a defensive war need not be declared; the state of war being sufficiently determined by the open hostilities of the enemy.* Our war against the Indians is decisive, although carried on in their country, because we suffered the first act of violence.† Should Spain commence war against us after the rising of Congress, no doubt the President, with his fleets and armies, would be authorized to fight, before the meeting of Congress, and to continue fighting, whether the war was ever declared or not. And we have given to the President a continuing authority to repel invasions by the Indian tribes.‡ The act of Congress under which the President Washington ordered the Generals St. Clair and Wayne to invade the Indian country, merely authorized him to call out the militia to aid in protecting the frontiers from the hostile invasions of the Indians.§ The attack by the Indians of Florida being an invasion, the President was authorized to repel it, and in repelling to pursue and effectually to suppress the invaders.

It by no means follows, as some seem to suppose, that because the President cannot declare war, that he can do nothing for the protection of the nation, and the assertion of its rights. The power to declare war, is a power to announce regular war, or war in form, against another Power. But it never was intended, by reserving this power to Congress, to take from the President the power to do any act necessary to preserve the nation's rights, and which does not put the nation into a state of war with another Power. If Congress, in addition to the power of declaring war, assume to themselves the power of directing every movement of the public force that may touch a neutral; or that may be made for preserving the national rights; or executing the laws and treaties; they will assume powers given to the President by the Constitution. A declaration of war against savages is not only unnecessary, but would be highly impolitic. It would be an acknowledgment of their independence; an acknowledgment that they may engage in war in form; that the usages of such a war apply to hostilities with them; and that they are entitled to the treatment of lawful enemies. I contend that there can no such thing as a war in form between this nation and a tribe of American savages. A war waged by Indians against the United States can have no lawful object. The only object of such a war must be plunder, massacre, destruction, and revenge—and incursions committed without lawful authority, or apparent cause, and only for havoc and pillage, can be productive of no lawful effect. A nation attacked by such enemies is under no obligation to treat them as lawful enemies. They may be hanged as robbers ‖ or banditti.

If the President has a right to repel an Indian invasion without a declaration of war, as I have

* 4th vol. Laws, 835.
† Acts first session, Fifteenth Congress, page 94.

* Vattel, 293.
† Martens, 273.
‡ 2d vol. laws, 479.
§ Same, 74, 102.
‖ Vattel, 296, 397.

contended, then he may lawfully enter even a neutral territory in pursuit of the enemy without making war against that neutral Power; and consequently without war having been declared against such Power. If the United States have a right to enter the territory of Spain, there to suppress the Seminoles, as I have contended, then the President may assert that right; for the act being no act of war against Spain, a declaration of war is not necessary to precede or authorize its performance. The exercise of a right is neither war nor cause of war; nor does the violence which opposition may render necessary, make it war. We may enter a neutral territory to attack an enemy; we may seize a neutral place to anticipate an enemy; we may pass by force, when necessary, through neutral territory; yet the place or territory is still considered neutral, and therefore the act is not war.

This right of the nation is to be exercised by those intrusted with its protection. The President is charged with the duty of asserting the rights of the nation, and he is furnished with the means. He is Commander-in-Chief of the Army and Fleet; and it is his duty to see that the laws (which include treaties) be faithfully executed.* He may therefore possess, on behalf of the United States, whatever another Power by treaty authorizes the United States to possess. He may do beyond the jurisdiction of the United States whatever the law of nations or treaties authorize the United States there to do. He cannot seek satisfaction by war. He cannot make reprisals. But he may assert a specific right; or take possession of a specific thing, claimed by the United States. Thus, President Madison took possession of West Florida, claimed by the United States, and also by Spain. By his order, Wilkinson took the fort of Mobile from a Spanish officer. Force was to have been used, but the place was obtained by capitulation. I doubt not those proceedings had the entire approbation of the Speaker, (Mr. CLAY,) who very ably advocated the claim of the United States to that province.†

I therefore conclude that all the right which the United States had to do the acts which have been done in Florida, is vested in the President, the Executive branch of the Government.

The next inquiry which I propose to make is, *Has General Jackson transcended his orders, or violated the law of nations?*

In examining this question, it is necessary to see, in the first place, what were his orders. On examining the orders under which General Jackson acted, I find them to be as follows:

"26th Dec. 1817. To adopt the *necessary measures* to terminate a conflict which it has ever been the desire of the President, from considerations of humanity, to avoid; but which is now made necessary by their settled hostilities."

"16th Jan. 1818. To terminate speedily the war with the Seminoles; and with EXEMPLARY PUNISHMENT for hostilities so unprovoked; the honor of the United States requires it."

"29th Jan. 1818. To put a *speedy and successful termination* to the Indian war."

"6th Feb. 1818. To terminate the rupture with the Indians as speedily as practicable; to restore peace on such conditions as will make it *honorable and permanent.* The HONOR of our army, and the interest of our country require it."

In an order issued previous to all those which I have quoted, to wit, on the 16th of December, 1817, and addressed to General Gaines, he is allowed to march across the Florida line, and attack the Indians within its limits, should it be found necessary, "*unless they should shelter themselves under a Spanish fort.* In the last event, you will immediately notify this Department." This event never did happen; the Indians did not shelter themselves under a Spanish fort. And the event never having happened, the orders are to be understood as if no such clause was contained therein. This clause cannot be construed into a prohibition to possess himself of the forts of Florida, if necessity, or hostilities, justified the commanding officer in doing so, according to the law of nations or from treaties.

I will consider the objections that have been made to the proceedings of General Jackson: 1. In occupying St. Marks. 2. In occupying Pensacola. 3. In executing Arbuthnot and Ambrister. But here let me remark, that the President has refused to censure or punish General Jackson for his proceedings in Florida, and thus takes upon himself the responsibility for them. It is the President that is responsible to Congress, and we shall not turn aside from him to

* "I will also admit that the President is bound to see the laws and treaties faithfully executed; and, so far as his powers extend, to cause them to be executed."—*From a speech of Mr. Gallatin, in* 1800.

"He (the President) possesses the whole Executive power. He holds and directs the force of the nation. Of consequence, any act to be performed by the force of the nation, is to be performed through him. He is charged to execute the laws. A treaty is a law. He must then execute a treaty, where he and he alone possesses the means of executing it."—*From a speech of Mr. E. Livingston, in* 1800.

† "I have no hesitation in saying, that if a parent country will not or cannot maintain its authority in the colony adjacent to us, and there exists in it a state of misrule and disorder menacing our peace; and if, moreover, such colony, by passing into the hands of any other Power, would become dangerous to the integrity of the Union, and manifestly tend to the subversion of our laws, we have a right, upon eternal principles of self-preservation, to lay hold of it."—*From Mr. Clay's speech on the occupation of West Florida.*

"The immutable principles of self-defence, justified, therefore, the occupancy of the Floridas; and the same principles will warrant the American Government in holding it until such time as Spain can guarantee, by an adequate military force, the maintaining her authority within the colony."—*From Gen. Jackson's despatch June 2,* 1818.

censure a subordinate officer. It is against the President that we should direct our measures, if we take any. He has applauded General Jackson's motives, and excused his actions, and it is not for us to condemn them. This House may impeach, and the Senate may try the President; but General Jackson is not responsible to either.

Let us see if General Jackson was not justifiable in occupying St. Marks. I have attempted to show that, as the United States had been compelled, by the delinquency of Spain, to do the duties of Spain, they were entitled to the possession of the means, and so entitled to the possession of the fort of St. Marks, as a means of restraining the Indians. I have also shown that, by the law of nations, necessity authorizes the temporary seizure of a place, for preventing the enemy from seizing this place, when the neutral sovereign is unable to defend it.* To require that the exercise of this right should be preceded by a declaration of war, is to deny the right altogether, which is to take possession of the fortress of a *neutral* Power. The Indians and negroes had threatened to occupy St. Marks,† and premeditated seizing that post.‡ Five hundred of them had approached it, to the alarm of the commander.§ The case in which it is justifiable to seize a neutral post, existed. The General therefore stands fully justified in the seizure of St. Marks. Thus, the Great Frederick, having ascertained the intended invasion and partition of his dominions, by Russia and Austria, took Dresden in depot, that he might be beforehand with his enemies.

I will pass from St. Marks to the occupation of Pensacola. The orders of General Jackson were to "adopt the necessary measures" to procure a speedy and effectual termination of the war, and a peace on such terms as would be permanent, and honorable to the army and the United States. But the war could not be speedily terminated, if the Spanish Governor of Pensacola abetted, encouraged, and supplied the savages, and obstructed the arrival of supplies for the American army. The possession of Pensacola was necessary to the execution of his orders.

Provisions may be seized by force when necessary.‖ Then a post may be occupied which obstructs their arrival. The Spanish commandant of Pensacola having endangered the existence of the American army, by detaining their supplies of provisions, it was necessary that he should be deprived of the power of doing the same again, during the continuance of the war.

General Jackson was reminded, in his orders, of the honor of the United States, and the honor of the army. His duty to preserve both inviolate was thus particularly impressed upon him. While engaged in suppressing the Seminoles, and thus performing what it was the duty of Spain to have done, he was ordered by the Governor of Pensacola to retire with his forces from West Florida, with a threat to use force to compel him, if he did not comply.* Will any member say, that, on receiving this order, Jackson should have fled? Ought he to have forgotten the HONOR of the United States, the HONOR of the American army, so lately and particularly recommended to his safekeeping, and fled from West Florida, before the Spanish Cross, to avoid the arms of Don José Mazot? I presume no one would say he should have fled. Whatever doubt there might be as to the necessity or legality of taking possession of Pensacola before the Governor issued this menace, there was none afterwards. General Jackson at once saw that if he retired, he retired in disgrace, the honor of the United States and of the army tarnished, and his orders shamefully violated. It became necessary that he should deprive Mazot of the means of carrying his threat into execution. A threat which, if he should not attempt to execute against General Jackson himself, while his army remained in full force, it now became extremely probable that he would carry into execution, with the aid of the savage and negro enemy, against the diminished force which General Jackson might leave in Florida. The immediate occupation by General Jackson of the fort of Barancas, was the necessary and proper result of the hostile declaration of Governor Mazot.

Such a threat is a declaration of hostilities. If it is made by one Sovereign to another, it is the commencement of war. Such a declaration, made by the King of Prussia to the Emperor of France, commenced the war in which was fought the battle of Jena, which brought the Prussian monarchy to the brink of ruin. The French battalions could not fly out of Germany before the Prussian eagle. Sir, such a threat is not merely a declaration of hostilities; it is even regarded as an attack, and gives to him who is threatened the defensive, although he should strike the first blow.† The possession of Pensacola became indispensable, by the threat of Governor Mazot, to the execution of General Jackson's orders, to the preservation of the honor of the army, and to its security.

But it is said that General Jackson made war against Spain; and it is said that all violence is war. This is a mistake. We know that the United States are not at war with Spain, although General Jackson has exerted some force against the Governor of Pensacola, on the declaration of hostilities made by the latter. Public war exists between nations. The right of making such a war belongs only to the sovereign power. But it sometimes happens that the commander of a portion of the armed force, finds, or supposes he finds, the exercise of violence necessary against some portion of the public force of another Power, although no war exists between the two nations. Such acts of force may indeed have a tendency to produce public war between the na-

*Vattel, 315. † Documents, 91.
‡ Documents, 56, 68, 81, Luengo's letter.
§ Documents, 80. ‖ Vattel, 166.

* Documents, p. 116. † Martens, 273.

tions;* they become subjects of discussion; they may be justified or they may be disavowed. Thus. in 1754, Major Washington, with four hundred men, erected a fort on the Ohio, where he was attacked by De Villier, a French commander, with nine hundred men, and obliged to capitulate. Yet war, public war, did not commence between the two nations until 1755. In 1750, events took place between the forces of England and France, in Nova Scotia, bearing some resemblance to those which lately occurred in Florida. Major Lawrence, with a small force, advanced to reduce some insurgents called French neutrals, who were in the habit of instigating the Indians to attack the English inhabitants; those insurgents fled and took protection with the French commander, Monsieur La Corne, who commanded fifteen hundred men. Lawrence forbore to attack him, because he was unable; but inquired on what principle he protected the insurgents? La Corne answered, that he was ordered to defend that post, and would obey his orders. The historian adds, that "during the years 1751 and 1752 'the Indians and their coadjutors continued to 'disturb, plunder, and butcher, the new colonists; 'in their expeditions they were countenanced and 'supported by the French commanders, who al-'ways supplied them with boats, arms, and am-'munition." If no direct hostilities took place there between the English and French commanders, we are informed what the reason was. The historian tells us that the English commander knew "that he was unable to cope with such a force in the open field."†

In 1794 Governor Simcoe built a fort at the rapids of Maumee. This fort we know General Wayne was allowed by President Washington to take, if it impeded his operations, although there was no war between the two nations. Wayne, in his despatches, said he would have stormed it had a gun been fired. He no doubt would have stormed it had Major Campbell threatened to drive him out of the country, as Mazot threatened to drive General Jackson. An action took place between the Leopard and the Chesapeake; but that did not produce public war between the two countries. Another action took place between an American frigate and the Little Belt; yet the nations remained at peace. These events show that acts of violence occurring between commanders of portions of the armed force of different countries, each asserting the rights or maintaining the pretensions of their respective Governments, are not such acts of war as must be preceded by a declaration of war. Such acts will happen, in whatsoever hands the war-declaring power may be vested. They are not effects of war; they may be subjects for reparation ‡ You are about to establish a post at the Yellow Stone river; perhaps another at Galveston; and possibly at the mouth of the Columbia river. The commanders may be brought into collision with the commanders of the forces of other nations; they may fight long before you can hear of such collision, and yet the nations may remain at peace.

But it has been said by the Speaker, (Mr. Clay,) on another occasion, that the right of levying taxes has been wrested from Congress. I suppose that the allusion was to the establishment of a custom-house at Pensacola, and that that constitutes one of the objections to be urged against the proceedings of General Jackson. Whatever may be said of the authority of the General to establish a custom-house at Pensacola, the act is no usurpation on the power of Congress, unless it can be shown that Congress possessed the right to establish a custom-house at Pensacola. I do not perceive that Congress possess the right. The power of Congress to legislate is confined to the American territories, and the objects enumerated in the Constitution. I conceive that Congress can exercse no power over a territory acknowledged by them to belong to a foreign Power. If treaties or the law of nations give the United States a right to act within the territory of a foreign Power, in peace or in war, it is the Executive that must so act. The British commander at Castine established a custom-house there during the late war; it was not established by the British Parliament. Where one nation by its arms occupies any part of the territory of another, it is usual to collect the duties, and let the magistrates administer the laws. The right results from the temporary possession. If that possession is wrong, all its consequences are so; but if the possession is right, its necessary consequences are also right. Whatever facts and arguments will maintain the right to take possession of a place, will support the right of the possessors to maintain in operation the usual or necessary laws. And therefore, whether the American military force in possession of Pensacola might collect the usual customs or not, depends on the former question, whether they had a right to take possession or not.

I will next consider the objections made to the conduct of General Jackson, in the execution of Arbuthnot and Ambrister.

Some of my arguments on this branch of the subject, have been anticipated by the honorable member who has preceded me, the chairman of the Military Committee, (Mr. Johnson, of Kentucky,) and it gives me satisfaction to find that my opinion agrees with that of a gentleman who is as much distinguished by his humanity as by his valor.

My observations will chiefly relate to the case of Ambrister, as the proceedings against him have have been the most censured; and what is said of his case will in the general apply to that of Arbuthnot.

I will attempt to maintain that Ambrister was an outlaw, making war without authority, instigating savages to an unlawful war, a leader of banditti, and liable, by the law of nations and the usages of war, to suffer death.

* President Madison ordered the naval commanders to take no insult, either as it regarded the matter or the manner.

† Bisset's George 3d, vol. 1, page 118.

‡ Vattel, 293.

It was found by the special court martial, that Ambrister had led and commanded Indians in carrying on war against the United States, being a British subject. Peace exists between all the citizens of the United States and all the subjects of Great Britain; and the Englishman who counsels, aids, or abets savages to massacre the people of the United States, is a murderer.

It is the laws of war, a branch of the law of nations, that gives to the commanding General a right to put prisoners to death, either for a violation of the usages of war, or by way of retaliation. In the one case, they die for their own crime, and their punishment is just; in the other, they are put to death for the crimes of their party, and their punishment is justified by policy.

Among the crimes against the laws of war, for which a prisoner may justly die, are—1. Making war without authority, the war being lawful; 2. Making war, if the war is unlawful; 3. Using means contrary to the laws of war.

That article of the laws of war that provides that he who fights without authority is liable to suffer death, seems not to have been rightly understood by either branch of the Military Committee: but it is a rule well established, and very beneficial to humanity. General Jackson seems to me to have entertained a correct idea of the rule, but not to have taken time, when giving his order for the execution of Ambrister, to express himself with sufficient clearness. I should interpolate the rule as laid down by him, and make it read thus: "It is an established principle of the 'law of nations, that any individual of a nation 'making war against the citizens (or soldiers) of 'another nation, the nations being at peace, (and 'having no authority by being in the service of a 'Power making a lawful war,) forfeits the protection of his Government; and becomes an outlaw (or robber, if he makes war by land) or a 'pirate, (if he makes war by sea.") The rule thus amended is equally applicable to the case of Ambrister, as in the form expressed by General Jackson. And it is fully established by the writers on the law of nations.

Ambrister, being the subject of a Power at peace with the United States, of his own free will, without any authority from any Government, has dared to make war upon the United States. Let us hear what the writers on the law of nations say on this case. National war is a conflict between nation and nation. It never can be undertaken or carried on but by the authority of the sovereign.* Therefore subjects cannot act herein of themselves, and without the sovereign's order they are not to commit any hostility.† The necessity of a particular order is so thoroughly established, that even after a declaration of war between two nations, if the peasants of themselves commit any hostilities, the enemy, instead of sparing them, hangs them up, as so many robbers or banditti.‡ The violence committed by the subjects of one nation against those of another, without authority from their sovereign, are now looked upon as robberies; and the perpetrators are excluded from the rights of lawful prisoners.*

It appears therefore that, had war actually existed between the United States and Great Britain, and Ambrister had, without authority from his Government, committed hostilities against the United States, he would have been justly considered as a robber, and liable to be hanged by order of the commanding officer into whose hands he had fallen.

This rule of the law of war, that no one is to fight without authority, was asserted by the enemy in the war of our Revolution, in the case of Colonel Ethan Allen. He advanced against Montreal, with a few volunteers; his party was routed, and he himself made prisoner; and, under pretext of his having acted without authority, he was thrown into irons, and sent to England as a traitor.†

Those who kill an enemy in war are excused in consideration of their acting in the performance of their duty. But those who fight contrary to their duty, or without its being their duty, the laws of war equally condemn as the deserter, him who has broke his parole, or him who fights without authority.

War being a great calamity, they well deserve to die who violate those laws which have been agreed upon by civilized nations for the purpose of diminishing its horrors. War is sufficiently destructive when its operations are confined to those who are authorized to prosecute it by the Government; but how horrible would it be, if every person belonging to one Power, had a right to attack and kill any person belonging to the other! And if that man may be lawfully and justly put to death, who, without authority, attacks the soldiers of the enemy, how much more does that man deserve to die, whose country being at peace, instigates savages to the horrid acts of undistinguishing massacre.

The law of nations is, that the subject of a neutral Power who wages war by land, is punishable with death, unless he is in the service of a Power carrying on a regular war. And nations have gone further as to war carried on by sea, and agreed, generally, that not even a commission shall exempt from the punishment of death him who, being the subject of a neutral, exercises hostilities by sea. But the committee say, Arbuthnot and Ambrister were "acting with a Power acknowledged independent by us." I can by no means agree with the committee. Look at the Constitution; Indians are spoken of as a part of our population. Look at our treaty with Spain; each party engages to restrain the Indians within their territory; and those in Florida are spoken of as the Indians of Spain. Look at our treaties with the Indians; they acknowledge themselves to be under our protection; and consequently they owe us allegiance; for protection and allegiance are reciprocal. Refer to the notes of our

* Martens, 272. † Vattel, 365. ‡ Vattel, 366.

* Martens, 272, 280, 284.
† Marshall's History, 3d vol. 22.

Commissioners at Ghent, which are among the ablest State papers that have appeared; you will find the following passages: "If the United 'States had now asserted that the Indians within 'their boundaries, who have acknowledged the 'United States as their only protectors, were their 'subjects, living only at sufferance on their lands, 'far from being the first in making that assertion, 'they would only have followed the example of 'the principles uniformly and invariably asserted 'in substance, and frequently avowed, in express 'terms, by the British Government itself. The 'United States claim, of right, with respect to 'all European nations, and particularly with re-'spect to Great Britain, the entire sovereignty 'over the whole territory, and all the persons 'embraced within the boundaries of their domin-'ions." All this tends to prove that the Indians are subjects, or subject communities, owing allegiance to the United States. The proposition affirmed by the minority of the Military Committee that white men may enter into the service of Indians, and that they thereby become entitled to the same treatment in all respects as the Indians, I do not admit. I contend that a treaty of peace with Indians would not shield from a prosecution a white man, the subject of a neutral Power, who had associated himself with the Indians, and killed a citizen within the jurisdiction of a State.

Volunteers are allowed to serve foreign Powers. Let us see why this custom has become a part of the law of nations. "The noble view of 'acquiring instruction in the art of war, and be-'coming more capable of serving our country, 'has introduced a method of serving as volun-'teers even in foreign armies; and the custom is 'doubtless justified by the sublimity of the mo-'tive."* But this sublime motive will not justify the civilized man in entering into the service of the ferocious and murdering savage, to learn the use of the hatchet and the scalping knife.

Ambrister did not, by coming to Florida, owe allegiance to Bowlegs or to Hillishajo. He continued the subject of Great Britain; and he owed temporary allegiance to the King of Spain. By aiding savages to carry on war against the United States, he violated the British treaty, the Spanish treaty, the law of nature, the law of nations, and the laws of war, and justly suffered death.

It is only in lawful wars that those who are taken are entitled to the treatment of prisoners of war. A war, to be lawful, must be undertaken by the sovereign Power.† There must be lawful authority for making it, and apparent just cause. It must not be merely an incursion for havoc and pillage. An individual cannot wage lawful war against a nation; he is a robber. A family cannot; they will be robbers. A tribe of savages cannot; they may be treated as enemies of the human race. "Nations which are always ready 'to take arms on any prospect of advantage, are 'lawless robbers; but they who seem to delight 'in the ravages of war, who spread it on all sides 'without any other motives than their ferocity, 'are monsters unworthy the name of men. All 'nations have a right to join in punishing, sup-'pressing, and even exterminating such sav-'ages."* This is the language of the law of nations. Then, as the Seminole savages could not themselves make a lawful war against the United States, their chiefs, Bowlegs and Hillishajo, could not communicate such a right to Ambrister.

If Great Britain had been at war with the United States, and Ambrister, her subject, had exercised hostilities against them, without authority from his Government, the laws of war condemn him to die, as has been clearly shown.† Surely the circumstance of his nation being at peace with us, does not increase his rights; it only increases his guilt.

I would go still farther, sir, but for this I have no express written authority in point; I would rely on reason and analogy. I say if Nicholls had been taken during the late war, with his Britannic Majesty's commission in his pocket, when engaged in exciting savages to massacre the peaceful citizens of our frontiers, he would have deserved to have been hanged for using means contrary to the laws of war. The principle I contend for seems to have been acted on in the case of Colonel Hamilton, the British commander of Vincennes, in the war of the Revolution. That officer having excited the Indians to war against the frontier settlers, was attacked by Colonel Clark, and surrendered himself and his garrison prisoners of war. The historian tells us that "with a few of his immediate agents and 'counsellors, who had been instrumental in the 'savage barbarities he had encouraged, he was, 'by order of the Executive of Virginia, put in 'irons, and confined in jail."‡ There are certain means, the use of which is contrary to the laws of war; as poisoning, assassination, entering the camp of an enemy in disguise, as spies, or with intent to poison, assassinate, or corrupt; soldiers guilty of any of these offences are liable to suffer death; and, I would add, to the list of unlawful means, exciting savages to war. Our Commissioners at Ghent declared that "the employment of savages, whose 'known rule of warfare is the indiscriminate 'torture and butchery of women, children, and 'prisoners, is, itself, a departure from the princi-'ples of humanity observed between all civilized 'Christian nations, even in war." Then let this practice be terminated. That is to be effected by the exemplary punishment of every instigator of Indian hostilities.

I cannot perceive any ground for the comparison made between the cases of Lafayette, Kosciusko, Pulaski, and De Kalb, with those of Arbuthnot and Ambrister. Do those who make this comparison find any likeness between the United States and the Seminole tribe of savages? The war of the Revolution was carried on as a

* Vattel, 367. † Vattel, 296; Martens, 272.

* Vattel, 282, 151, 152, † Martens, 280.
‡ Marshall's History, 3d vol., 516.

civil war, in which the treatment of prisoners is the same as in a regular war between two nations.* And as foreigners are allowed to enter into the service of either party in such a war, they were consequently entitled to treatment similar to that which other prisoners of their party received.

Having considered the liability of Ambrister to suffer death, for a violation of the laws of war, in exercising unlawful hostilities, I will next consider his liability to be put to death by way of retaliation, as a person incorporated with the enemy.

I lay down, with regard to the savages, this rule of warfare. Whatever degree of force, whatever destruction, whatever punishment for violating the usages of war or by way of retaliation, is found necessary to deter them from robbing our citizens, and massacreing our women and children; that force, destruction, and punishment, they should be made to feel, and no more. So much we have an undoubted right to inflict on the principle of self-preservation. And if we do not inflict so much, we fail in our sacred duty to preserve the people.

I find this opinion fully supported by the authority and example of the greatest man that this or any other country has produced. General Washington, who knew when to silence pity, if its exercise was injurious to his country, did not consider the usages of war, or the principles of humanity, as applicable to a war carried on for the punishment of the unprovoked and atrocious hostilities of savages.† In his order to General Sullivan, directing his operations in the Indian country, I find the following clauses:

"The expedition you are appointed to command is to be directed against the hostile tribes of the Six Nations of Indians, with their associates and adherents. The immediate objects are the total destruction and devastation of their settlements, and the capture of as many prisoners of every age and sex as possible."

"I would recommend that some post in the centre of the Indian country be occupied with all expedition, with a sufficient quantity of provision, whence parties should be detached to lay waste all the settlements around, with injunctions to do it in the most effectual manner, that the country may not merely be overrun, but destroyed."

"After you have very thoroughly completed the destruction of their settlements, if the Indians should show a disposition for peace, I would have you to encourage it, on condition that they will give some decisive evidence of their sincerity, by delivering up some of the principal instigators of their past hostilities, into our hands—Butler, Brandt, the most mischievous of the Tories that have joined them, or any other they may have in their power, that we are interested to get into ours."

"But you will not, by any means, listen to overtures of peace, before the total ruin of their settlements is effected."

"Our future security will be in their inability to injure us—the distance to which they are driven, and the terror with which the severity of the chastisement they receive, will inspire them—peace without this would be fallacious and temporary."

"When we have effectually chastised them, we may then listen to peace; and endeavor to draw further advantage from their fears."

Such were the orders given by General Washington for inflicting exemplary punishment on the savages. Let us see how they were executed. "Every lake, river, and creek, in the country of 'the Six Nations was traced for villages, and no 'vestige of human industry was permitted to re-'main. Houses, corn-fields, gardens, and fruit 'trees, shared one common fate. Eighteen vil-'lages, a number of detached buildings, one hun-'dred and sixty thousand bushels of corn, and all 'those fruits and vegetables which conduce to 'the comfort and subsistence of men, were ut-'terly destroyed.* On receiving the communi-'cations of General Sullivan, Congress passed a 'vote of approbation of his conduct, and of that 'of the army."

Had Brandt and Butler fallen into the hands of General Washington, they would, no doubt, have met the fate of Arbuthnot and Ambrister. So resolved was General Washington that a severe example should be made, that he would not even listen to proposals of peace until it had been done. In the present case, also, the punishment was inflicted for example; to preserve the peace of the frontier; to preserve from the hatchet and scalping-knife women and children. Many will be saved by the example; but, should only one be saved, Arbuthnot and Ambrister have not died in vain.

Retaliation may be exercised even on the innocent, where the enemy have been guilty of a violation of the usages of war.† A prisoner of war may sometimes be put to death to punish a nation that has violated the laws of war ‡ Whenever the enemy sets us the example of departing from the laws of war we are at liberty to follow it.§ General Washington, in devastating the Indian country, and in the case of Sir Charles Asgill, who was marked for death by lot, as a retaliation for a crime committed by an English captain, acknowledged the force and expediency of the law of retaliation. The Congress of the Revolution,‖ the Congress during the administration of Mr. Adams,¶ and the Congress during the administration of Mr. Madison,** all acknowledged the expediency of retaliating, even on the innocent, the outrages and ill-usage committed on prisoners by the enemy.

It is denied that the right to retaliate is vested in the commanding General; and the acts of Congress authorizing retaliation by the President, are cited to prove that the right is not in the General. But it is the commanding General that is declared by the law of nations to possess this right;†† and the proceedings of General Wash-

* Vattel, 388. † Vattel, 340.

* Marshall's History, 100.
† Vattel, 321; Martens, 283. ‡ Martens, 238.
§ Martens, 279. ‖ Marshall's History, vol. 3; p. 391.
¶ 3d vol. Laws, 284. ** 4th vol. Laws, 536.
†† Vattel, 321; Martens 283.

ington with respect to Sir Charles Asgill, prove that he considered himself as possessed of the right. In such a case as that, the writers on the laws of nations recommend clemency.* Such clemency did save Sir Charles Asgill. General Jackson had no occasion for its exercise. He never marked the innocent for retaliation. He made examples only of the guilty.

The acts of Congress passed during our two last wars were expedient to remove all doubts of the right of the President to retaliate on French and British prisoners; and it was necessary that the retaliation in those cases should be by his order, as there was no commander who could claim the authority in those cases. And in both those cases the cruelties intended to be retaliated were perpetrated by the authority of the foreign Governments. But, usually, this right to retaliate should be left to the commanding General; for it is inexpedient to introduce into the Cabinet, which should be composed of men of peace, the work of blood.

The committee come to the conclusion that General Jackson acted unlawfully by supposing that the special court or board of officers appointed to investigate the fact in the cases of Arbuthnot and Ambrister were a general court martial, appointed to try and determine offences under the articles of war. If that were so, the second sentence of the court in Ambrister's case, that he should receive fifty stripes, and be confined with a ball and chain to hard labor for twelve calendar months, is contrary to law, and, therefore, void; for, an act of Congress has repealed so much of the articles of war as authorizes the infliction of corporeal punishment by stripes.† But the court was not appointed under the articles of war. It was neither a general nor a regimental court martial. Its authority was derived from the order of the commanding General, and was to investigate charges, and record their opinion as to the guilt of innocence of the prisoners, and what punishment, if any, should be inflicted. The law under which Ambrister was punished was the laws of war. Those laws do not authorize infliction of torture. Therefore, the second sentence, to inflict stripes and labor at a ball and chain, is illegal and void. Whatever law the court was appointed and acted under, the second sentence is unlawful and void; consequently, the first sentence, that Ambrister should suffer death by being shot, was the only legal sentence, and properly carried into execution.

But should you allow to the second sentence the effect of setting aside the first, then the facts will have been found, and there will be no sentence; and the order of the General for the execution of Ambrister will rest on, and stand justified by, the laws and usages of war.‡

There is a very remarkable resemblance between the proceedings of General Washington in the case of Andre, and the proceedings of General Jackson in the cases of Arbuthnot and Ambrister. General Washington, in his order to the court, says to them, "After a careful examination, 'you will be pleased, as speedily as possible, to 'report a precise state of his case, together with 'your opinion on the light in which he ought to 'be considered, and the punishment that ought to 'be inflicted." General Jackson appointed the special court "for the purpose of investigating the charges" against the prisoners, directing them "to 'record their opinion as to the guilt or innocence 'of the prisoners, and what punishment, if any, 'should be inflicted." The substantial agreement is very remarkable; nor is it easy to distinguish between the cases so as to censure the one of these Generals without censuring the other. One of the criminals was a spy, and in manners, a polished gentleman; the other was a brigand, carrying on hostilities at the head of Indians and negroes. They were equally offenders against the usages of war, and with equal justice suffered death.

Andre died by the sole authority of the commanding General, according to the usages of war. No court martial had authority to try him, as appears from the order which was given, not to try and determine, but to report a state of his case and an opinion. Now, indeed, the trial of spies by a court martial is expressly authorized by an act of Congress.

Ambrister died by the sole authority of General Jackson. No court martial had power to try him by any law of the United States. But the committee say, that, "wherever severity is not absolutely necessary, mercy becomes a duty." A similar expression has been used by the writers on the laws of nations in regard to retaliating on the innocent for the guilt of others; but that is not this case. What mean the committee by "absolute necessity?" The nation indeed was not in danger: nor was it in danger when Andre died; and according to the reasoning of the committee, General Washington should have pardoned Andre; but Andre suffered, because the case required that the example should have its full effect; and so it was required in the case of Ambrister. Where pardon will have a pernicious effect on the interests of society, mercy becomes weakness and folly.

As General Jackson is censured for the execution of Ambrister by some, so there were some who censured General Washington for the execution of Andre. Let us hear the British historians mourn over the fate of their favorite. "Andre, finding his doom unavoidable, wrote a 'most pathetic letter, praying that he might not 'die the death of a common malefactor, but by a 'mode more befitting a soldier. Even this small 'boon was refused to a generous enemy, by the 'inexorable rigor of stern republicanism. On the '22d of October the ill-fated hero met his death, 'with a composure, serenity, and fortitude, worthy 'of conscious innocence, suffering unmerited 'punishment."* Who could suppose on reading this that Andre was carrying on a most infamous

*Vattel, 321, 322. † Acts of May, 1812.
‡Vattel, 297, 391, 325, 365; Martens 269, 280, 285.

*Bisset.

negotiation, disguised as a spy, under a false name, with the disclosures of a traitor concealed in his boot? And who that should hear the regret expressed for the fate of Arbuthnot could suppose that he was the author and prime mover of the Seminole war, in which some hundreds of our men, women, and children, have been massacred in the most cruel manner?

It is alleged that these incidents, the execution of Arbuthnot and Ambrister, are at variance with the principles of our Constitution and laws. Our Constitution and laws were formed for the people of the United States. They have no force in Florida. Ambrister and Hillishajo never came under the shade of the umbrella of the Constitution. "They should," says the honorable Speaker, (Mr. CLAY,) "have been turned over to the civil authority. So soon as the stranger treads the American soil, he is encircled by the laws." I answer, there was no civil authority having jurisdiction of their cases, to which they could have been turned over. They never did tread on that portion of American ground where they could claim the benefit of our laws. Nor do those laws protect enemies in time of war. They did not protect Sir Charles Asgill; they did not protect Andre, or the emissaries who sought to corrupt the soldiers of the Pennsylvania line.

Our Constitution and laws have not changed the laws of war. Let me advise you to make no attempts to change those laws. A single nation, however great, cannot change the law of nations. You may trammel your defenders, and prevent them from using their rights for your protection, according to the usages of war; but you will at the same time leave the enemy at full liberty to exercise their acknowledged rights. You cannot increase your rights under the law of nations; you can only diminish your rights by legislating respecting them; and that would be improvident. If any change is to be made in the laws of nations, let it be done by treaty.

Sir, you must allow your army to act against the enemy as other armies act, when engaged in war. You put the same arms in their hands; they must be allowed to use them in the same manner. Nor do the principles of our laws require that the worst of criminals, the instigators of a thousand incendiaries, robbers, and assassins, should go unpunished, merely because, as the lenient committee say, there is no "absolute necessity" that the offenders should die. We might pardon all the murderers whom we hang, and the thieves whom we confine; yet the nation would exist. There is no absolute necessity for punishing them. But the principles of our laws require, that, for the good of society, and the safety of the people, no crime shall go unpunished: that punishment shall certainly follow crime.

It has been said that there is no instance to be found in our history, previous to the Seminole war, of retaliation upon Indians. The assertion is not correct in point of fact. I have lately seen published an account of the hanging, in one of our Northern States, many years ago, of some Indians. The people have often discovered a disposition to retaliate on the Indians; and some examples of that kind have been set, unworthy of imitation; as the massacre of the Indians at Lancaster by a body of men called the Paxton boys.* Let me here again remark, that the white men and Indians punished by General Jackson, were punished for their own crimes. So, in the war of the Revolution, Walter Butler, a leader of Indians, was denied quarter, and put to death.† At King's Mountain, ten of the tories taken in that battle, who had violated the usages of war, were immediately hanged for their crimes. There are other instances of very prompt punishment having followed violations of the usages of war; as the immediate punishment of the emissaries sent by Sir Henry Clinton to corrupt the soldiers of the Pennsylvania line, and of the ringleaders of the mutiny of the Jersey troops, who were, by order of General Washington, shot without the formality of a trial.‡

I will now, sir, say a few words in reply to some of the observations of gentlemen who have preceded me on the opposite side of the question.

My honorable colleague, who made the report, (Mr. T. M. NELSON,) protests against the power of retaliation being vested in a commanding general; and the honorable Speaker (Mr. CLAY) says the power of retaliation is in those who raise armies, and make rules for their Government. Congress has repeatedly acknowledged the usages of war;§ and the usages of war expressly vest the power in the commanding General.‖ The Congress of the Revolution declared the power to be in the commanding General. The nature of the power, which is not to make a rule, but to apply it, requires that it should be vested in the commanding General, or in the President, as Commander-in-Chief. What is to be done? It is to be determined that retaliation is necessary; the object for retaliation is to be designated, and executed. This requires no legislative power; for the rule exists by the laws of war. It requires no judicial power; for the retaliation we now speak of, is supposed not to fall on particular guilt. The whole is properly an exercise of Executive power, especially belonging to the General, for the safety of whose army it is executed; and who has the best means of knowing its necessity. There is no foundation for the claim which the honorable Speaker (Mr. CLAY) makes on the part

* The massacre of the Shawanee Chief, Cornstalk, on the Ohio; of the Cherokee Chief Hangingmaw, on the Tennessee; and of Logan's relations, on the Ohio.

† Judge Marshall, in his history says, "His entreaties for quarter were disregarded, and he fell a victim to that vengeance his own savage temper had directed against himself." 4th vol. Appendix, 13.

‡ This, so far as relates to the emissaries, is perhaps incorrect. Judge Marshall says they were tried, condemned, and immediately executed as spies. General Washington ordered General Howe, as soon as the Jersey mutineers should surrender, to seize a few of the most active leaders, and to execute them on the spot. These orders were promptly and implicitly obeyed. 4th Marshall, 368.

§ 4th vol. laws, 536. ‖ Vattel, 321.

of Congress to the power of retaliation. It is true, Congress can make laws for the Government of the army in all places; but the laws thus made will be prospective; and should Congress make a rule on the subject of retaliation, the application of that rule (in which consists the power of retaliation) must still be left to others. But Congress have not legislated on the subject in the present case; the laws of war furnish the rule, and leave its application to the commanding General.

It is urged by the Speaker, that it has been the uniform usage of the country not to retaliate on Indians. I answer, that if this were so, as it is not, and the Government or the people, from beneficence, have refrained from retaliation on the savages, desiring to gain them by kindness, and that is now found impracticable; it is the more necessary, as well as justifiable, now to use the means allowed by the law of nations. It is for the punishment of an inhuman people, such as the Seminoles, that this law is provided. The writers say, "As the prince or general has a right of 'sacrificing the life of his enemies to his safety, 'and that of his men; if he is engaged with an 'inhuman enemy, who frequently commit such 'enormities, he appears to have a right of refusing 'life to some of the prisoners he may take, and of 'treating them as his were treated."* This law is obviously intended for the punishment of savages; and the more incorrigible the Indians are and the greater the forbearance of the United States, the more necessary now is the exercise of the power in question.

We ought not to confound the right of retaliation with the right of punishing an enemy who has, in his own person, committed crimes against the law of nations, and the usages of war; and whose punishment is, therefore, strictly just. All the persons punished by the order of Jackson, deserved to die for their own proper crimes, and were not put to death by way of retaliation, merely for the crimes of others.

Let me again call the attention of the Committee to the order given on the 16th of January, under which General Jackson acted "The honor 'of the United States requires that the war with 'the Seminoles should be terminated speedily, 'and with exemplary punishment for hostilities 'so unprovoked." We have seen that General Jackson, when acting at his own discretion, has spared the vanquished savages; even those concerned in the atrocious massacre at Fort Mimms: But his orders now directed him to inflict "exemplary punishment." He could not misunderstand them. Would you have the Secretary of War to be more explicit? Would you have him to use the language of Galienus, or to write his orders with blood?

It is said that the Indian chiefs who were hanged were not taken in battle, but by stratagem. The gentleman (Mr. CLAY) who urges this circumstance against the propriety of their execution, would doubtless, with more reason, have urged the impropriety of executing an enemy, who had laid down his arms, when vanquished in fair combat, had that been the case. Was Andre taken in battle, or was he not taken by stratagem? Were the emissaries of Clinton to the mutineers of the Pennsylania line taken in battle, or were they not delivered up by those to whom they came? Will the gentleman apply to Washington the epithet which he insinuates is due to General Jackson? Does it make any difference in what manner villains are taken, who are proper subjects for punishment? I think not.

One of my honorable colleagues (Mr. JOHNSON) has introduced the correspondence between General Jackson and Governor Rabun. On that correspondence I did not expect to say anything in this debate, as it is before the Committee; but I am desirous of removing every prejudice against the General, and will briefly notice it.

The Constitution provides that the President shall be the Commander-in-Chief of the Army and of the militia when called into the service of the United States; that no State shall engage in war unless actually invaded, or in such imminent danger as will not admit of delay. Suppose a State to be invaded, in which case the State has a right to make war, and that the President and Governor both take the field—will they be regarded as allies, or will the United States be regarded as the principal, and the State as an auxiliary? Allies act in common—concur in the appointment of a commander-in-chief, and divide the conquests. The auxiliary has no share in the conquests, and the principal has the sole right to make peace.* I think the State would clearly be regarded as an auxiliary only. Then the President being in the field by his Lieutenant, to whom is committed power to command in the Southern division of the United States, will not alter the right of the principal and the auxiliary. Perhaps General Jackson was correct in his view of the authority of the Governor. This is a question of a delicate nature, important, and not free from difficulty. I cannot say that I have made up my mind conclusively upon it, and desire to be considered as not committed. A divided command must prove most pernicious to the public interests.

A claim of right constitutes no ground of objection to an officer. It is a military principle that no officer can waive the rights of his rank and command. The chief objection to the correspondence between General Jackson and Governor Rabun arises from its temper, which does not exactly comport with the high standing of the parties. An apology for the manner in which General Jackson wrote, will be found in the feelings excited by hearing that, in consequence of (although not obedience to) an order, perhaps illegal, given by Governor Rabun, the wives, fathers, and mothers, of the faithful warriors who were fighting by General Jackson's side, had been massacred.

My colleague (Mr. JOHNSON) seemed dissatis-

* Vattel 321.

* Martens, 366, 307.

fied with the Secretary of State, and asks if the Secretary of State has a right to threaten to take posts. I reply, that the Secretary has not done so. He has only said, that, if the necessities of self-defence should again compel the United States to take possession of the Spanish forts, an unconditional restoration of them will not be made. The Secretary of State has a right to negotiate. It is through him that this nation holds conversation with other nations. He may point out the probable future consequences of certain proceedings. Thus, at Ghent, our Commissioners pointed out to those of England the future consequences of concluding a treaty that should impose on the United States injurious and degrading conditions. "It is impossible," say they, "that America should not, at the first favorable opportunity, recur to arms for the recovery of her territory, of her rights, of her honor."

The conduct of General Jackson at New Orleans, during the invasion, when he declared martial law in force, has been mentioned as indicating an inclination to exert unnecessarily arbitrary power. An excuse for the General will be found in the imminent danger of the loss of the country, whose inhabitants had not then given any decisive evidence of attachment to the United States, and which was invaded by a powerful army. If martial law may be declared in force on any occasion, a more fit occasion can seldom arise.

Some youth who has been writing for the public prints has said, that martial law never was declared in force in this country in the war of the Revolution. The senior members of this House know that, in some of the States, the courts of justice were shut; that everywhere the Tories were whipped and hanged by martial law; that is, by the law of force: and even in the neighborhood of Philadelphia, under the observation of the Commander-in-chief, General Potter, as the historian tells us,* was in the habit of whipping severely those citizens who supplied the British with provisions. When the nation is in danger, whatever obstructs its preservation must yield for a time. "Amidst arms the laws are silent."

The honorable Speaker (Mr. CLAY) has caused to be read the Treaty of Fort Jackson—a treaty which, he says, has imposed hard conditions on the Creek Indians; and to this he attributes the Seminole war. The war terminated by the Treaty of Fort Jackson was one of the most ungrateful, unprovoked, treacherous, and cruel wars that ever was waged by barbarians against their benefactors, who were gently leading them, by the hand of friendship, to civilization and happiness. Are we alone denied an indemnity for the expenses of unprovoked wars? Are we alone, of all the nations of the world, forbidden to deprive a cruel and perfidious enemy of the means of injuring us in future? The gentleman would have no acquisition made from the Indians except by purchase. I would ask the gentleman in what manner was that beautiful country acquired of which he is one of the Representatives? Look to the State of Ohio—see there a country equal in extent and fertility with that acquired by the Treaty of Fort Jackson, conquered from the Indians by General Wayne, in a victory in which he killed twenty men. But the gentleman asks, what would be said to our unreasonable demands were the Treaty of Fort Jackson to be seen by the Powers of Europe? And, I ask, who would presume to find fault with them? Would it be France, who has so lately demanded Spain, Portugal, Italy, Holland, and Germany? Would it be Russia, who so lately demanded Poland and Finland, and, within a century past, has demanded forty provinces? Or would it be Great Britain, who so lately demanded Trinidad and Ceylon, and is now demanding the residue of the East Indies? No, sir, those Powers are otherwise engaged than to notice our demands of a just indemnity, by which we shall change a wilderness, through which barbarians roamed, to a cultivated and populous region, the abode of civilization and happiness.

But the gentleman exclaims, spare them their prophets! spare them their religion! I hope the gentleman does not mean to bring religion into disgrace by prostituting her sacred and honored name in conferring it on the practices of those vile deceivers who have brought their tribe to ruin by instigating their warriors to massacre our women and children—those wretches whose frauds and falsehood had been sufficiently proved by the failure of their pretended prophecies.

Another objection to the Treaty of Fort Jackson is, that it was signed by friendly chiefs, and only by a few of those who were hostile. I answer, that the power of the hostile chiefs was broken; they were killed or dispersed. A treaty with any nation or tribe must be entered into with the actual chiefs; and it can be no objection to a treaty of peace that those who signed it are friendly. I presume the treaty between France and the combined Powers is valid, although entered into with the reigning monarch, whose throne those Powers re-established.

I will now offer some objections to the resolutions proposed, as being in spirit contrary to the principles of the Constitution. One of the most important safeguards of liberty to be found in our Constitution consists in the separation of powers. Nor will any measure have a greater tendency to endanger the rights of the people than uniting the different powers in one of the branches of Government. You are called upon to pass something in the nature of an *ex post facto* law, or bill of attainder—measures abhorred and prohibited by the Constitution. You interfere with the Constitutional power of the President to select his officers, retain those with whom he is satisfied, and dismiss those with whom he is dissatisfied.* You thus take away his responsibility.

* Marshall, 3d vol. 406.

* This is a most dangerous attempt to transfer the responsibility of the military from the President to the House of Representatives.

You take upon you to act as military judges; to censure, and consequently to punish an officer who has had neither hearing or trial. You violate the principles of *magna charta*—principles deemed sacred wherever rational liberty exists—and condemn a citizen without the judgment of his peers or the law of the land. You may applaud without a trial; for there is no rule that requires that trial shall precede applause; and in applauding you do but swell the voice of fame. But, if you censure without a trial, as censure is a military punishment, you violate that most important and well established rule of justice, which requires that none shall be condemned unheard. The law provides a mode in which officers may be censured and removed from office; but it is proposed to you to do, not what belongs to the power of legislation, but what belongs to the administration of the laws.

Will you, in the controversy between the United States and Spain, throw your whole weight into the scale of Spain, and make that of your own country kick the beam? It is my choice to take the side of this nation, to support her rights, and the acts of her officers; and I find it equally as agreeable to my conscience as my inclination to do so on this occasion. It is the union of the various parts of the Government that constitutes its strength. Let us leave the Executive to act with all its energy against foreign Powers, while we strongly restrain that branch from acting against the people. Shall we, at the very moment when a negotiation is depending with a foreign Power, take the part of that foreign Power? Be such conduct far from us!*

But what have been the motives of General Jackson? Have they been laudable? Has he been actuated by a desire to serve his country, to defend her honor, to extend her glory, to preserve her peace, happiness, and safety? Yes; even the Speaker admits that he intended to subserve the best interests of his country. I am deeply impressed with the justice of the rule, that "the act maketh not a man guilty unless his mind is also guilty," and I will not condemn him. He deserves well of his country.

Even those acts, the propriety of which is doubted by some, have been and will be most beneficial to our country. We shall have no more Butlers, or Brandts, or Girties, or Ambristers, to stir up the savages to cruel and vengeful hostilities against us. The decision of Jackson has put an end to such practices forever. His name will contribute more to preserve the peace of the country, and to defend it, than ten thousand men.

Let me now ask, may not a man even commit some errors which it would be very inexpedient for those for whose welfare and safety he acts to censure? This course of censuring officers, by the legislative body, is rather a novel proceeding. It was quite otherwise in ancient times. The Roman General who, by his errors, lost the battle of Cannæ, and brought his country to the brink of ruin, was not censured by the Senate; they knew his holy zeal for the interest and the honor of his country, and he received their thanks.

Let us come to a more recent case, and one more nearly in point. Was Berkley censured for his attack on the Chesapeake, and dishonoring the American flag? No; the proud Government whom he served never censured him, and considered it an insult to demand that he should be censured. They knew that he acted for the honor of the British fleet and nation; and that was his sure protection.

The Speaker referred, by way of precedent, to the case of the hero of Lake Erie, which was before the House at the last session. I regard the wreath obtained by him as one of the brightest worn by any of our commanders. The victories obtained on the ocean acquired renown for the American Navy; in that respect only were they valuable. In defending the nation, or obtaining peace, they were without effect. The victory of Perry was highly useful; it opened to our invasion the enemy's country. The victory of McDonough was much more so; it preserved our country from the invasion of the enemy. I rejoice that the hero has, in a manner so honorable to himself, removed the stain which tyrannical conduct towards an American officer and citizen had impressed on his reputation. Let us examine the cited precedent, and see what was done in the case. There was no censure, nor was there any act of legislation, as you, Mr. Chairman, (Mr. Pleasants,) well know, because you showed how improper legislating in the case would be.

A nation should preserve its glory; and, as the glory of a nation is composed of the aggregate of the fame of individuals, to tarnish the character of the most distinguished hero of the United States, of the present age, is to tarnish the glory of the nation.

The supporters of the report also profess, that to preserve the glory of the nation is with them a favorite object. Can the report and resolutions proposed have any such effect? It might as well be said, that the enemy who burned the President's house embellished this city. If we have built up the house with additional ornaments, the city is, indeed, thereby embellished. So, if we shall sustain General Jackson, and present him to the world in a brighter light than he has heretofore appeared, we shall have increased our country's glory.

Are you ready to sacrifice the foremost, far the foremost of your heroes, to propitiate Spain or Great Britain? Carthage, conquered and degenerate Carthage, was willing to sacrifice Hannibal to the hatred of Rome. I hope we are not disposed to follow that example. Should we do so, our conduct will resemble that of the sheep in the fable, who, at the request of the ambassa-

---

* *Extract from the speech of Mr. Clay on the occupation of West Florida.*

"Allow me, sir, to express my admiration at the more than Aristidean justice which, in a question of territorial title between the United States and a foreign nation, induces certain gentlemen to espouse the pretensions of a foreign nation."

dor of the wolves, gave up their dogs. O! what an acceptable thing it would be to England to hear that the hero of New Orleans, the conqueror of Pakenham, had been sacrificed by the jealousy of his country!

When a measure is proposed, we should carefully look to the consequences of its adoption. It is therefore worthy of particular observation, that the militia are the chief defence of this nation, aad that the utility of that kind of troops, in a great measure, depends on their confidence in their commander. That confidence can only be obtained by experience. They deserted in battalions from WASHINGTON himself, before he had established his great character. No man ever possessed the confidence of the militia in so high a degree as General Jackson, and under his command they will prove invincible.

Let me now say a word of the services of the man whom it is proposed to disgrace. Those services ought to be set forth in a style to which I have no pretensions. It is not for me to speak, in adequate terms, of the first of heroes—of an officer whose achievements are unparalleled in ancient or in modern times. I do not magnify his actions. I call on the man deep read in history to show me the page where victories such as those of Jackson have been recorded: I speak of his victory over the Creeks, and his victory at New Orleans.

Let us compare his victory over the Creeks with other victories obtained over a similar enemy, and recorded in our history. When Sullivan advanced to avenge the massacres of Wyoming, excited by British agents, and perpetrated by Indians and traitors, he commanded five thousand men, and found eight hundred Indians posted behind a breastwork, with a river in their rear. A battle ensued. The Indians were beaten, and left eleven of their warriors dead on the field of battle. At Point Pleasant, where the Indians were defeated in 1774, where a Lewis commanded, and a Lewis fell, they left eighteen of their warriors dead on the field of battle. When Wayne, after years of preparation, gained his victory over the Indians of the Northwest, they left twenty of their number dead on the field of battle. At Tippecanoe the Indians were defeated, and their loss so considerable, that they left more than thirty warriors on the field of battle.

Jackson marched against the Creeks; he found them in considerable force, and defended by works; those works he stormed, defeated them, and killed eight hundred of their bravest warriors in a single battle. Thus he gained a victory unparalleled in Indian warfare, and acquired for the United States the extensive, beautiful, and valuable country, of which you see a map suspended near you; a small part of which country you have sold, in the last year, for ten millions of dollars.

Let us follow the General to New Orleans. There we find him with a motley force of three thousand six hundred men, meeting twelve thousand of the best troops that ever appeared on our shores—may I not say, of the best troops that ever appeared in any age or nation? Yes; and they were as unprincipled as fearless. They had driven the warriors of France—those conquerors of continental Europe—from the pillars of Hercules to the Pyrenees. A part of them had sacked this city, and burned the Capitol; a part of them had visited Hampton. They had left the fathers in anguish unutterable; they had left the matrons and virgins in tears. Yes; they had committed against us wrongs which are never to be forgotten; and for those wrongs they had obtained for the descendants of their commander a right to wear in their coat of arms, in all time to come, as a badge of our country's disgrace, the American flag, with the standard broken.

Surely, sir, there must be an overruling Providence, who directs the destinies of men and nations. Those troops who had violated the rights of war—who had committed against us every atrocity, and heaped upon our country every disgrace, sailed to New Orleans; and there they met the dire avenger—the man appointed by Heaven to tread the winepress of Almighty wrath. With a handful of men he defeated them. With the loss of thirteen men he defeated twelve thousand! The incendiaries and ravishers were punished, and the wounds inflicted on our country's honor were healed.

So disgraceful was the defeat of the enemy, that the British Government at first denied a monument to their brave General who had been slain. They were desirous to hide in the shades of oblivion the disgrace of their arms. But fame has proclaimed the renown of the victor; history has recorded it; and his name will descend to future times in a stream of light. Such is the man whom it is proposed to dishonor.

It should not be forgotten that his decision, his energy, saved New Orleans—his acknowledgment of the truth of the great and fundamental principle, that "The safety of the people is the supreme law." A man less decisive, less devoted to the cause of his country, would have hesitated, and talked of civil rights; the Legislature might have capitulated; and New Orleans would have been lost. The British negotiators at Ghent had denied our title to Louisiana; and had the possession been lost, it is doubtful whether, according to the Treaty of Peace, it would have been restored.

Let me assure you, sir, that the American people will not be pleased to see their great defender, their great avenger, sacrificed, even although it should not be to Spanish hatred or British revenge.

I call on the members from Pennsylvania to remember Brandt and Butler; to remember Wyoming. I call on the members from Georgia to remember the outrages committed on their frontier; that it was to preserve the lives of their people that the Seminole war was prosecuted; and that the energy and decision of General Jackson has obtained for them a lasting peace. I call on the members from the West to remember that the unhesitating decision and vigorous measures of this officer saved New Orleans the emporium

of their commerce. I need not tell the members from Tennessee that it is this officer who has exalted so high the character of their warlike State. I call on all to remember that the proposed measure, if adopted, must give joy to our late enemy, and consolation to that Power which perhaps is soon to be our enemy; and that it will diminish the glory of their country, by tarnishing the splendor of the fame of her most distinguished hero.

The heirs of Ross, by order of the Prince Regent, wear in their coat of arms the American banner, broken and dishonored. That insult can have no consequences injurious to us, but take care how you break and dishonor our standard yourselves.

Had this man lived before Hesiod wrote and Homer sung, temples would have risen to his honor, altars would have blazed, and he would have taken his stand with Hercules and Theseus, among the immortals, as the preserver of a nation; the vindicator of the rights of suffering humanity; the avenger of our matrons, our virgins, and our little ones.

And shall we see him depart from this city in disgrace; censured and dismissed from office by Congress; and, like Camillus, imploring Heaven so to direct human affairs, that his country may never have occasion to regret her treatment of him? No; it cannot be. Forbid it, every power that guards the protectors of innocence! Forbid it, policy! Forbid it, gratitude! Forbid it, peace!

When Mr. Smyth had concluded, the Committee rose.

Friday, January 22.

The Speaker presented a petition of the Legislative Council and House of Representatives of the Territory of Missouri, praying that such measures may be promptly adopted, as will give full and complete effect to the laws heretofore passed, granting pre-emption rights in the purchase of public lands, to certain inhabitants of said Territory; which petition was ordered to lie on the table.

The Speaker also presented another petition of the Legislative Council and House of Representatives of the Territory of Missouri, praying that an act may be passed, directing the judge, appointed in virtue of the act of the 27th of January, 1814, entitled "An act for the appointment of an additional judge for the Missouri Territory, and for other purposes," to exercise his judicial authority, and to hold courts in the new counties lately established, called Clarke, Pulaski, and Hempstead.—Referred.

On motion of Mr. Hendricks, the Committee on Public Lands were instructed to inquire into the expediency of making provision for the disposal of those lands in the State of Indiana and Ohio, to which the Indian title has lately been extinguished.

Mr. Nelson, from the Committee on the Judiciary, to which was referred the bill from the Senate, entitled "An act to provide for the more convenient organization of the courts of the United States, and for the appointment of circuit judges," reported the same without amendment, and the bill was committed to the Committee of the Whole, to which is committed the bill of this House, reported at the last session, of the same title.

On motion of Mr. McLean, of Illinois, the Committee on the Public Lands were instructed to inquire into the expediency of granting the right of pre-emption of their settlement, to those persons settled upon lands of the United States, in the State of Illinois.

An engrossed bill, entitled "An act authorizing the Postmaster General to contract, as in other cases, for carrying the mail in steamboats, between New Orleans, in the State of Louisiana, and Louisville, in the State of Kentucky;" was read the third time, and passed.

THE SEMINOLE WAR.

The Committee again took up the subject of the Seminole war.

Mr. Jones, of Tennessee, next addressed the House. He said he had really felt some degree of astonishment when this resolution was introduced by the Committee on Military Affairs; not because this House ought not to examine, and strictly to examine, the conduct of any of the officers of this Government—a right which he hoped it would ever claim, and prayed God it might never fear to exercise. But, said Mr. J., when we are informed that, during this war, not only Arbuthnot and Ambrister, two British gentlemen, have been executed, but that two Indian chiefs have also suffered death, by order of the commanding General, it indeed seems somewhat strange that not a breath should be uttered as to the latter. Why, sir, is this discrimination? Is it because they were Britons? Is it because they were subjects of a civilized nation? Is it because they understood, but would not obey, the precepts of morality, of mercy, and of justice? This, sir, I have no doubt, the committee would be unwilling to admit. These Indians, Mr. Chairman, were also human beings; and, sir, I am free to declare that, on this subject, I partially accord with the honorable Speaker. If those chiefs had been mere Indians, or Indian chiefs, fighting the battles of their country, as they had a right to do, rude, ignorant, and superstitious, as they may have been, I should, to say the least of it, have deeply regretted their execution. Poor, wretched, miserable beings! Absolute necessity alone should demand their lives. Rather than shed their blood; rather than drive them from the face of the earth; rather than hunt them down, (as we have been compelled to do,) like the wild beast of the forest, I would, if possible, show them the light of science—point out to them the manner by which they may know something themselves, and be acknowledged men by the nations of the earth. But, sir, we are informed, as to these chiefs, that they were not mere Indians, fighting the battles of their country, but, on the contrary, when our

army was lying on the confines of Florida; when General Gaines was ordered merely to demand the perpetrators of murders which had been committed on our defenceless citizens; when we were declaring to them that we were desirous of nothing more than peace, these were the men who commanded the party that murdered Lieutenant Scott and his company—scalped and tomahawked the women of his party; and, to close the scene, when the men had fallen, and the women were murdered, against the boat that bore them the heads of the babes were dashed in pieces. But, if the honorable Speaker could convince us that these chiefs should not have suffered, would we, therefore, be convinced that we should adopt the resolution now under consideration, which relates only to the execution of Arbuthnot and Ambrister? In examining this subject, I beg leave explicitly to state, that I claim not of this House its sympathy or its pity for General Jackson: if he cannot be justified by the law of nations, let him fall. I am rejoiced to learn, Mr. Chairman, that all who have yet expressed an opinion either way on this subject, have willingly admitted that his motives for his actions were of the purest character. I may also be permitted to state, that I have had the honor of a personal acquaintance with General Jackson—have served under him, and fought with him; and, although it was my misfortune to differ with him as to the correctness of some of the measures which were adopted during the short period of my service, still, sir, since the commencement of his military career, in 1812, till the present period, I have had but one uniform opinion as to the main object which he has kept steadily in view, that is, that it was nothing else than the glory and honor of his country. Now, sir, let us examine what were the charges against these men; they were these: exciting and stirring up the Indians to war, and, as to Ambrister, leading them to battle; these were the charges of which they were found guilty, and for which they were executed. It was established, beyond a doubt, that these men had crossed the Atlantic for no other purpose than to carry into complete execution the hellish views of the famous Colonel Nicholls and Captain Woodbine, their predecessors; that these men, the subjects of a civilized nation, well understood the manner in which these savages carry on war; that they regard neither age, female, or infantine innocence, whose almost only rule is indiscriminate murder; that, in fact, they were the prime movers of the war; that they in fact were really the murderers of our women and children. Are these men, I may here be permitted to ask, less guilty of the murders which they indirectly perpetrated than the wretched savage by whose hand they did the deed? Ask the soldier whose wife has been murdered by savage hands, upon whom he would take vengeance; or the mother, whose children have been butchered, upon whom she will be avenged. Ask common sense itself, who are the real actors in these bloody scenes. But we are told by the honorable gentleman from Georgia, with some degree of triumph, that General Jackson has established a new rule of the law of nations; says the gentleman, he declares that it is an established rule of the law of nations, that any individual of a nation, making war against the citizens of another nation, they being at peace, forfeits his allegiance, and becomes an outlaw and a pirate. It is not General Jackson, sir, who is mistaken, but the gentleman himself; he has confounded two distinct and separate rules of the law of nations. The first of which is this, that I, a citizen of the United States, have a right, by the law of nations, to advise the Government of France to war with Great Britain, or any other Power; and if she choose to take my advice; if she declare war; if, (which is essential to this rule,) the act of declaring war be a national act; or if, without my advice, she be at war, I may of right enlist under her banners; I may lead or fight with her troops; under these circumstances, I am identified with the French troops, and, if taken prisoner, am entitled to the same treatment as a French prisoner of war. The other rule of the law of nations will be found to be nearly in the words of the General, that is, if, as in the case above stated, I advise a nation to go to war, but she does not choose to take my advice, finding that the nation cannot be engaged; or, if, without consulting anybody, I set about making war myself, I engage a set of desperate characters, or whoever else you please, and proceed to acts of hostility against the nation I would injure. This, sir, in the words of the General, would be an individual of one nation making war against the citizens of another nation, and this band, by the law of nations, are declared outlaws and pirates. Which of these rules, then, sir, will apply to the case of Arbuthnot and Ambrister? Are these vagrant savages a nation of people, within the meaning of the rule first mentioned; and, if so, has that nation declared war? and might these men have enlisted under their banner, and so have been entitled to the rights of prisoners of war? Whoever will take the trouble to examine the history of this war will be satisfied that it never can be viewed as having been a national act, within the rule abovementioned; and, to prove this, in the first place, I ask, if the fugitive Red Sticks, having formed a desperate band, partly of the relics of their own nation, and partly of Seminoles, could be considered as a nation, having a right to make war or peace? Or were they a banditti? Or what would you call the civilized wretch who would lead them? If these had not the right, I ask if the Indian and negro party of Colonel Nicholls had a right to make war? Will any one pretend to say that this tri-colored party were a nation? No, sir, they were the refuse of villany itself; and yet, sir, it is an important fact, that these parties were perhaps the most prominent in the war; they did not enlist under the banners of the nation, but, sir, many of the citizens of the nation, (if it may be so called,) rallied round their standard. It is also a fact, worthy of consideration, that a considerable part of the

nation were averse to the proceedings of their brethren, and fought with us against them. Under these circumstances, General Jackson might well view them in the character of individuals making war upon us, or as leaders of a lawless banditti. But, sir, suppose he was incorrect in this view of their case; suppose they were not outlaws and pirates, still their punishment was just; for, sir, the charges against them were not that they were outlaws and pirates, but that they had excited and led the Indians to war against us, and for this they were executed. Whether the crimes for which they suffered constituted them outlaws and pirates, is a question different from the establishment of the crime itself. I said, sir, that, admitting they were not outlaws and pirates, that still they suffered justly. If they were not the exciters and leaders of a banditti, and, of course, according to the rule before stated, outlaws and pirates, they were officers or soldiers, fighting under the banners of a nation which had the right to declare, and which had declared war, and were identified with the citizens of that nation, and were subject to all the laws of war and of nations, as applied to that nation. They had, in fact, become savages. What then, sir, is the rule of the law of nations which will apply to them in this situation? It is this, "that when we are at war with a savage 'nation, which regards no rules, we may retaliate 'upon its citizens the cruelties committed on our 'own, care being taken to punish alone the guil-'ty." Then, sir, I ask if ever there were fit subjects for punishment, under this rule, if these were not they? men around whom the light of science had shone in its most refulgent splendor—who were not ignorant of the precepts of mercy, of moderation, and of justice, to become worse than savages, to stimulate, to lead those wild, those untutored, those miserable men of the forest, to imbrue their hands in the blood of unresisting innocence.

But, it is said, there was no necessity for their execution, because, say gentlemen, the war was nearly over, we had no danger to apprehend. Sir, the necessity for executing such lawless miscreants exists now as much as then. What, sir, was the object of their punishment? Not merely that they should atone for the crimes which they had committed, but, sir, it was to teach an important lesson to the unprincipled subjects of Great Britain and Spain; it proclaimed to them, sir, in language which could not be misunderstood, what they might expect for like offences; and, sir, I have no doubt but that if, at the commencement of this Government, a determination had been fixed and avowed to the world, to punish with instant death all such offences, the effect would have been the salvation of the lives of many of our citizens.

The honorable committee who reported this resolution, have told us that the court martial had no jurisdiction of the offence. In reply to which I will observe, that if I have shown that, by the law of nations, these men could be punished with death by a Prince or by his General, I may be permitted to ask that honorable committee how the commanding General is to ascertain the fact of their guilt? Is he to sit as judge and juror? Is he to execute them on the mere suggestion of any one who chooses to charge them, or are the facts to be ascertained by respectable and honorable officers detailed for the purpose? Sir, if without the investigation of this respectable court these men had been executed, well, indeed, might we censure the General. The honorable gentleman from Georgia inquires, why General Jackson did not execute Weatherford? and answers the interrogatory himself, unhesitatingly, by stating that General Jackson did not then know the plenitude of his powers. Sir, I am happy to know that I have it in my power to give to this honorable Committee the true reason why that gallant chieftain was not executed. Some time, sir, before the Treaty of Fort Jackson, this chief was informed that General Jackson intended, if he could take him, to put him to death. He was advised by his friends, as his warriors were almost all slain, as his country was ruined, and as his escape was almost impossible, to surrender himself to General Jackson; that it was useless to attempt further resistance, and this was the only means by which his life could be saved; he determined to do so, and presented himself to the General, at his headquarters. We are informed that it was demanded of him who he was, and how he came there. He replied, "my name is Weatherford, one of the chiefs of the 'Red Sticks. I have fought you till my war-'riors are all slain. If I had warriors I would 'fight you still, but I have none; my country is 'overrun, and my soldiers are fallen. Here I am 'in your power—do with me as you please—'only recollect that I am a soldier." This, sir, was the reason why the life of that brave chief was saved. If, under these circumstances, our General could have executed so distinguished a savage, the most verdant laurel would have faded on his brow.

We are also called upon, Mr. Chairman, to censure the conduct of General Jackson in taking possession of the fort St. Marks, of Pensacola, and the fortress Barancas. And, to prove to us that we ought, the argument seems to be intended to prove, first, that the war against the Seminoles was unconstitutional; secondly, that General Jackson made war upon Spain in taking, unnecessarily, forcible possession of those places. As to the constitutionality of the war, if the Constitution and the law were silent on this subject, I am disposed to think that the uniform practice of the Government would go far in justifying the measures which the Executive has adopted; but, in the first article of the Constitution of the United States, the power is vested in Congress to provide for calling forth the militia to suppress insurrection and repel invasion. This, sir, the Congress of the United States have done, in the year 1795, by authorizing the Executive, whenever the United States shall be invaded, or in imminent danger of invasion from any foreign nation or Indian tribe, to call forth such number

of the militia of the State or States most convenient to the place of danger as he may think necessary for the purpose. It will not here be necessary to inquire whether the President of the United States has the power to use the regular army for the same purpose; this, I presume, will at once be admitted. It will also be unnecessary for me to attempt to prove, that the necessity existed for the exercise of this power when General Gaines was ordered to our southern frontier, in that quarter. It will be recollected that, at the commencement of the first session of the present Congress, we were informed by the present Chief Magistrate of his proceedings in relation to the Indians in that quarter. We were informed, sir, that he had an army, under the command of General Gaines, on the borders of the Floridas; that orders had been issued from the War Department to General Gaines to demand satisfaction for murders and depredations which the Indians had committed, but that he was instructed not to tread upon Spanish territory. Where then, sir, were our Constitutional scruples? As to the power of the Executive to cross the line, not a word escaped our lips—no provision was made in case it should become necessary to pursue them into Florida. Thus rested the matter until some time after the commencement of the session of Congress, when we were informed of the massacre of Lieutenant Scott and party; and still we were silent—not a voice was heard in favor of the enlargement of the powers of the Executive; no one seemed to doubt his power—all seemed willing to trust it with him. Here, sir, a fair opportunity was given to them, who doubt the power of the Executive to pursue an Indian on Spanish soil, to legislate on the subject. What, then, was the Executive to do? Was he to command his General to stand close on this artificial boundary, and if the enemy, after he had murdered all our citizens within the Spanish territory, could be taken on this side the line to chastise him? This, it seems to me, would be a new way of repelling invasion. No, sir, a measure more effectual, more energetic, was adopted. Orders were given to cross the line, and to adopt such measures as would be calculated to bring the war to a speedy termination. The only case in which General Jackson was restricted, was on the Indians taking protection under a Spanish fort, in which case he was ordered to advise the War Department of the fact. But, sir, the conduct of the Governors of St. Marks and Pensacola, which rendered it necessary for General Jackson to possess himself of those fortresses, was not, by our Government, to be anticipated. It would here be unnecessary, and, indeed, tiresome, to refer to all the documentary testimony showing what their conduct was; this testimony has been carefully examined by gentlemen who have preceded me. It is hardly a fair manner of argument, sir, for gentlemen to state that war has been made upon Spain; and, to prove this, point out to us the acts of hostility of General Jackson towards her, in taking those fortresses; and ask us if this be not war? Sir, I admit that, abstractly considered, this would have been making an unauthorized war upon a Spanish colony. But, sir, this is not the question; the fact is, that General Jackson, according to directions from the War Department, had carried the war into Florida against the Seminoles; and the question here is, what might he, or what might he not do to Spain, a neutral Power, as incident to carrying on the war against the savages? This would depend very much on the conduct of the neutral herself. It seems to be conceded that the conduct of the Spanish commandant of St. Marks was such as to authorize the General to occupy that fortress; but the taking of Pensacola and the Barancas is thought to be more difficult of justification. Here, sir, I ask the Committee to recollect the orders of General Jackson; these were, that he should bring the war to a speedy termination, the honor of our country requiring it, and that this should be effected with exemplary punishment on the savages. Now, sir, recollect the conduct of the Governor of Pensacola. Did he not tolerate the assemblage of the savages at Pensacola, to the number of five hundred? Were not Spanish officers seen intermingling with the savages as brothers and associates? Were not these savages furnished by Spanish officers with those things that constitute the very sinews of a war? And, sir, while these things were doing, in open day, what was this Spanish Governor's language to General Jackson? "Depart from the territory of my master, or I will repel force by force." Let us now, sir, for a moment suppose General Jackson had marched according to the order which he received from the officer of His Catholic Majesty, would the war have been terminated? I shall dismiss this subject by observing, that General Jackson, of necessity, was to judge whether, under all the circumstances, he would be warranted in doing what he had done. He must judge as to what acts of a neutral will make her an associate in the war; or, at least, as to the character of her actions. And I will now take the liberty to ask gentlemen, who are disposed to censure, what they would have done under like circumstances; would they have marched their army home according to orders from the Catholic Governor, and would they thus have speedily ended the war? Sir, it is an easy matter to censure the conduct of others, without attempting to show how they should have acted otherwise.

Mr. TALLMADGE, of New York. In rising to address the House at so late an hour of the day, when the attention of the House was necessarily fatigued by those who had preceded him, and its patience somewhat exhausted, Mr. T. said, he was aware of the dangers that awaited him; he was aware of the perils that he must encounter in attempting to proceed. But, Mr. T. said, the resolutions under consideration were so important in their nature, and so replete with consequences of such magnitude, involving the interest and the honor of our country, that a sense of duty impelled him to go on.

Sir, said Mr. T. a question of war discussed in the highest deliberative assembly known, to a free

people, can never fail to become a question of great individual excitement—of great public interest. Its cause, and its consequences, to the public happiness, present it in an aspect almost appalling. But, said he, when the friends of the proposed resolutions tell this House, and tell this nation, that, in addition to the question of the Seminole war and its natural consequences, which we are called upon to discuss, in its progress, the Constitution of our country has been violated by military power, and the honor of our nation stained by base and inhuman cruelties—it is then, sir, that the question assumes an aspect of ten-fold more importance, and calculated to excite the feelings of this House and to arouse the spirit of the nation. Such, said Mr. T. is the question now presented for discussion. It was due to himself to confess to this House that his feelings were excited upon the occasion, and that he entered upon the discussion with a determination to meet it in all its bearings. But, he said, while he thus frankly avowed his feelings, he begged the indulgence to add, that, while he intended his course in debate should be marked with zeal and decision, yet he also intended to observe the decorum in debate due to the dignity of this House. He said it was his pride to say that, since he had the honor of a seat on this floor, he never had used against any member a harsh expression or severe allusion, and that he never would. He tendered his acknowledgments to the gentleman from Georgia (Mr. Cobb) for the example he had set in the opening—ardent in debate, but temperate in expression. Mr. T. said it should be his course; he hoped others would also observe the example. His own opinion was decisively formed upon full examination of all the documents—and, while he did not doubt of the proper result, and which he should endeavor to prevail on this House to adopt; yet, he was free to declare, there was ample room for difference of opinion, and, therefore, he was not inclined to cast any imputations upon those from whom he might differ. He was disposed to proffer to them the most charitable indulgence, and he was the more desirous they should accept from him the proffer, because he solicited it for himself from them in return.

Mr. T. said a doubt had already been expressed whether this House had the power to discuss and express its opinion upon the present subject, and a hope had been intimated that those who opposed the resolutions would not put that opposition upon the want of right and power in the House, and thus prevent the inquiry. He said, as for himself, he would not. It was a point upon which he had doubts. A great national question had arisen, connected with a recent war, and which had justly excited public feeling—it was in his opinion fit and proper that the Representatives of the people should investigate the subject and express their opinion. Mr. T. said, it was asserted that the Major General, who had conducted the war in its progress, had violated his orders—had broken the Constitution, and had, by cruelties, dishonored our national character. Yet, said he, the President, from whom those orders emanated, has not arrested him, but has approved of his proceedings, and, consequently, stands responsible for the result. Whatever doubts might have been entertained as to our powers in the question between this House and the Major General, approved and adopted as the transactions had been by the President, it was now a question between him and the public; and no doubt of our powers could be reasonably entertained. Mr. T. said, he hoped the power of the House would ever be sparingly exercised, and be reserved for great occasions. But, I hold, said he, that we have the power, and that it becomes a duty to investigate and express our opinions on great public occasions, producing public excitement. It is here, on this floor, and through their Representatives, that the people can only speak. Your Administration may become corrupt—your Executive officers may violate the laws; break the Constitution; and, by violent outrages, even involve the country in war. In such an event, here, on this floor, and in this power for which I am now contending, will ever be found the only sure corrective. It is one of the dearest privileges of this House; one the most essential to the liberties of the country to be preserved and maintained; and he hoped it would be the last prerogative ever surrendered. So far, then, from wishing to avoid the present discussion, I hold, said Mr. T. that the charges made are of so deep a dye, and have produced such excitement, that it has become our duty, as the Representatives of the people, to inquire, and to advise; nay, even to instruct public opinion upon the subject now under discussion. And, Mr. T. said, it afforded him a proud consolation to believe that the State which he had the honor in part to represent, would be willing to adopt as correct the opinion which this House should announce. Such, said Mr. T., has been the sensation produced by the manner and character of the accusations which have been thrown out, that he had no hesitation to say, if this House should terminate their session, and omit to inquire into, and avow their opinion upon the present subject, it would disappoint the nation, and fix upon this House an eternal stigma, as wanting spirit to pronounce between the country and the Administration; or, if gentlemen would rather have it so, between the proposed resolution and General Jackson. He said he had no unwillingness on his part. And, he hoped the House would hold fast upon the present resolutions, and insist upon a direct vote upon the accusing propositions. If the Constitution has been violated; if the honor of the nation is stained by cruelties, this House should declare it to the country. If, on the contrary, the accusations are found to be incorrect, it was due to the Administration; it was due to the character of General Jackson, that we should so declare, and thus wipe away the unjust imputations. A vote of thanks has been talked of. Mr. T. said he should oppose any substitute for the present resolutions. The thanks of this House constitute the best wealth of this nation; too precious to be used, unless on extraordinary occasions. Such was the affair of Orleans. But, it is sufficient that

on investigation of the Seminole war, there shall be found no cause for blame. A decided rejection of the proposed resolutions of censure, was all that the present occasion required.

But, said Mr. T., in addition to the proposed censure contained in the resolutions, they also contain subjects on which legislation is proposed. He said, he was not prepared to say but legislation on those points might be proper, at a proper time, and under proper circumstances; but he was prepared to say that, on this occasion, under the present public excitement, and coupled with the proposed resolutions for censure, he, for one, would not consent to legislate. The act of legislation, under existing circumstances, would necessarily imply in itself a disapprobation of this House to the proceedings approved and adopted by the President, and would include a direct censure upon General Jackson. Let us, said Mr. T., reject the whole of the resolutions. If any gentleman thinks that legislation on any of these subjects is requisite for the public good; if he would bring it forward as distinct and disconnected propositions, it would undoubtedly receive the deliberate consideration of this House, and under no other circumstances ought it to be entertained. He said he was opposed to any act of this House which, by any inference, would look like censure on General Jackson; a man whose name and whose fame was identified with the history and the glory of our country; he would not say the first military captain of any country, but he thought he might say the first in ours.

In addition to the important questions involved in the present discussion, Mr. T. said the honorable Speaker (Mr. CLAY) has also introduced the treaty signed between our country and the Creek Indians, in August, 1814; and he has expressed his indignation at the manner in which that treaty was made, and at its haughty and dictatorial terms. He has intimated that the harsh and severe exactions of that treaty were the probable causes of the present Seminole war. Mr. T. said he differed in opinion with the honorable Speaker in regard to that treaty. He did not discover in it that haughty temper, that spirit of exaction on the part of our country, which had so much offended the Speaker. The honorable Speaker has repeated, with great emphasis, "The United States demand," "The United States demand," seven times. Yes, sir, said Mr. T. the United States, by that treaty, did demand; they had melancholy cause to demand. Theirs were the wrongs; theirs were the sufferings; they were the injured party; they had, for years, endured every misery incident to Indian hostilities; the friendly tribes and the frontier settlements had been plundered of their property, and those tribes and our frontier had bled from Indian warfare, until the nation had been compelled to sustain the expense and the sacrifices for their complete subjugation. It was under such circumstances that the treaty of Fort Jackson was made. Sir, said Mr. T., the United States did demand; it was their duty to demand; and, after seven times demanding, indemnity was not obtained for a tithe of our sufferings. Mr. T. said he found nothing in the treaty that placed our country in the wrong. It recites that the war was "unprovoked" on our part; that it was "inhuman and sanguinary—waged by the hostile Creeks—instigated by impostors, denominating themselves prophets, and by foreign emissaries."

Sir, said Mr. T., the honorable Speaker has also represented that, by the Treaty of Fort Jackson, the United States had demanded of the Indians the surrender of their prophets; hence he has exclaimed, with a voice that overcame me, "Spare them their religion! spare them their prophets! spare them their superstition!"

Mr. T. said, the representation given by the honorable Speaker, of the sixth article of that treaty, was so unlike the view which he had taken of that article, that he was compelled to conclude that, in the hurry of debate, the honorable Speaker had entirely overlooked the concluding clause of the article, and thus had totally mistaken its meaning. Mr. T. said he would read it. "The United States demand the capture and surrender of all the prophets and instigators of the war, whether foreigners or natives, who have not submitted to the arms of the United States, and become parties to these articles of capitulation, if ever they shall be found within the territory granted to the Creek nation by the second article." Sir, said Mr. T., a treaty was formed between our country and the Creek nation in 1790. This treaty had been observed on our part, but had been broken on the part of the Creek nation, by repeated, and almost continued acts of hostility. During the late war between our country and Great Britain, one-third of the Creek nation had continued to observe the treaty, and hence were denominated the *friendly Creeks;* the other two-thirds, instigated by their impostors, called prophets and foreign emissaries, had joined Great Britain in the war, and desolated our frontier; they were known as the *hostile Creeks.* An expedition into their country, and the destruction of their towns, induced them to make the Treaty of Fort Jackson. A part of these two thirds which had been hostile, refused to come into the treaty. They declared their intention to continue the war. They abandoned the limits of their tribe because they would not submit to the peace. They joined the Seminole Indians on the Florida line. They have since been known as the *outlawed Red Sticks.* It was the prophets and emissaries, the instigators of war; of these outlawed Creeks, which the sixth article of the treaty demanded to be surrendered; provided they would not become parties to the Treaty of Peace, but, persisting in hostilities, should be found in the territories of the friendly Creeks. Such, said Mr. T., was the evident intention of the sixth article of the treaty. It was a just and necessary precaution for the safety of the country, and to render the peace permanent. The event has abundantly justified the wisdom and the justice of the measure. It is these prophets and these emissaries, and those outlawed Creeks, who have subse-

quently instigated and produced the Seminole war, bringing, in its consequences upon our people, distress and disaster; upon our country expense and difficulties, and upon the miserable Seminole tribe ruin, perhaps even extermination. And yet is our country to be upbraided; to be covered with contumely, because, in a treaty of peace, she demanded the surrender of those prophets and emissaries? Not the prophets and emissaries of their religion, or of their superstition, but the hostile prophets and emissaries of the outlawed Creeks, preaching on our frontier, among the miserable natives, war, havoc, and desolation. Sir, my country has not invaded the religion or the superstition of the Indians; it has not carried the precepts of our religion among them with the sword or the bayonet. But self-defence and self-preservation required us to resist the efforts of their prophets, breathing war, and kindly aided by the influence and the resources of that Government with whom the honorable Speaker has pointed out the remarkable coincidence, that the very day after the Treaty of Fort Jackson, we had signed a protocol of peace. Sir, the mild precepts of our gospel did not require our country to submit to such wrongs. He would maintain that its conduct had been correct; it was not marked by that haughty and dictatorial spirit which had been ascribed to it. But, sir, if I am wrong, and the honorable Speaker is correct, upon whom is the censure to rest? The constituted authorities of your country had adopted the treaty; the Senate had ratified and approved it, and this House, said Mr. T., have carried it into effect, by appropriations for that purpose. Sir, our mouths are closed in expressive silence: it ill becomes us to cast back imputations upon the Executive of our Government, for faithfully defending a bleeding frontier, and carrying into effect a treaty sanctioned by every department of legislative power. Much less, then, are we to cast a censure upon the Major General whose valor and whose skill had promptly terminated a war threatening in its ravages to desolate a sister State.

But, said Mr. T., to what conclusion does the argument tend, that this Seminole war was the offspring of the severe and dictatorial demands exacted by our country in the Treaty of Fort Jackson? Would gentlemen have the President sit with folded arms, and answer to the supplications of a bleeding frontier, "the arm of the Union shall not be extended for your relief," because our country was in the wrong—because we had excited the war by our unjust exactions in the Treaty of Fort Jackson? Would gentlemen on this ground censure General Jackson, because he too did not pause to inquire into the justice of the war; but, when ordered by the Executive, he flew to the frontier settlements, carrying to them succor and safety?

But, said Mr. T., we have been told that this war was, on the part of our country, an offensive war; and, therefore, it did not come within the powers of the Executive to carry it on; and therefore the powers of this House, and its right to pronounce on peace and war, had been invaded, and our Constitution had thus been violated. I am extremely embarrassed to determine how to answer this objection; an objection presenting an aspect so tremendous. The prerogatives of this House, on peace and war, are invaded—the Constitution of our country violated. The Executive of our Government, upon his own responsibility, has waged an offensive war: or he has sanctioned, and subsequently approved of General Jackson's making offensive war upon a defenceless Indian tribe! Is the Seminole war offensive on our part? At the last session of this House we specially appropriated money for the support of this war. But my excited feelings, said Mr. T., forbid me to discuss this point.

Sir, you are an American! Go, count the bleeding scalps of your murdered countrymen, of all ages and sexes, found by General Jackson; and then return, and tell to this House if this Seminole war was, on the part of your country, an offensive war! Tell this House, also, if you advise a vote of censure to be passed on the conduct of either the Executive, for his just orders, or upon General Jackson, for discovering upwards of three hundred dried and fifty fresh scalps, with a red pole erected as the beacon of Indian war, and crowned with the scalp of an American citizen!

Sir, said Mr. T., if am correct that the Seminole Indians had waged an inhuman and destructive war upon the frontiers of Georgia, it became obligatory upon the Executive of the Union, both in the spirit and letter of his duty, to extend the arm of Government for their protection: no matter from what causes the war was produced; no matter from whence its origin. It was sufficient that a sister State was assailed, and called upon the Union for defence. Its omission by the Executive would justly have incurred the censure of this House. Sir, the President did not omit, in this respect, his duty. He called General Jackson into the field, and vested him with discretionary powers, "to concentrate his force, and to adopt the necessary measures to terminate the conflict." General Jackson promptly performed his duty; he did adopt the necessary measures; he has terminated the conflict; he has reported his proceedings; they have been adopted and approved by the President. Here, then, said Mr. T., the affair with General Jackson is at an end. He stands justified and discharged; whatever may have been the incidents in the progress and the conduct of that war, committed to his charge, he is exonerated from all responsibility. Good intentions and a faithful exercise of his discretion, under the circumstances as they transpired, were all that could ever be required of General Jackson. This is not doubted. The responsibilities of the transaction are therefore cast upon the Executive. It is an affair between the country and the President. Mr. T. said he rejoiced that it was; for he had no idea of Executive irresponsibility. He never would consent that a military officer should be charged with discretionary powers, and then be held responsible for anything more than

good intentions, and good faith in the performance of his duties.

But, he said, let me not be misunderstood. He disclaimed any wish to prevent inquiry. He had no desire to claim for General Jackson the protection of Executive responsibility. It would be doing injustice to the high character of that man. And he believed the whole tenor of his conduct would bear the strictest scrutiny. With this view, and although he thought General Jackson was sufficiently acquitted and discharged by Executive approbation, yet he should now proceed to examine the progress of the war; and he invited the fullest investigation.

Sir, said Mr. T., I hold that General Jackson was vested with full and ample powers for the conduct of the Seminole war. The orders to him were discretionary; vesting in him adequate authority for every emergency that might be incident to the campaign. Under the circumstances, such discretionary orders were correct. He was about to be immersed in the wilderness, from whence he could neither communicate or receive information from the War Department. It was, therefore, necessary to confide to him the whole conduct of the war; and the orders from the War Department, collectively considered, clearly vested in him ample powers for every exigency that the campaign might require. The functions of the War Department were expended in the amplitude of his orders. No additional powers could have been given, under any state of circumstances, had the War Office accompanied him into the wilderness. His ample and discretionary powers embraced every case, and covered and justified his whole conduct. Not, said Mr. T., that the orders to General Jackson could justify him in doing any wrong—in making an offensive war, or in violating a neutral territory; but whatever act was required to be done, whatever the events of the war justified to be done, and which the War Office might have ordered, so far the orders to General Jackson extended. If I am correct in this position, there is an end to all question about violation of orders; General Jackson is justified; and the question only remains between the Executive and the country.

Sir, said Mr. T., with a view to a full understanding of the orders to General Jackson, it will be necessary for the House to look back to the state of things, and the orders that had been issued from the War Department, before General Jackson took command. The State of Georgia had suffered by serious depredations on the property of her frontier settlements, and in the massacre of her citizens; she had called for the aid of the Union; General Gaines had been assigned to the command of that district; and the General Government had demanded reparation from the Indians for past aggressions. In a letter from the War Office to General Gaines, 30th October, 1817, speaking on this subject, it says, "Should the 'Indians, however, persevere in their refusal to 'make such reparation, it is the wish of the Presi-'dent that you should not, on that account, pass 'the line and make an attack upon them within 'the limits of Florida, until you shall have re-'ceived further instructions from this Depart-'ment." In a letter to General Gaines, 2d December, 1817, it is said, "The state of our nego-'tiations with Spain and the temper manifested 'by the principal European Powers, make it im-'politic, in the opinion of the President, to move 'a force at this time into the Spanish possessions, 'for the mere purpose of chastising the Semi-'noles for the depredations which have hereto-'fore been committed by them." On the 9th of December, 1817, the War Department wrote to General Gaines, after speaking of hostile acts, "Should the Indians, however, assemble in force 'on the Spanish side of the line, and persevere in 'committing hostilities within the limits of the 'United States, you will, in that event, exercise 'a sound discretion as to the propriety of crossing 'the line for the purpose of attacking them and 'breaking up their towns." On the 16th December, 1817, another letter says, "Should the Semi-'nole Indians still refuse to make reparation for 'their outrages and depredations on the citizens 'of the United States, it is the wish of the Presi-'dent that you consider yourself at liberty to 'march across the Florida line, and to attack 'them within its limits, should it be found ne-'cessary: unless they should shelter themselves 'under a Spanish fort. In the last event, you 'will notify this Department." In this situation of the orders, Mr. T. said, General Gaines was directed to go to Amelia Island, and perform certain duties at that place. Shortly after his departure, such further intelligence was received of increasing hostilities on the part of the Indians, that the War Department, on the 26th December, 1817, wrote to General Gaines at Amelia Island, informing him that the Seminole war had "assumed so serious an aspect" "that they could not be brought to their reason without the actual use of force;" that General Jackson had been ordered to take command—they regretted the absence of General Gaines, and "that the service should be deprived of his well known skill and vigilance," and directed him, "if his force was sufficient, to penetrate through Florida, and co-operate in the attack on the Seminoles." On the same 26th December, 1817, orders were issued to General Jackson to take command. This was the first order issued to him: and it recited "the increasing display of hostile intentions by the Seminole Indians;" it informed him that the regular force under his command was eight hundred; that there was supposed to be twenty-seven hundred Indians; and empowered him to call on the Executives of the adjacent States to detach such additional military force as he might deem requisite to beat the enemy. This order also informed him that General Gaines was directed "to penetrate from Amelia Island, through Flor-'ida, to the Seminole towns, if his force would 'justify his engaging in offensive operations. '*With this view*, you may be prepared to con-'centrate your force, and to adopt the necessary 'measures to terminate a conflict which it has

'ever been the desire of the President, from con-
'siderations of humanity, to avoid, but which is
'now made necessary by their settled hostili-
'ties."

Sir, said Mr. T., on thus reviewing the orders which have been issued from the War Department, the House cannot fail to observe the cautious policy and progressive steps which have influenced and marked the conduct of the Cabinet. Critically situated in regard to our foreign relations, the President was justly anxious to defend the frontier of Georgia, and yet so cautiously to measure out the means of that defence, as not to involve our country in an European war. Hence the restrictive and hesitating character of the orders issued to General Gaines; gradually relaxing and acquiring progressive energy in proportion to the aspect of Indian hostilities. At first forbidding General Gaines to cross the Florida line—then permitting him to cross, if necessary, to resist new aggressions—and finally leaving it to the exercise of his sound discretion, and only requiring him to notify the department in case the enemy took shelter under a Spanish fort.

Under affairs thus situated, the Government received information which forbade all further hesitation—which denied all further caution. The war had now assumed too deep a dye to be longer tampered with; it must now be met, regardless of consequences. Sir, said Mr. T., it is a fact, recited in one of the letters, but not generally observed or known to this House, that the murder of Lieutenant Scott, and his detachment of about thirty persons, which had been perpetrated on the Chatahoochie river, in October, did not come to the knowledge of the President until the morning of the 26th of December. Sir, it was on that day that General Jackson was ordered to take command. It was this new information—it was the serious aspect which the war had now assumed, which called General Jackson into the field—which induced the Cabinet to change its cautious policy, into measures of offensive war. Sir, said Mr. T., this circumstance also gives explanation and meaning to the language of General Jackson's orders. In all the orders previously issued to General Gaines, some limitation had been contained; but when General Jackson was ordered to command, no restriction was suggested. The Cabinet had determined upon carrying the war into the Seminole country, and hence the orders to General Jackson speak of a force "to justify his engaging in offensive operations." "With this view." With what view? said Mr. T. "With this view of offensive operations, you are to adopt the necessary measures to terminate the conflict." Sir, said Mr. T., can language be more explicit? Can discretionary power and general authority to an officer to conduct a war be more clearly delegated? But, said Mr. T., if gentlemen yet doubt the fair meaning and the true extent of General Jackson's orders, let me ask them to look at the letter from the War Department to Governor Bibb; not, said Mr. T., as giving additional powers to General Jackson, but, where doubt is entertained, as giving from the War Department a construction of its own orders. And what does this letter to Governor Bibb say? "General Jackson is vested with full powers to conduct the war in the manner which he may judge best."

Sir, said Mr. T., if honorable gentlemen are not yet satisfied, I will ask their attention to the message of the President, made to this House on the 25th of March last. "The enclosed documents show that the hostilities of this tribe were 'unprovoked—the offspring of a spirit long cherished, and often manifested towards the United 'States; and that in the present instance it was 'extending itself to the other tribes, and daily assuming a more serious aspect. As soon as the 'nature and object of this combination were perceived, the Major General commanding the 'Southern division was ordered to the theatre of 'action, charged with the management of the 'war, and vested with the powers necessary to 'give it effect." Will gentlemen ask for more?

But, sir, there is still another and a different aspect in which the orders to General Jackson ought to be viewed. He was not only by those orders charged with the management of the war, and vested with the powers necessary to give it effect, but, sir, it will be found, on reference to the documents, that he was also commissioned to inflict speedy and merited chastisement on the deluded Seminoles." In the order from the War Department of 16th January, 1818, he was told: "The honor of the United States requires that 'the war with the Seminoles should be terminated speedily, and with exemplary punishment 'for hostilities so unprovoked." In a letter from the War Department, of February 2, 1818, he is told, "the confidence reposed in your skill and 'promptitude assures us that peace will be restored on such conditions as will make it honorable 'and permanent."

Sir, said Mr. T., in addition to the discretionary power and general authority vested in General Jackson, for the management of the war, he was also required, in the progress of that war, to inflict merited chastisement upon the deluded Indians, with such exemplary punishment for their unprovoked hostilities as would be calculated to deter them from future wars, and render the peace "permanent." This is the frank and fair construction to be given to the orders of General Jackson. Whatever has been done in the progress of the war, comes not only within the spirit, but within the letter of his instructions. Will gentlemen yet talk of violated orders, and propose a vote of censure for cruelties inflicted by him? No, sir, General Jackson stands justified by his instructions, which he has promptly and faithfully obeyed. If there is any censure to arise from the transaction, it must rest upon the fountain from which his instructions emanated. But, said Mr. T., there is no cause for censure. The crisis called for decisive measures. It was a high and important trust. The President wisely confided its execution to the discretion, the wisdom, and the valor of the commanding General, who, thank

God, had failed to meet the just expectations of his country in no single instance.

[When Mr. T. had proceeded thus far in his speech, the Committee, on motion of Mr. POINDEXTER, rose, and the House adjourned.]

SATURDAY, January 23.

The SPEAKER presented to the House a letter addressed to him, signed by Elias B. Caldwell, Walter Jones, and Francis S. Key, a committee of the American Colonization Society, accompanied with an account of the measures pursued by the society for accomplishing the great object of its institution, and of the result of their inquiries and researches; as also, of documents showing the unlawful participation of the citizens of the United States in the African slave trade; which letter, and its accompanying documents, was referred to a select committee; and Messrs. MERCER, MILLS, and CAMPBELL, were appointed the said committee.

On motion of Mr. HENDRICKS, the Committee on the Public Lands were instructed to inquire into the expediency of establishing additional land offices in the State of Indiana.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the relief of Thomas B. Farish," with an amendment, in which they ask the concurrence of this House.

The amendment was concurred in by the House.

MONUMENT TO DE KALB.

Mr. REED submitted the following preamble and resolution:

Whereas a resolution was passed by the Congress of the United States, on the 14th day of October, in the following words, to wit:

"*Resolved*, That a monument be erected to the memory of the late Major General the Baron de Kalb, in the city of Annapolis, in the State of Maryland, with the following inscription:

"Sacred to the memory of the Baron de Kalb, Knight of the Royal Order of Military Merit, Brigadier of the armies of France, and Major General in the service of the United States of America; having served with honor and reputation for three years, he gave a last and glorious proof of his attachment to the liberties of mankind, and the cause of America, in the action near Camden, in the State of South Carolina, on the 16th of August, 1780, when, leading on the troops of the Maryland and Delaware lines, against superior numbers, and animating by his example to deeds of valor, he was pierced with many wounds, and, on the 19th following, expired, in the 40th year of his age. The Congress of the United States of America, in gratitude to his zeal, services, and merit, have erected this monument."

Resolved, therefore, That the aforegoing resolution be referred to a select committee, with instructions to report a bill *now* to carry the same into effect.

Mr. MERCER advocated the adoption of this resolution at some length, and with much ardor; urging in its support the valuable services of the Baron de Kalb, his gallant character, and illustrious death in defence of the liberty and independence of the United States, &c.

Mr. ANDERSON, of Kentucky, in reply, said he would never give his vote for a monument, or any other memorial to any subordinate, or any foreign officer, no matter how meritorious their services, so long as the remains of WASHINGTON lay neglected. He referred to the resolution now before the Senate, proposing an equestrian statue to WASHINGTON; and said, when that had been adopted, it would be then, and not till then, fair, and proper to propose similar honors for other Revolutionary worthies. Mr. A. moved that the resolution be laid on the table.

Mr. REED said it was true that a proposition was now before the Senate to carry into effect the resolution of the Old Congress which voted an equestrian statue for General WASHINGTON, but whether that should pass or not ought not to interfere with the present motion, and the fate of that proposition would not prevent him, Mr. R. said, from calling on this House to carry into effect a law passed nearly forty years ago, and to which the faith and honor of the nation were pledged. If Congress erected no monument to WASHINGTON, it would be no fault of his; he would go as far as any gentleman in obtaining it. There was, Mr. R. said, a law of the Old Congress directing a monument to Montgomery in the city of New York; it had been neglected by the nation: but the State of New York, to its lasting credit, has performed that duty itself, and, in the course of last year, removed the bones of the immortal Montgomery from the spot where he fell, to the land which he had so gloriously defended. Propositions had been frequently brought forward in this House, Mr. R. said, to erect a memorial of some kind to WASHINGTON, but, for some reason or other, they were never carried. It had been said, the page of history perpetuated the glory of WASHINGTON; but was not a monument also a history, in which every one might read not only the virtues of the man, but, also, the gratitude of his country? Certainly it was.

The question to lay Mr. REED's motion on the table was carried—yeas 76, nays 42.

SEMINOLE WAR.

The House then proceeded again to the consideration, in Committee of the Whole, (Mr. TERRY in the Chair,) of the report of the Military Committee, and the amendments offered thereto by Mr. COBB.

Mr. TALLMADGE resumed the floor. He recapitulated the points which he had endeavored to establish in his remarks of yesterday. He urged some additional reasons in support of his construction of the orders and the powers to General Jackson.

But, said Mr. T., before we progress with General Jackson in his conduct of the war, it is proper for this House to notice some collateral circumstances which greatly tend to elucidate the motives connected with this transaction. Sir, it was the State of Georgia which called upon the Union for defence. This State has often suffered

the cruelties of Indian warfare. In 1793 and 4, under the Administration of Washington, a bloody Indian war was waged upon Georgia. She then called upon the Union for defence, and General Washington assigned for her protection what he considered a competent military force. The State of Georgia was dissatisfied, and complained of the inadequacy of the defence. That State ordered out, upon her own responsibility, an additional military force of about one thousand five hundred men. The expenses incurred for this force were nearly one hundred and forty thousand dollars, and which sum, the State of Georgia has contended, ought in justice to be assumed and refunded by the General Government. Sir, they have often petitioned for the payment of this claim. Seventeen different times, and in different shapes, applications for these expenses have been before this House. Sir, it was only at the last session of this Congress, that the subject of the Georgia militia claims was discussed on this floor. It was then that the honorable gentleman from Georgia, (Mr. COBB,) spoke so ardently in their behalf, and in the course of his remarks he took occasion to give this House a minute and feeling description of an Indian massacre, and the dangers and sufferings of a frontier settlement. I wish, said Mr. T., I was blessed with the eloquent powers of that gentleman, (Mr. COBB.) I would rehearse to this House the appeal he then made. It would enable gentlemen the better to appreciate the public services of General Jackson, in bringing to a speedy termination the recent war, and under such "chastisement" and merited "punishment" for unprovoked hostilities, as had rendered the peace "permanent," and, he hoped, had freed our sister State from future dangers. Sir, said Mr. T., it was my fortune, on that occasion, to oppose the Georgia claims. I opposed them on the ground that I never would permit a State to act not only independently of, but in opposition to, the determination of the General Government. Sir, said Mr. T., the honorable gentleman, (Mr. COBB,) has told us that "he loved his country—that he loved the Constitution." Mr. T. said he reciprocated this sentiment, with some addition. I too love my country—I too love the Constitution; and, in addition, said Mr. T., I love the Union. And whenever, and as often as the case may occur, that a State shall attempt to act separate and independent of the General Government, whether such case shall occur either at the South or at the East, he, for one, would never consent to pay the expenses of their separate transactions. If such a principle be once adopted, said Mr. T., farewell to the Constitution which gentlemen so much love! farewell to that Union which alone secures the only rational hope of future happiness to our country! But, said Mr. T., while it was so important never to permit a State to act separate and independent from the General Government, or in any manner to disregard the determination of the constituted authorities of the Union, it followed, as a consequence equally important and necessary, that the Union should promptly and effectually perform its duties to the States. The State of Georgia had before suffered under Indian hostilities, and she had complained of injustice from the Union, by an insufficient defence.

Sir, said Mr. T., it was only last Winter that I heard it said upon this floor, that gentlemen who resided on the Atlantic coast, and contiguous to the large cities, did not properly appreciate the horrors of Indian hostilities, nor sufficiently sympathize in the sufferings of a frontier war. When the Georgia claims were rejected, it was more than intimated that, under such circumstances of supposed injustice, the Union was an injury rather than a blessing. The Representatives of Georgia said that the Seminole war was then raging on their frontier, and the Union had not provided them any adequate defence. Sir, said Mr. T., General Gaines who then commanded on that frontier, was, in private conversation on this floor, and he believed he might say even in public opinion, severely censured for his indolent and inefficient management of the war. It was then asked of me, said Mr. T., how General Gaines, who had acquitted himself so well in the Northern campaign during the late war, and had shown himself such a perfect Hotspur in battle, could so supinely waste his time on the Southern frontier? Sir, said Mr. T., so much did the character of General Gaines suffer in public opinion, one year from this time, from his inaction on the Florida line, that it was often asked if his wounds and his years had not impaired his military talents? Georgia did not hesitate to express her dissatisfaction. The honorable gentleman (Mr. COBB) was heard upon this floor, and her complaints, through the medium of the public prints, were sent forth to the country. Sir, the orders from the War Department to General Gaines, have subsequently been published. Mr. T. said he rejoiced they were: it was but an act of justice to General Gaines that those orders should be known to the public; and he hoped the public would cast back their recollection, and do justice to his character. Sir, those orders now show that the inaction of the campaign was not the fault of General Gaines; he was limited and restricted. It was the cautious policy of the Cabinet, and not the supineness of the General, which made the war so long linger on the Florida line. But when the murder of Scott's detachment, and of Mr. Garret's family, with various other aggressions, were made known, accompanied with the recollection of the past circumstances of complaint on the part of Georgia, and with the knowledge of her dissatisfaction of the ineffectual defence afforded to her by the Union, the President could no longer hesitate. Here then, said Mr. T., you see the combined causes that called General Jackson into the field. Here you observe the motives that induced the President to delegate to him discretionary power and ample authority to adopt the necessary measures to terminate the conflict with such chastisement—with such merited punishment—as would secure a speedy and permanent peace. Here too, sir, you discover the causes which, in addition to General Jackson's

known promptitude of character, induced him to a firm and energetic performance of his orders. But, sir, we are now told there has been too much promptitude and too much energy used by General Jackson in his management of this war. We are even told that he has usurped the power of this House, and violated the Constitution, in making offensive war on the Seminoles; and that, under his instructions to chastise and punish, he has committed cruelties which have stained the honor of our country. Sir, from what source do we hear these accusations? It is from the Representatives of Georgia. It was only last Winter the honorable mover of the resolutions for censure, asked and obtained from this House a law, providing for extra pay and rations to the Georgia militia, which had been detached in the Seminole war. Little did I then expect to hear from that gentleman that this war was offensive on our part. Little could the President have anticipated when he gave orders to cross the Florida line, and penetrate the wilderness, in the necessary defence of Georgia, that the Representatives of Georgia would be the first to complain. Little could General Jackson have anticipated, when he encountered the fatigues and the perils of the campaign, when he put his character and life on its event, that the Representatives of Georgia would be the first to cast censure upon him for too much energy in their defence; rather did he expect that they, in common with their country, would look with a benignant eye upon the performance of his high and critical duties; and that, instead of a jealous scrutiny of his conduct, where good intentions were evident, they would rather applaud than censure, and that where they could not justify, they would at least forgive. But, said Mr. T., if the right of this House to pronounce on peace and war, has been invaded; if the Constitution has been violated, it ought to be proclaimed to the country. He rejoiced there were gentlemen who possessed sufficient spirit and firmness to announce it; and that it was announced by the honorable gentleman from Georgia, (Mr. COBB,) he did not mention as matter of accusation, but as cause for commendation. He pointed it out as a rare instance of political integrity—of an excess in political virtue, which would not suffer our power to be invaded—which could not even wink at a violation of the Constitution, although the cause of the invasion, and the subject of the violation, should be the defence of the constituents of that honorable gentleman, his home, his family.

Sir, said Mr. T., General Jackson received his orders, requiring him to take command, at Nashville, on the 12th of January, 1818. This great military Captain immediately commenced his operations; and such, said Mr. T., has been the rapidity of his measures, and the velocity of his movements, that the tongue of the narrator can scarcely keep pace with his march. He immediately announced an appeal to the patriotism of the Tennessee volunteers, to accompany him in his expedition; and he made a requisition for a detachment of Georgia militia. The first came forth at his call, and the second were, in process of time, detached and prepared to join him. This force, united with his regular troops and some friendly Indians, were concentrated at Fort Scott. Without the means or the possibility of transportation, General Jackson, on the 26th of March, and with only eight days' provision, having bravely determined "to subsist on the enemy," took up his line of march from Fort Scott. He entered the unexplored wilderness; he crossed the Florida line; he sought and found the Indian enemy in their fastness; he vanquished them, and destroyed their towns. In his pursuit of the imbodied fugitives, he found St. Marks was the source of their supplies, and that its possession was threatened by his enemy. He occupied that place, and from thence directed his march to Pensacola, from whence he drove out the Indians who had fled there for shelter, and for new supplies. He also occupied that place, with the fortress of Barancas; and on the 29th of May terminated a war which had, for more than eighteen months, ravaged your frontier, and was fast spreading to other Indian tribes. Sir, said Mr. T., it is the incidents of this campaign, so rapid in its progress—so brilliant in its execution, and, in his opinion, so replete with important and beneficial results, that gives rise to the present discussion. In its progress, sir, a neutral territory has been entered; the posts of St. Marks and Pensacola have been taken; two Indian chiefs, and two British subjects, Arbuthnot and Ambrister, have been executed; and, said Mr. T., I rejoice at these events. I honor rather than blame the General who had the firmness to determine and give effect to such measures. In avowing this opinion, said he, I am confident I do but speak the opinion of our nation.

We have been called upon, said Mr. T., to produce the laws of nations, which will justify these proceedings. I maintain, said he, that the principles upon which the laws of nations between the free Governments of Europe are founded, when rightly understood, do embrace and justify all the proceedings. But, said Mr. T., I shall not undertake the labor of the argument in this point of view. It is sufficient for my purpose to say, that that system of national laws, established by common consent of mankind, as a rule of action between free, separate, and independent Governments, has no application to the present case. The history of Europe affords no parallel to the present circumstances, and could not be expected to have provided a rule for the present case. There is not an instance in Europe, where one nation, acting upon its own usages, and claiming to have, as a nation, the power of making peace and war, resided within the limits and boundaries of any other sovereign and independent nation. Sir, the Floridas were not a neutral territory—it was the territory of your enemy. There he resided—from there he issued from his fastnesses, crossed the boundary line, and depredated your property, and murdered your citizens; and when you pursued him, it was there he fled for safety. Sir, I repeat, Florida was not a neutral territory. It

was the country of your enemy, used and occupied by him; and, as such, you had a right, and it became your duty to enter it, in the pursuit, and for the subjugation of that enemy. But if gentlemen will insist on calling this a neutral territory, I ask, what are its consequences? In every page of those national laws, upon which so much reliance has been placed, the Government of a neutral country is made responsible for the conduct of persons within its limits. If such Government authorizes any acts of hostile aggression, it becomes just cause of war. If unauthorized and disavowed hostile incursions are made from its territories, it is no cause of war, but is considered as sudden irruptions bursting forth upon an adjoining nation, who, from the circumstances and necessity of the case, is vested with full right and ample authority to use the requisite means and force to prevent such irruptions, and provide for their own safety and defence. As a neutral territory, therefore, we had a right to enter it in self-defence, and for our own safety. Gentlemen may not agree on what ground it was entered. It is sufficient for my purposes to say, that on either or both these grounds we did enter this territory, and my heart approves of the result. Sir, mark the coincidence of discordant circumstances. Arbuthnot and Ambrister, two English emissaries, in a neutral Spanish territory, instigating a savage war upon a peaceful American State! When our Government complain, the British Minister answers they have not jurisdiction out of their own country, and cannot prevent the evil. The Spanish Governor says he has not the power to control Indians and English subjects, and worthy gentlemen on this floor tell us it is a neutral country, and, therefore, we cannot help ourselves. Were ever doctrines advanced so preposterous? Had General Jackson listened to such reasoning—had he returned with such arguments as the only result of his campaign—what would have been the language of our bleeding frontier? And, because he did not, a vote of censure is solemnly proposed.

But, sir, St. Marks, a Spanish post, has been taken. Advert to the documents on this point, and it will clearly appear that this place was in use, and, in fact, a mere depot for Indian supplies, and was, in addition, so weak and ineffectually garrisoned, that there was just cause to apprehend the Indian enemy would take possession of it. A belligerent is clearly entitled "to seize, 'and, temporarily, to occupy and even garrison 'a post of a neutral country, in order to prevent 'the designs of his enemy in seizing the place, 'whenever the sovereign of the country is not 'able to defend it." This principle alone, said Mr. T., would justify the occupation of St. Marks. But the case is much strengthened when we consider it as a post of a neutral country, between whose sovereign and ourselves is a treaty, in which Spain had solemnly pledged herself to keep in subjection the Indians within its limits, and to prevent any hostilities from them, upon our frontier. Every obligation of national law, as well as the faith of treaty stipulation, bound her to the performance of this duty. If her imbecility prevented the observance of her obligations, or the unauthorized conduct of its Governor allowed hostilities to be carried on against us from the territory, every principle of self-defence would justify the occupation of this post, and even the whole country, as far as it contributed to the supplies of our enemy and his warlike occupation.

Connected with the occupation of St. Marks, was the capture of the two Indian chiefs. One of our gunboats came into the Appalachicola river, and, while there, kept up the British flag. This circumstance is said to have decoyed them on board the boat. Sir, this deception is now matter of great offence. We are told by the honorable Speaker (Mr. Clay) that your stars and your stripes should have floated there. Sir, I freely admit that the waving of the British flag may have operated to deceive the Indian chiefs. The British flag was familiar to their observation, although in the neutral territory of friendly Spain. It was this British flag which had waved at the Negro Fort, and at the foot of whose staff one of your American seamen was tarred and burnt alive. Its friendly aspect and well known co-operation in this neutral country, may have readily tended to deceive these Indian chiefs on board an American gunboat. Mr. T. said they were the chiefs of our enemy—they fled to that flag for shelter and supplies, and, for his part, he had no disposition to find fault with their mistake. It might, at least, teach their tribe that a British flag in a Spanish territory might not always be a sure cover for hostilities upon the American people.

But, sir, these two Indian chiefs were taken on shore and executed. The honorable Speaker (Mr. Clay) tells us that it fills him with the deepest regret. I, too, said Mr. T., am not without regret. But, sir, my regret is at the causes which rendered their execution necessary and proper, and not that General Jackson had firmness to perform his duty, and make an example useful to us and salutary to the Indian nation. Sir, in the person and character of Homathlemico was found the Indian chief who presided at the inhuman murder of Lieutenant Scott and his party. A deed more brutal and savage cannot be found in the annals of Indian warfare. Sir, he was not executed as an enemy only, but as a base murderer, marked with every cruelty and stained with the blood of your countrymen.

Hillishajo, the other chief, was also hung. The honorable Speaker (Mr. Clay) said he regarded the occurrence with grief, and with great indignation he exclaimed, "Hang an Indian! hang an Indian!" No, sir, said Mr. T., General Jackson did not hang an Indian. Higher destinies awaited this chief. He had ceased to be an Indian; he had recently been *home* to old England; he had approached "the throne of his royal highness;" and while there was commissioned *Brigadier General.* Yes, sir, he was a *British Brigadier General;* he wore a red coat; and by way of special favor and pre-eminence over all others of

the same rank, he was furnished with *three* epaulettes. Therefore, General Jackson did not hang an Indian. He hung a British Brigadier General. I honor him for it, said Mr. T.; and who is offended? It was in the territory of Spain; but as she was a neutral Power, she has no cause for complaint. And, does England complain? Disgrace upon her, if she does not. She is bound by every tie of honor to come forward and own her favorite General, Hillishajo. I hope she will, said Mr. T. And whenever England does complain, if my voice can control, her complaint shall be handed over for adjustment to our naval heroes; those gallant sons who have borne your cannon upon the deep; who have held their steady march upon the mountain wave, and triumphantly displayed to an admiring world the banners of your country; they would gladly adjust the account.

But, sir, in the person of this same Hillishajo, when his name is translated, we find Francis the Prophet, a man commissioned by Great Britain; tricked off in all the trappings of military dress; furnished, as a present from the Prince Regent, with a tomahawk, scalping knife, and a rifle, and sent back to his tribe, to inculcate, of course, that religion and that superstition which we have been so loudly called upon to "spare," because it was their religion and their superstition. Sir, this is one of the order of those pious prophets whose surrender our country demanded in the Treaty of Fort Jackson. A prophet, the crucifix of whose religion is the tomahawk and the scalping knife; the libations to whose worship is the blood of the white man. Ask the mothers of your country if they consent to be surrendered with their children as the willing sacrifices to the ceremonies of such a superstition? And, yet, our country is blamed, because, in a treaty of peace, she demanded the surrender of such prophets. Not those who would consent, in peace, to enjoy their delusions, but those only who persisted in hostilities and war upon our people.

Sir, said Mr. T., Arbuthnot and Ambrister have also been executed. Who were these men? Two British subjects in a Spanish neutral territory; two incendiaries instigating an Indian war upon our frontier. The one found in battle and taken with arms in his hands; the other united and commingling with your enemies, acting as their agent, even by express commission, as a power of attorney executed before the neutral commandant of St. Marks, importing for their use gunpowder and lead; and when the resources of the neutral posts of St. Marks and Pensacola were exhausted, writing letters and making application for military aid in this Indian war to Governor Cameron, and even to the Prince Regent, who Francis the Prophet said "told him, when in England, that whenever he wanted ammunition that your excellency would supply him with as much as he wanted." Sir, I forbear to enter into the examination of the documents on your table. It is sufficient that I state, and I state without the fear of contradiction, that Arbuthnot and Ambrister, by their acts, had identified themselves with your Indian enemy; had become allies and parties against you in this cruel Indian war. Sir, what are the just consequences of the relation which these men had voluntarily assumed? I advance it, said Mr. T., as a proposition not to be controverted, that whatever right war gives against my principal enemy, the like it gives me against all his associates. Connected with this principle, I also maintain that, whatever measures your enemy adopts against you, whatever cruelties he exercises towards you, he gives you the right to adopt those measures and to exercise those cruelties upon him in return. Sir, if gentlemen cannot find this rule in their books, it is sufficient for my purpose that its principles are engraven on the heart of man; that its practice is adopted by every nation on the habitable globe. It is the only means by which one belligerent nation can compel another to regard the rules and usages of civilized warfare. It has been adopted by our country, and its practice is recorded in every page of its military history. In all your wars with Great Britain, you have rigidly maintained this doctrine; witness the retaliatory measures resorted to in the late war. But, when the dark and benighted savages of the wilderness have warred upon you, while your right was complete to exercise upon them all the cruelties they inflicted upon you, being an humane, an enlightened, and a religious people, you wisely withheld the exercise of that right which the practices of the war had given to you. Sir, you also withheld the exercise of this right upon another principle, because the character, the prejudices, the delusion, and, if gentlemen please, the wild superstition of your ferocious foe, rendered all example upon him as ineffectual as all precept was unavailing. The conclusion for which I contend is, that your right to resort to retaliatory cruelties upon your savage enemy was complete. Its exercise was alone to be regulated by a sound discretion, and by circumstances, with regard only to your own character, influenced by just principles of humanity. I also insist, not "that the white man found fighting by the side of an Indian shall be put to death," but that the white man who unites with Indians, and becomes a party in their wars, justly becomes liable to all the vicissitudes of those wars; is identified with the Indians, and subject to all the rights you have against them as your principal enemy. Such is the well known relation of all allies in war; such was the situation of De Kalb, Lafayette, and all those worthy foreigners who took part with us in our Revolutionary struggle. With such principles in view, and with the murderer of Lieutenant Scott's party in your possession, with the General and Prophet Francis your prisoner of war; with Arbuthnot and Ambrister, those civilized savages, instigators and procurers of this war, all in your power, who can doubt that the exercise of a sound discretion for the peace and safety of our country would doom them to death? Held by no treaty, bound by no ties, regardless of all faith, and influenced by no mercy, who would advise that such men should be turned loose to

remingle with the misguided savages, exhibiting themselves at once as the pledge of your weakness and your fears; and, with their trappings, as the sample of British munificence? Your documents remind you that your Indian enemies read no books or papers—have no sources of information, but from such chiefs and such agents, by whom they have been told of your weakness till they really believed you dared not to brave the power of their warriors, countenanced by British and Spanish officers. I regret, said Mr. T., the necessity of a retaliatory example. But, sir, General Jackson wisely considered the circumstances called aloud for example. Indians, Spaniards, and Britons, all needed a lesson. And never did man select four more fit subjects to hang on high as an example to savage credulity, and as a warning to all adventurers to beware of combining against us in Indian wars. I hope, said Mr. T., this House will justify the measure. It will give effect to the example, and proclaim to the world the policy of our country in all future Indian wars.

Sir, it is now denied that the power of retaliation belongs to the commanding General. The honorable Speaker (Mr. CLAY) has declared it to be an attribute of sovereignty, and that it belongs to this House, as one of its war-making powers; and he denies this right to the commander of any portion of our army. In support of his argument, that the right of retaliation was a Legislative power, he had read at length, the act of Congress in 1799, giving to the President the power of retaliation upon French citizens for enormities practised upon our citizens by the French Republic. Sir, it was with some surprise, I heard this act brought into the argument; recollect its cause and its history, and this act proves the opposite conclusion. In 1778 our country made a treaty with France, in which we agreed that she should ever be considered the most favored nation, and whatever privileges we gave to any other nation should be extended to her. In 1794, we made a treaty with Great Britain, in which it was mutually agreed, that the citizens of either country, found in time of war on board an enemy's vessel, our countries being at peace, might be treated as pirates. In 1798, when the French Republic, in its mad career, endeavored to involve us in their wars, they insisted that we should at that time, resist, by war, the impressment of our seamen, or that they would, under construction of the treaty, execute as pirates any of our impressed seamen which they found on board a British vessel. A spirit to resist such pretensions, gave rise to the act of 1799, cited and relied upon by the Speaker, (Mr. CLAY.) There was then no war between our two countries; the case came not within the power of any military commander; and the act of 1799, only proves the just retaliatory policy which has ever governed our country.

But, sir, let me ask gentlemen to cast back their recollection to the events of our Revolutionary war; what was the conduct and practice of our enemy? Did not the commanding General on this station ever claim and exercise during that war the power of retaliation? Did gentlemen ever hear that as often as a case occurred he sent home for new powers? If this is legislative power, as the Speaker (Mr. CLAY) has contended, I wish they would show acts of Parliament for the retaliation measures during that war. Who has not, said Mr. T. heard of the cruelties perpetrated in our Revolution by Delancy's corps; all, all under pretence of retaliation for acts on our part? Did not the loyalists in New York confine American officers with the common soldiery, and threaten to compel them to work and dig a prison under ground as a retaliation for confining some British prisoners in the Simbury mines? I wish, said Mr. T., gentlemen would show acts of legislative authority for all this class of transactions.

But, sir, what was the course and the conduct on the part of our own country, when Captain Huddy was hung by the murderous Lippencot? Was not the unfortunate Asgill set apart by order of General Washington, and doomed to expiate by his death the cruelties of his nation? Congress upon that occasion did not legislate; but they did "*Resolve*, That the commander-in-chief, 'or the commander of a separate army, is, in virtue of the power vested in them, respectively, 'fully authorized and empowered, whenever the 'enemy shall commit any act of cruelty or violence contrary to the laws or usages of war, to 'demand adequate satisfaction for the same; and 'in case such satisfaction shall not be given in a 'reasonable or limited time, or shall be refused or 'evaded under any pretence whatever, to cause 'suitable retaliation forthwith to be made, and 'the United States, in Congress assembled, will 'support them in such measures."

When Colonel Hayne was executed at Charleston, did not General Greene order retaliation? Look at Lee's Memoirs of the Southern Campaign, and there read of retaliation exercised upon prisoners, to atone for the death of his trumpeter. Sir, it is my fortune to reside in New York, near the lines which divided the American and British armies. If gentlemen will go with me into the district which I have the honor to represent, every man, woman, and child of that day will recount to them some deed committed upon the pretence of retaliation. Sir, our fathers at this day point to the trees upon which your citizens have been executed, in order to impart to their children the feelings which in those days animated their breasts.

Before I leave this subject, said Mr. T., I must beg the indulgence of this Committee to permit me to cite one more case, from Gordon's History of the American Revolution, evincing both retaliation and the power to which military commanders are sometimes required to resort for the preservation of their country. Sir, I also beg leave to ask the attention of my worthy friend from Maryland (General REED) to the statement which I shall make. The historian states, that an American officer in an advanced station near Stony Point, detected a soldier in the act of deser-

tion; that he took him, cut off his head without ceremony, and sent it to the camp of Gen. Washington, by whom he was severely censured for his cruelty, and for which he afterwards atoned by his bravery in storming that place. Sir, with this aspect, the story proves much; but I reside near that place, and from the tradition of the country I am enabled to say the historian is not correct. I turn, said Mr. T., with pleasure to my honorable friend from Maryland, (General REED,) and I rejoice that I am able to say, thou art the man! Yes, sir, it is you of whom the historian speaks! Thou art the man! who, without ceremony, cut off the head of an American soldier, and sent it to the camp of your General. If I am wrong, said Mr. T., I hope the honorable gentleman will correct me. Sir, it was at a dark and eventful period of the history of your country; our enemy had possession of New York and the Hudson; an army was on the march from the North, and the plan of its campaign was to form a junction and sever this Union, which now so happily binds us together. The Father of your Country, with his little band, was before Stony Point, but your resources could not supply him with the means for its reduction. Our enemy had announced the intention to consider us as rebels, and refuse an exchange of prisoners. The groans from the Jersey prison ship echoed through your land, and a regiment then recently surprised at Paoli, on the Delaware, was refused quarter. The terror and the impulse was great; the little army before Stony Point was fast dissolving by desertion, and the fate of your country was suspended on a thread. The great soul of WASHINGTON fearlessly met the occasion; he resolved on example, and issued orders that every deserter should suffer instant death. You, sir, (General REED,) had this order in your pocket. The night of your advanced command, *three* men, taken in the act of desertion, were brought to you. Then that heart which danger could not appal, for once trembled; you faltered between mercy and your duty; you compromised with your generous feelings; you spared *two* and executed *one;* and, sir, your immediate superior officer told you it was mistaken mercy. This, and this only, was the censure to which the historian alludes, as being pronounced upon your conduct. Sir, even this censure you shortly wiped away. Your General foresaw that the crisis of the country required the reduction of Stony Point; its neck of land was strongly occupied, and he had not the means to approach it. It was determined to carry it by storm. A brave band of American youth undertook the exploit, and you, the bravest of the brave, marched at their head. It was at low tide, and at the midnight hour. You entered into the river; under the auspices of darkness and silence you went round the sentinels, and gained the point; you scaled the rampart, and there the bayonet was made to perform its duty. Retaliation! Nay, Revenge! that night drank her fill; and to stimulate your followers to give to it its keenest edge, "Remember Paoli" was the watchword of the night. Sir, you was a member of the committee who made the report now under consideration; and do you yet think that General Jackson should be loaded with his country's censure? Sir, when General WASHINGTON issued that order which you executed, and without trial, without ceremony, put to death, not one of your enemies, but an American citizen soldier, did you then think that he and you had served your country? Did your country sanction his act, applaud your exploit, and blazon both in a manner best calculated to affect her enemy? Was the public mind poisoned against your General? Was Congress called upon at that day for a vote of censure? Or did any man with prophetic spirit caution against military despotism, and forewarn against the coming Cæsars? No, all was then joy and applause; and blistered be the tongue that would pronounce a censure on the acts of that day. Mute be that voice which will not join in loud applause to your valor, and to the glory of your chief.

Sir, it seemed necessary to meet gentlemen in the discussion of the subject of retaliation; but I contend the present is not a subject of that kind only. This retaliation is where the innocent person is made to suffer for the guilty; such was the case of the unfortunate Asgill, who was about to suffer for the cruelties perpetrated by Lippencot. The case now before us has no such features—the innocent are not made to suffer for the guilty. Arbuthnot and Ambrister had become parties in an Indian war; they were captured in its progress; and suffered for their own conduct—for atrocious deeds produced and perpetrated by their procurement. The villain and the victim were here combined. The "chastisement" and "merited punishment" which General Jackson was ordered to "inflict for hostilities so unprovoked," justly fell upon those Christian savages.

Sir, the trial of Arbuthnot and Ambrister by a court, and the rejection of its sentence as to Ambrister by General Jackson, is the subject of much objection, and probably the great cause of the public discontent. It is due to myself, said Mr. T., to confess, that the manner of the publication of the proceedings of the court martial, with the newspaper comments, before the publication of the whole documents, was not without its effect on my mind. My first impression on this point was that of disapprobation. But, Mr. T. said, since he had examined the subject, he had no remaining doubts connected with the proceedings of that court martial. A proper discrimination, said Mr. T., between the different courts or tribunals usually incident to military proceedings, will tend to correct erroneous impressions on this subject. A court martial, said Mr. T., is a court specially created by the rules and articles of war, and limited in its jurisdiction to officer and soldier, with the single excepted case of the power conferred by statute over the case of a spy. It is a municipal regulation, confined to the discipline of your army, and limited to the police of your camp. These are its limits, and the boundary of its jurisdiction. Thus far it is a valid court, and its decisions are obligatory; and although the

commanding General may disapprove, he must then order a second court. But, without its sentence, he cannot punish either officer or soldier under his command. And this, said Mr. T., is the only military tribunal having jurisdiction that is known to our law. It has no power or jurisdiction over a citizen, an enemy, or prisoner. A citizen is only accountable to the civil tribunal; an enemy or prisoner is not liable to the jurisdiction of any court, but subject to the power commissioned to carry on the war in which his country is engaged. The commanding General has the right, and is made responsible for all proceedings against the enemy. In the progress of military events, when the right to direct is complete in the General, but attended with circumstances of doubt or difficulty, he often directs his officers to inquire and express their opinions, in order to be advised by them in the exercise of his rights. When the subject of the inquiry is concerning any circumstances connected with the movement of the army, it is usually denominated a "board of officers;" but when it regards your enemy, or any prisoner, it is called a "a special court, or court of inquiry." These latter courts have no jurisdiction—can pronounce no sentence—and confer no right or power upon the commanding General. They are merely advisory to the General, in the exercise of the rights and powers previously vested in him. A court martial is bound to legal testimony, and strict rules of evidence, while those other special courts, or boards of officers, having no jurisdiction, and being only advisory, profess only to obtain information, without regard to legal proof.

Sir, said Mr. T., when the unfortunate Major Andre was taken, General WASHINGTON directed a special court to answer to him two questions: 1st. In what light shall the prisoner be viewed? 2d. What is its consequence? The court returned for answer that he should be viewed as a spy; and the consequence, by the laws of nations, was death. General WASHINGTON then issued an order for his execution.

In the case of Colonel Hayne, of Charleston, Lord Rawdon directed a like court to answer to him, "whether the prisoner, Colonel Hayne, should be considered as an English subject or an American citizen?" The court were not sworn—the witnesses produced were not sworn—hearsay evidence was admitted—and the court returned for answer that the prisoner should be viewed as a British subject. Lord Rawdon ordered his execution. The objection at that day, on the part of this country, was not as to the form of his trial and execution, but the unjust principles assumed in considering him a British subject, after he had removed from their limits, and had raised a regiment, and joined our cause.

These cases, said Mr. T., sufficiently show the distinction in regard to the different military courts, while they demonstrate the principle, that when a country in war has resolved on a campaign, either offensive or defensive, the commanding General is charged with its detail, and bound to adopt such measures as tend to give effect to the campaign, and induce to a termination of the war. The right is complete in the General to make such orders, and to carry into effect such measures, as, in his opinion, would accomplish the object of the campaign. For the due exercise of this right he is justly holden responsible to his country. The right and the duty to act being in him, in cases of difficulty or importance he directs his officers to inquire and report facts and opinions, not to confer upon him additional powers, but to support his responsibilities, and to advise him in the exercise of his discretion.

Sir, the order of General Jackson, detailing the court in the case of Arbuthnot and Ambrister, calls it "a special court," and, in addition to the names of the members, it details Lieutenant McGlassel as "recorder." This, said Mr. T., is, in the opinion of military men, a distinguishing feature in the character of a court. Military writers often give no other distinction between these courts than as having either a "recorder" or a "judge advocate;" which latter officer is said to be an essential ingredient in the constitution of a court martial, and without whom no proceedings can be had, and no sentence can be pronounced. Although the court in the present case, by mistake, assumed the forms of a court martial, yet it could not thereby acquire any power over persons not within its jurisdiction, nor impair the original right in General Jackson to act without its assistanee, and independently of its sentence. He did, in the case of Ambrister, so act, and it only remains to examine into the circumstances of the case, and the motives of public policy by which he was influenced, in order to determine whether he shall stand justified, or whether he shall be censured by a vote of this House, as having, by unnecessary cruelties, stained the honor of our country.

Mr. T. said he would ask gentlemen to review the character and the progress of Indian wars; to cast back their recollections into the history of our country, and tell him if Englishmen and Indians have not always been united in war gaainst the prosperity and the safety of our country. When Burgoyne entered your country on the north, he was preceded by a dark and murky cloud of savage barbarians, like noxious vapors hanging round and moving with his camp. The lamented fate of Miss McCree, tells the course and the conduct of this union between our savage foes and the "bulwark of our religion." [Mr. T. proceeded at some length to recount events in Indian wars, and said their rule was to practise every cruelty, give no quarter, and refuse all exchange of prisoners. Our rule had been to burn and break up their towns.] But, said he, if gentlemen who feel for the sufferings and fate of Arbuthnot and Ambrister have any sympathies to spare, let them offer consolation—let them pour them into the afflicted bosom of the unfortunate Mr. Garret—a wife murdered and scalped! A child, murdered and scalped! An helpless infant, murdered, and the cradle stained with innocent blood! And then, to consummate the yet unfinished scene, his house was set on fire, and the

flames of his home were made to announce to the absent husband and father the extent of his calamities.

With the history of such wars, of such scenes, and such events, before you, instigated by British subjects, carried on and supported by Spanish and British resources, who can doubt the wisdom and the necessity of hanging on high some signal examples? Cast your eye westward, over your newly acquired territory, extending to the Pacific ocean, and inhabited by savage hordes; bounded on the north, by British territory, and on the south by Spanish possessions; can you longer doubt but the era has arrived, when you must avow and maintain the policy of your country, to prohibit the intercourse between Indians and foreign incendiaries? When I reflect that the example before us was upon British subjects, in a Spanish territory, it obtains the approbation of my judgment; it commands the joy of my heart. With such views, for the future good of this country, the gallant spirit of General Jackson did not pause. He ordered Arbuthnot and Ambrister to execution—justice approved the deed—mercy withheld the tear—and even humanity rejoiced. Yet, these men fell not unlamented. Theft, rapine, and murder, bewailed their loss. Superstition and cruelty; the one wrapped in the Spanish cloak, and inquisition's cowl, the other clad in bleeding scalps, the trophies of their friends' exploits, walked as the mourners to their tomb.

Sir, said Mr. T., I think gentlemen do not fairly understand the purport of General Jackson's correspondence, when they describe him, after the occupation of St. Marks, and before the execution of Arbuthnot and Ambrister, as representing that the war had terminated, and from which, it is inferred, the execution of these men was an unnecessary cruelty. The evident meaning of his letters is, that the enemy were so broken and dispersed, the command of a Major General was no longer required. Sir, the war was not terminated. There is no treaty of peace to this hour. Your enemy, cut off from all sources of supplies by the energetic proceedings of General Jackson, cannot any longer make war, in numbers, or except by marauding parties, and are now held in subjection by a cordon of posts, established by his orders. The necessity for the example was, therefore, rather increased than diminished, from the new and predatory character which the war was expected to assume.

Sir: Pensacola and the Fort Barancas have been taken. General Jackson, on the 20th of April, reduced his force, by dismissing the Georgia militia, and with the residue he crossed the Appalachicola river, in pursuit of his dispersed and flying enemy. He soon learned that his enemy had free access to Pensacola, and was there openly supplied and armed from the public stores, and that thus reinvigorated, he issued forth in marauding parties, upon the Alabama frontier. Eighteen of her citizens recently had fallen a sacrifice to one of these Indian parties, coming directly from Pensacola, and again returning to that place. [Mr. T. went into an examination of the documents in relation to Pensacola, tending to show its support of the Indians; the free use they had of the place; its unfriendly conduct towards us, and its departure from all neutral conduct.] When General Jackson approached the place, said Mr. T., it was filled with Indians. They were sent out of the place across the bay, in Government boats, and at its final surrender, and in its capitulation, one of the hostile Alabama chiefs was included. Perhaps it ought not to be said that this place was in danger of being taken possession of by the Indians. But, in every other respect, all that has been said of the first entry across the Florida line, and the possession of St. Marks, is also applicable to this place. But, Mr. T. said, there was yet another point of view in which it ought to be considered. It should be remembered that this was the country of your enemy, and from which he issued to make irruptions upon you; and into which you had pursued him, in order for his subjugation.

In the progress of this pursuit, he not only derives shelter from a place calling itself neutral, but is there permitted to refit, and again to sally forth upon you. Consider also the character of this enemy—a savage foe, covered in the wilderness, deriving all his supplies from this neutral place, and, as often as circumstances will permit, issuing forth in marauding incursions, carrying devastation and ruin into your settlements. When a belligerent invests a place of his enemy, he is allowed to interdict all intercourse with neutrals, for the lawful purpose of carrying into effect the object of his investment. Besiegers do not hesitate to treat as prisoners, and even to punish with death, all persons attempting to supply a city besieged. The principle upon which these acts are justifiable, is the lawful object of the belligerent against his enemy, and the effect the intercourse with neutrals would have in defeating these objects. Apply these principles to an army in the field: a belligerent will cut off its resources, and prevent its supplies. Who will say a neutral should be permitted to furnish them, and give them shelter when pressed by your pursuit? And if the neutral will thus expose himself, he justifies you to resort to the means necessary to deprive your enemy of this resource, and to prevent the failure of your own object. But Pensacola was not a neutral place; it was the fountain of supplies to your enemy. The entire use of the place was lent to him. Your enemy occupied it, and fled from it on your approach. If this permission was extended to him, either from partiality or from weakness to resist, you were equally entitled to enter into it temporarily, and hold it from your enemy. Its possession was essential to the success of your pursuit and the defeat of your foe: without it, he would forthwith here refit, and again assail you. In the language of General Jackson, "the immutable laws of self-defence" justifies you. Its subsequent surrender by the President is not inconsistent with its just occupation by General Jackson. The cause which required its occupation—to complete the defeat of a flying enemy—was removed, and

the place was correctly restored. It is upon these principles that St. Marks has been retained, and a condition required that the Spanish Government should occupy it by an adequate force, to secure safety to the adjoining country.

Sir, there are other principles involved in this case, which it was my intention to discuss; but my feeble health and exhausted strength admonish me to close. In this close, permit me to urge upon you the importance of the decision you may pronounce—a decision affecting the reputation of a faithful General—important to the character of our country, and of great influence on our pending negotiations.

Sir, in casting a view over the circumstances of the transaction now under consideration, you cannot but consider as established the principal points which lead to the necessary conclusion. A war, savage and offensive, has been waged on your frontier: the constituted authorities of your nation have adopted and contributed to the defence in that war. The Executive of the Government assumed the control. He directed the war to be carried across the Florida line, and commissioned one of your Major Generals with full power to "adopt the necessary measures to give the war effect, and bring it to a speedy termination," under such circumstances of merited punishment as would secure a permanent peace. In the progress of this war, your General has occupied the posts of a Power professing neutrality. He had overcome in battle your enemy, and had destroyed his towns. The foe, broken and dispersed, could no longer be found in open fight, but, divided into marauding parties, he made his irruptions upon you from the wilderness, less visible, but more destructive. It was found and ascertained that the resources and the supplies for all these hostile incursions were furnished from Spanish neutrality and English friendship; that they were stimulated by Spanish influence, and guided by British skill. How then could your General execute his commission, and yet stop short of the occupation of those *neutral* posts and that *friendly* influence which would so soon refit your enemy, and invigorate his hostilities? How could he say he had secured a permanent peace, without exhibiting some instances of punishment, to remain as a warning to incendiaries for its future infraction? The right to complete these acts was strictly vested in your General. The wisdom and the policy of their execution can no longer be doubted. Miserable and misguided Indians! my heart sympathizes in your misfortunes. But Spain—my indignation for the cold treachery of her character is lost in my contempt for the duplicity and baseness of her conduct. But thou, England, whom from my mother's breast I have been taught to hate, I never before could fully despise. A people justly famed for their philanthropy; conspicuous for their moral and religious institutions; their Bible and missionary societies teaching alike to the savages of Asia and America the arts of civil society and the precepts of our gospel! A Government professing to us peace, and imbodying these professions into a formal treaty, in which is contained an anathema against the traffic in human flesh, and a clause of mutual pledge to prohibit the slave trade! And yet this Government uses its influence, advances its resources, and commissions the savages of the wilderness to war upon your frontier!

In the progress of this debate, some of the public services of General Jackson have been recounted. I am no eulogist. I have neither the will nor the power to recount the exploits of the man on whose conduct you are to pronounce. Small must be that man's pretensions to immortality in fame; meagre must be that man's glories, whose friends in debate can enumerate his acts and detail the account of his services. The public services of General Jackson are reduced to no legered account; they are not of this class; they are of an order which break upon the imagination, and dazzle by their brightness. Sir, the congregated world have compared those achievements, which form the fund of their national glories. Among those of modern days, by universal consent, the names of Agincourt and Poictiers stand pre-eminent in brightness. But it is the fortune of our day—nay, it is the fortune of our country—to behold those bright names serve but as the back-ground upon which are emblazoned the yet more brilliant names of Orleans and of Jackson.

Sir, you may pass the proposed resolution: with the pestiferous breath of censure you may wither the laurels which his nation has entwined about his brow. In the language of the gentleman from Georgia, (Mr. COBB,) "you may even bring that brow itself to the vile dust from whence it sprung," but yet my heart is cheered with the confiding hope that history, in justice to his valor, his fidelity, and his public services, will record in her brightest page the name of Jackson; while the tears of a grateful country will moisten those laurels which were entwined around his brow, and reanimate them to bloom an evergreen upon his grave.

Mr. STORRS said, that, when he took his seat in the House, at the commencement of the session, he looked with much anxiety to the Message which should disclose the true character of the transactions during the past year, on our Southern frontier. We had, indeed, been informed, by the Message of the 25th of March last, that war existed between the United States and the Seminole tribe of Indians—that orders had been issued for the advance of the army into Florida, but that the commanding officer was strictly enjoined against any attack on the Spanish fortresses, without the sanction of the Government. During the recess, he had heard of the entry of our troops into the territory of Spain, the seizure of St. Marks, the capture of Pensacola and the Barancas, the military trials of Arbuthnot and Ambrister, and the execution of the Seminole chiefs. Notwithstanding no evidence of disapprobation of any of these measures had transpired, except the offer to restore Pensacola unconditionally, and St. Marks, on terms pre-

scribed by us, he was unwilling to believe that they had received the sanction of the Executive. The documents transmitted to the House had shown how vain was this expectation. He had carefully and attentively examined them, and formed an opinion upon them, he hoped with that deliberation which was due to questions of so great and vital importance to the Constitution and character of the country. That opinion he had not found reason to change, nor was he ashamed or afraid to avow it, and should discharge his duty with frankness and fearlessness, let the censure, which, in his judgment, these transactions merited, fall where it might.

When, said he, the trials of Arbuthnot and Ambrister were laid upon our tables, and it was first developed, that one of them had suffered death in consequence of the reversal of the sentence of the court martial, by General Jackson, an universal burst of indignation seemed to have electrified the House. Have these manly and generous feelings, so honorable to our nature, fled from our bosoms, or have they chilled into insensibility during the long interval which has elapsed? He had waited in painful suspense for the report of the Military Committee, and acknowledged his gratitude to them, for the firm stand which they had made against these encroachments of military power. He saw among them some of those, who in other times—in the darkest days of our adversity, when the yoke of parliamentary and military despotism was riveting on our necks, had stept forth as the protectors of their country, and with unconquerable spirit persisted in the contest which delivered us from the tyranny of Britain. He was happy to find that, during his life, this spirit has not left us—that, in his day, those were to be found among us, who yet cherished the principles of that glorious conflict, and knew how to appreciate the value of those liberties which were earned at the expense of so much blood and treasure.

I am gratified, said he, to find that, to this period of the debate, excepting by the honorable gentleman from Virginia, (Mr. SMYTH,) the power of this House to interpose has not been questioned. We are the peculiar guardians of the Constitution. Our liberties are safe in the same proportion that we execute our duty with firmness, vigilance, and fidelity. Offences short of impeachment, but which threaten the public safety, it is the right of this House to present to the nation; against evils of this sort, it is the most effectual remedy. However the direct interposition of our Constitutional power of impeachment may be evaded, there is a tribunal—*public opinion*—to whose judgments no man is indifferent, whose decision none can successfully withstand or defy, and which causes the stoutest heart to tremble. The genius of our institutions, the experience of other Governments, the records of all history, and the sad and melancholy fate of a long train of fallen republics, admonish us that liberty is only safe when faithfully guarded by the immediate representatives of an enlightened people.

The services of General Jackson have been eminently great. He has justly received from a grateful country its high rewards and honors. I am not disposed to detract from his well merited fame. The victory of New Orleans was, indeed, a proud triumph—and, though I do not unite with some gentlemen in pronouncing it, in reference to its consequences, the greatest which this country has achieved, I cheerfully accord to the sentiments which have been expressed in praise of that great exploit. Though, with the rest of my countrymen, I felt and gratefully acknowledged that to him we owed much of our national character, and the security of a valuable portion of our territory, yet, I do not forget that even on that occasion he overstept his power. I was disposed to forgive it. The evils which he averted and the blessings which he conferred upon us, were some atonement for the violated majesty of the Constitution. But, great as his services have been, they afford no sanctuary against our inquiry—much less do they furnish any exculpation for the violation of the Constitution. An example of impunity on such grounds, for these assumptions of power, will produce the most pernicious consequences among the subordinate officers of the army. Day after day have petitions been presented to this House, from the army, for indemnity against judgments awarded for the violation of the personal liberty of our citizens. The disposition to encroach upon the civil authorities of the Government should receive no encouragement from our hands. For some time past, the people of this country have indulged a dangerous predilection for the army. In the civil departments one may attain to the highest eminence, and scarcely attract attention beyond the immediate sphere in which he moves; but, clothe him with the glare of military renown, and the eyes of the people are dazzled—his fame has no limits, and every one is ambitious and eager to honor him. It is time that we were roused from this fatal delusion. The affections of the country have been too bountifully devoted to the army, and the time may yet come when the people will find it too late to retrieve this error of their hearts.

If, sir, we consult the past history of other countries, and turn our eye back through ages which have gone before us; or, if we look only to the events of our own times, we find much to warn us against receiving the services of public men as an apology for their usurpations. Every tyrant who has succeeded in overturning the liberties of his country, first stole away the affections of his countrymen by the services which he had rendered to the State. On this occasion it is well worthy of remark that these have, with few exceptions, been military services. Cæsar and Bonaparte only commenced their bloody career of tyranny after they had risen to power on the misguided affections of the people. In forming my judgment on the specific propositions before us, I lay altogether aside the motives of General Jackson. Laudable as they may have been, or faithfully as he may have believed him-

self to be acting in the discharge of his duty to his country, these form no part of the inquiry before us. To me it is immaterial with what views or what motives he has infringed upon the Constitution. Our object should be, to prevent the force of the precedent which these measures establish. If the powers of Congress have been encroached upon, let us declare it, unless we are prepared to surrender our prerogatives to a military chieftain, or to give up the Constitution to mere matter of delicacy. This is not an inquiry with a view to the censure of General Jackson. It is required from us by the duty of self-preservation. The indirect censure which some of these resolutions imply, is no fault of ours. The enemy whom he triumphantly vanquished at New Orleans can derive no self-gratification from our proceedings. Would they boast, I would tell them to meet him in the field. The measures of this House will afford but a miserable consolation to those who there felt the energy of his arm, and whose pride was there humbled in the dust before his skill and valor.

The subject of these resolutions divides itself into several inquiries: the capture of Pensacola, the seizure of St. Marks, the crossing of the Florida line, and the execution of the captives. Whatever may be the justification for the seizure of Pensacola, the Barancas, and St. Marks, which the Executive has urged as between us and Spain, it is plainly admitted by him that the occupation of these posts was not justified by any orders which were issued. Such is the fair import of the Message communicated at the commencement of the session.

If any doubt can exist on this point, it must be removed by recurring to the letter of Mr. Adams to the Spanish Minister at this place, of the 30th of November last. In that letter, which is written on the same day with the letter of Mr. Adams to Mr. Erving, he says: "But it is proper, 'in the first instance, in reference to the first of 'the propositions made by you on the 24th of 'last month, to correct an erroneous impression 'which you entertain, and which is certainly not 'warranted by any communications which you 'have received from this Government. You 'have been informed that the contingencies upon 'which General Jackson adopted those measures 'which you represent as hostilities and outrages, 'not having been anticipated, had not been pro-'vided for in his instructions; that they were 'unforeseen emergencies, upon which, judging 'measures of energy necessary, he had resorted 'to them on his own responsibility," &c. Again: in the letter to Mr. Erving, of the same date, it is said that "the Spanish Government must 'likewise have been satisfied that the occupation 'of these places in Spanish Florida, by the com-'mander of the American forces, was not by 'virtue of any orders received by him from this 'Government to that effect." I was much surprised when my honorable colleague (Mr. TALLMADGE) told us that he considered him as completely justified, by his orders, even in the capture of Pensacola, and when, for proof of this, he called our attention to a paragraph in the letter of the Secretary of War to Governor Bibb of the 13th of May last, in which the Secretary says "General Jackson is vested with full powers to conduct the war in the manner in which he may judge best." These general orders, whatever they may have been, must be construed in reference to the orders which had provided for the particular state of things which actually occurred, and must be restricted by them. The observance of the neutral rights of Spain had been expressly enjoined; and the Message of the 25th of March last also informed us that orders had "been given to the General in command not to 'enter Florida unless in the pursuit of the ene-'my, and in that case to respect the Spanish 'authority wherever it was maintained." The Secretary of War had no power whatever to issue a *carte blanche* of the kind which my honorable colleague has construed to include a right to attack the forts of a Power in amity with us. From my acquaintance with that officer, we differ very much in our estimation of his knowledge of the duties of his station, if my colleague believes that such an unauthorized license was ever imagined by him. Nor has the Executive any such powers. From the orders actually issued, it seems that he too well understood the distribution of powers, and too highly respected the cardinal principles of our Government, to believe that, in this case, such a power could have been conferred on the commander of an army. Not possessing it himself, he could delegate it to no one; and my colleague must have been mistaken in the construction which he gave to these orders.

The immediate restoration of Pensacola is unequivocal evidence that the post was not captured in conformity to the views or instructions of the Executive, and virtually amounts to a disavowal of its seizure, on the part of our Government. Although, as between us and Spain, the Executive has not, and perhaps ought not, to have yielded to the demand of that Government to inflict punishment on General Jackson, it is not certain how far they have intended to adopt his acts as Constitutional. From a careful examination of the letter from the Secretary of State to Mr. Erving, I have been led to doubt whether they have, in unqualified terms, sanctioned the occupation of St. Marks and Pensacola. In that letter, it is said that "it became, 'therefore, in the opinion of General Jackson, 'indispensably necessary to take from the Gov-'ernor of Pensacola the means of carrying his 'threat into execution." Again: "It was, in his 'judgment, not sufficient that they (the Indians) 'should be suffered to rally their numbers under 'the protection of Spanish forts," &c. The cautious phraseology of these and many other passages of this letter, leaves it somewhat equivocal whether even the Government has, as between General Jackson and us, assumed to their whole extent the doctrines on which General Jackson founded the justification of his proceedings. If, however, such sanction was intended on the part

of the Executive, the powers of Congress are doubly jeopardized.

Sir, I have read this letter of the Secretary of State with grief, and, I will add, with no little humiliation for my country. Instead of that calm, manly, and dignified character which formerly marked our diplomacy, it seems to have been penned under the influence of temper and petulance. It is a production rather addressed to the passions than a temperate and candid appeal to the reason and good sense of mankind. Some parts of it are, in my judgment, offensive to that diplomatic courtesy which should characterize the intercourse of nations. Referring to Ambrister's letters to Colonel Nicholls, "informing him that he is with 300 negroes," a few of our Bluff people, "who had stuck to the cause, and were relying on the faith of Nicholls's promises," the paragraph is thus continued: "Our Bluff 'people were the people of the Negro Fort col-'lected by Nicholls and Woodbine, and 'the 'cause' to which they stuck was the savage, ser-'vile, exterminating war against the United 'States." Really, sir, if sarcasm must have been resorted to on the occasion, it surely need not have been sought for in the vulgarities of Ambrister's letters.

On the subject of the trials of Arbuthnot and Ambrister, it is said that "the defence of the one 'consisted solely and exclusively of technical 'cavils at the nature of part of the evidence 'against him, and the other confessed his guilt." It is here gravely asserted, that, on a trial for life or death, an objection to the hearsay declarations of an Indian is a technical cavil!—that this country recognises an institution for trial of capital offences, on which an objection to the proof of the hearsay declaration of an Indian, who, if himself present, could not have been a competent witness, is a technical cavil! To be condemned to an ignominious death on testimony of this sort is what the honorable Secretary has termed "the benefit of a trial by court martial." The threat contained in the conclusion of this letter deserves, at least, to be remarked by this House: "if the ne-'cessities of self-defence should again compel the 'United States to take possession of the Span-'ish forts and places in Florida, declare, with the 'frankness and candor that becomes us, that an-'other unconditional restoration of them must not 'be expected." Before a war of conquest is carried into the dominions of Spain; before the armies of this nation are sent to enforce the conditions which we prescribe to other nations as the tenure by which they shall enjoy the sovereignty of their own territories, I trust that this House will at least be consulted; that the discretion of Congress alone will determine the question of war or peace. I do not relish the fulmination of these threats by a Secretary of Foreign Affairs. We have, indeed, heard of imperial edicts in another quarter of the globe. At one time it is decreed, that the Bourborn dynasty no longer exists in Spain, at another, the Queen of Etruria no longer reigns, and a band of soldiery is forthwith sent to enforce the mandate, and overturn the Governments of other nations. These imperial examples are hardly worthy of our imitation; and I pray that, if this letter is to be hereafter the model of our diplomatic correspondence, some means may be devised to remedy its effect upon our national character. It would hardly be imagined, from perusing that letter, by one unversed in our institutions, that our form of Government was republican. And against whom is this threat issued? "Poor, miserable, and degraded Spain?" Indeed she is too weak to repel or scarcely to resent the encroachments of any; but, fallen as she is, it affords but a sorry triumph to insult her weakness. I fear that the wrongs of which she has been guilty towards us have induced less regard for her rights, and that we have not, therefore, been scrupulous to respect them.

For what reasons was Pensacola occupied? Not because it might have fallen into the hands of the Indians, nor has it it been asserted that it was necessary to the preservation of our army. The war was finished before General Jackson crossed into West Florida. Mr. Adams says, that "before the forces under his command, the savage enemies of his country had disappeared." General Jackson had, on the 26th of April, said that they had "not the power, if the will remained, of again annoying our frontier." The cause which immediately determined him to "hesitate no longer" on the course he should pursue, was the delivery to him, on the 23d May, of the protest of the Governor of Pensacola. This officer had, in defence of the province intrusted to his protection, determined to discharge his duty to his sovereign. He was bound to defend the territory. Had he not reason to believe the views of General Jackson to be hostile? Had he not the best means of judging? General Jackson had previously informed the Secretary of War, in his letter of the 5th of May, that the statements which had been made to him of the supplies furnished from Pensacola to the Indians, compelled him "to make a movement to the west of the Appalachicola, and, should they prove correct," that "Pensacola must be occupied by an American force, the Governor treated according to his deserts, or as policy may dictate." At this time, this protest had not been received. Was Pensacola at last occupied as a temporary means of defence against the Indians? In the despatch of the 2d of June, General Jackson says, that "the 'articles, with but one condition, amount to a 'complete cession to the United States of that 'portion of the Floridas hitherto under the gov-'ernment of Don Jose Mazot." A civil government was established, officers appointed; and in the same despatch the Secretary was informed, that "Captain Gadsden was, among other things, 'instructed to report "what new works should, 'in his opinion, be erected to give permanent se-'curity to this important territorial acquisition to 'our Republic." Is this the manner, or are these the measures and the principles of the law of nations which gentlemen recognise as justifying the occupation of neutral forts by a belligerent in self-defence? Are neutrals, when thus dispos-

sessed of sovereignty for this purpose, to be treated as a conquered enemy? I have not come here with Vattel, or volumes of public law, to determine whether some principles may not be deduced by nice and subtle investigation, on which we may justify these acts. It is enough that these documents satisfy me that General Jackson occupied Pensacola with the views which he has himself declared. If these acts do not amount to war, I am at a loss to know what more we could have authorized to be done to change our relations with Spain.

The capture of St. Marks was equally unauthorized by orders, and was equally in derogation of the rights of Spain. It appears to have been seized as a convenient "depot" to facilitate the operations of our army. I shall not detain you by again repeating what has already been so ably and satisfactorily illustrated by those who have already addressed the Committee on this point. The terms, however, on which St. Marks was offered to be restored, are worthy of notice. They tend to show how greatly the importance of this war with the Seminoles, and that necessity which is resorted to as a justification of the capture of this fort, has been magnified. St. Marks is in the heart of the territory occupied by these tribes—and yet it appears, from the letter of the 30th of November, that two hundred and fifty men would be accepted as "a Spanish force adequate to its protection against the Indians." Yes, sir—two hundred and fifty "poor, miserable, and degraded" Spaniards, as the honorable gentleman from Massachusetts (Mr. HOLMES) was pleased to call that nation, were considered as competent effectually to restrain these tribes from its forcible occupation "for purposes of hostility against the United States."

It has been thus that war has been waged without the authority of Congress. My honorable colleague, (Mr. TALLMADGE,) in reviewing the effects of this campaign in Florida, expressed his satisfaction that permanent peace had been restored along the Southern frontier. Peace! I cannot partake of this gratification. It is the peace of a great charnel house—the peace which presides over the sepulchres of the dead—the peace which reigned along the Andes when the remorseles Pizarro had spread desolation over South America—the peace which pervaded Holland when the merciless Duke of Alva had deluged her fruitful fields and drenched the streets of her cities with the blood of her citizens—the peace which rested on the vast plains of the peninsula of Hindostan, when the ferocious Hyder Aly had extirpated from those fertile regions every vestige of civilization. There is one difference, sir, between these cases. The one swept the remnant of his miserable victims into captivity—the other sent them to the christian's God.

From every view which I have been able to take of this invasion of the Spanish territory, I am constrained to believe that, from the first entry of our army into Florida, the rights of Spain were violated. The honorable gentleman from Massachusetts (Mr. HOLMES) assumed that the Indian tribes were independent nations, and then argued, that, as the United States were at war with the Seminoles, who held concurrent sovereignty with Spain over the invaded territory, the neutral rights of Spain must yield to ours as a belligerent. I shall only reply to this by saying that I know of no joint-tenancy of supreme power of this sort—that I do not comprehend with much precision how among nations these various sovereignties can exist over the same subject and for the same purposes; all of which are independent; and, yet, all concurrent—neither of which recognises supremacy in the other—whose separate authority is entirely distinct, and at the same time absolute—and wherein one, by changing its own foreign relations, can completely prostrate all the rights of the other. The tribes of Indians which inhabit our territory are not considered as independent nations for any purposes, as between us and other Powers. Even towards ourselves, we do not acknowledge them to be absolutely so. It is too late now to inquire whether the right of European nations to this country has been derived from discovery or conquest, or what their rights would be as deduced from either. The original charters of the colonies, the grant of monopolies for Indian trade, and the repeated and unqualified transfer, by treaty, of all their territories, are unanswerable proofs that all rights over the countries which they occupy are subordinate to the sovereignties of those governments within whose jurisdictions they reside. The common consent and universal convention of European Powers has settled this question—our own Constitution has recognised and established the adoption of this principle into the code of public law. The power even to regulate the trade of our own citizens and foreigners with the Indians, and all their exterior commercial connexions, is vested in Congress. We do not recognise as lawful the interference of any foreign Power in their concerns. The making of treaties with them is denied. We claim them to be exclusively under our own protection. Had the honorable gentleman from Massachusetts but read a little further in the correspondence of our Commissioners at Ghent, he would have found all these principles asserted and enforced. "Without the admission of this prin-'ciple, there would be no intelligible meaning at-'tached to stipulations establishing boundaries be-'tween the dominions in America of civilized na-'tions possessing territories inhabited by Indian 'tribes. Whatever may be the relations of Indians 'to the nation in whose territory they are thus 'acknowledged to reside, they cannot be considered 'as an independent Power by the nation which 'has made such acknowledgment."

As between the Indians and us, we have left to them but a few limited attributes of sovereignty. The right to dispose of the lands they occupy is not absolute. Their possessions can be only transferred to the United States. From policy our laws have not been extended to them; nor, indeed, would it be practicable for any useful purpose. Their attacks upon our inhabitants are repelled by the Executive as cases of domestic

insurrection, without the formality of a declaration of war. From these principles, and this relation, it results that they are so far our subjects, in reference to other Powers, that we are bound to restrain their hostilities on foreign nations. The same duty we claim of others. We have the right to require them to restrain their depredations on ourselves. Will it be tolerated that an army from Canada, in hostility with the Indian tribes residing in the State of New York, could lawfully exercise the power of marching across that State—prostrating her sovereignty, and subjecting her citizens to all the horrors of war in pursuit of those tribes? Before a foreign Power can claim any right of this sort, a demand at least on our own Government should be made. We were bound, on every principle which should be maintained in relation to the Indian tribes, to have made this demand on Spain before we invaded her territory. Has this demand been made? I have examined the correspondence, and have not found it. Since the destruction of the negro fort, in 1816, I do not find that, in all the communications between our Government and the Spanish Minister, the hostility of the Seminoles had been alluded to. Complaint was before made of the existence of that fort, but that has been long destroyed by our own forces. If any remonstrance has been preferred since that time, I hope that some gentleman who justifies these proceedings will point to it. In the letter of the Spanish Minister to our Government, of the 17th of June last, it is asserted that, "under the pretext of making 'war against the Indians, on complaints or motives which have neither been communicated to 'the Governor of those provinces, nor to the Captain General of the island of Cuba, who is also 'Governor of them, nor to any other Spanish 'officer or public functionary, the dominions of 'East Florida have been invaded, and the Spanish territory entered as if it had been an enemy's 'country." This declaration was afterwards reiterated in a subsequent letter; and how has it been answered? Two other letters were sent from the Spanish Minister to our Government on this subject, when, on the 23d of July, Mr. Adams replied in these words: "It cannot be unknown 'to you that, for a considerable time before the 'Government of the United States issued orders 'for military operations in that quarter, the in'habitants of that frontier had been exposed to 'depredations," &c. It would not even have been sufficient that we had made a formal demand on the Governor of Pensacola; he was but a subordinate officer; we were at least bound to have remonstrated to the Minister of Spain at this Government. I have thus far considered this point without reference to the treaty, and perfect, as I believe, without it; our right was to require Spain to restrain the hostilities of the Indians residing within her territory, yet, as a treaty stipulation existed, it was more clearly our duty to have made that demand before her sovereignty was violated. The justification of the Executive, which has been alleged in this debate, as arising from the neglect of Spain to fulfil the treaty, is fallacious. If the treaty had been violated, the Executive possessed no authority to enforce our rights by arms. It is the exertion of national force for the redress of wrong or the preservation of right, which constitutes the precise definition of war, and the Congress alone was vested with the authority to declare it. This treaty has heretofore received a practical construction from ourselves, which should have been observed. When the right of deposite at New Orleans, which was secured by the 23d article, was withheld, under the Presidency of Mr. Jefferson, it was proposed that Congress should immediately authorize the President to restore the right by force. The resolutions introduced into the Senate by Mr. Ross created much agitation and debate. One of those resolutions was, "that 'the President be authorized to take immediate 'possession of such place or places in the said 'island, or the adjacent territories, as he may 'deem fit and convenient for the purposes afore'said; and to adopt such other measures for ob'taining that complete security, as to him, in his 'wisdom, shall seem meet." Although this was merely a proposition to authorize the President to restore this right by force, yet it was objected that the act of the Intendant might be disavowed; that, before war was thus waged, application should be made to the Government of Spain. This was the course pursued by the Republican party at that time, and which was adopted by Mr. Jefferson. When the Chesapeake frigate was attacked; when John Pierce was murdered, and our neutrality violated, did we fly to arms? I am not the apologist of Spain. The injuries which we have received from that Power have been good cause of war. When that question is presented, I am ready to decide on the expediency of it. I shall support my country in all her rightful claims; but, in this case, before I approve of the measures which have been adopted, I must be satisfied that we have first done that which was necessary to place the Spanish Government in the wrong.

Gentlemen have defended these proceedings as a case in which a belligerent is justified in seizing neutral forts or territory, in self-defence, arising out of extreme necessity. I admit that cases may exist of that sort; they are rather exceptions to the doctrines which I maintain. I can easily imagine that, even under the treaty with Spain, an attack by the Seminoles might be so sudden and unanticipated, that we might be justified in pursuing them even into Florida. But this necessity must not originate from the fault of the belligerent. If, as in the case before us, our neglect for so long a period to require of Spain the fulfilment of the treaty, or to represent to that Government, or even to its Minister here, the hostile intentions of the Indians, has brought this necessity upon ourselves, the fault is on our side. These Indian tribes, and their associates, have been represented as mere banditti, outlaws, renegadoes. If so, then Spain was answerable to us, on well settled principles, for their acts. But I ask, in what code of the law of nations is an au-

thority asserted for one Government, at its own pleasure, to pursue banditti, outlaws, renegadoes, or even its own felons, into the territories of another, in any case, without first demanding that they should be delivered up? Sir, I will detain the Committee no longer on this part of these proceedings. When the order was issued for the advance of our army into Florida, Congress was in session. Subsequent events have shown how greatly it is to be lamented that an appeal had not been made to that body which could only change our relations with Spain, and which was then in the full exercise of its constitutional functions. I have been somewhat surprised at hearing the encomiums which have been bestowed on General Jackson for this incursion into Florida. A vote of thanks has been talked of. He has been called by the imposing names of conquerer, hero, benefactor. Conqueror! If the rout and dispersion of a race of barbarians, degraded and defenceless as the Seminoles, can confer this title, high, indeed, is his elevation. When Tigranes, with two hundred thousand men, had been defeated by Lucullus, with only twenty thousand, the Roman soldiers, after pursuing the enemy for some distance, suddenly stopped, and burst into loud laughter, to think that they had used their swords on such a set of cowardly slaves. Hero! If the blaze of burning towns, the extermination of their wretched inhabitants, the death of captives, and the extirpation of the human race, can confer renown and elevate our nature, glorious and ennobling, indeed, are these achievements. Benefactor! If the honor of our country, the dignity of its character, the justice of its institutions, and the purity of our religion, are sanctified by deeds like these, pour out your full libations of praise, and offer the unaffected homage of a nation's gratitude. How keenly does it wound the sensibility, how low should it sink the pride, of an American, to compare the laurels won upon the plains of Orleans with this sickening nightshade, plucked from the morasses of Florida!

As to the execution of Arbuthnot and Ambrister, I acquiesce in the moral justice of their sentence. Without expressing that opinion from the evidence on their trials, they probably deserved their fate. But I can never admit the legality of the trials, or the punishment which was inflicted. Had they been put to death in the heat of battle, considering the course which they have pursued, I should not have censured it, howmuchsoever I should have regretted such an exercise of power. But they were tried by a court martial. Such it was originally called in the despatches of General Jackson, and such it is recognised to have been in the letter to Mr. Erving.

The honorable Speaker alluded to the case of the Duke D'Enghein, as in many respects similar to these. The history of the recent events in Europe furnishes another, which in my judgment is more nearly parallel. When the armies of France were devastating Europe, John Palm, a citizen of Nuremburgh, was seized by order of the Emperor, torn from his family, and brought before a military tribunal. He was a printer. His crime was, that he had instructed his countrymen in their rights, and taught them their duty; that he had exhorted them to defend their country against its invaders. For this he was charged with having excited the enemies of France to hostility against the Emperor. On this charge he was condemned and executed. How striking and palpable is the resemblance between this accusation and those on which Arbuthnot and Ambrister were tried! All Europe and America indignantly reprobated the exercise of such a power by a military tribunal, even in a country at war with France. And what were the mighty effects produced by the French Emperor by this barbarous act? He widowed a wife, orphaned her helpless offspring, and broke the heart of a woman! Sanction the death of Arbuthnot and Ambrister, and with what grace shall we hereafter condemn the execution of John Palm?

I shall vote my disapprobation of the trials of Arbuthnot and Ambrister, because they were executed under the forms of law, and because I am not prepared to avow to the world, that we, who boast so much of our justice, recognise an institution of this nature. I am anxious to blot out this stain upon our national character. Their case was not within the jurisdiction of a court martial. Courts martial, among us, are but the mere creatures of positive law. All their authority is derived from the statute which creates them; without that they are nothing. They can take cognizance of no offences whatever, except those specifically named in the statute. Their jurisdiction over persons is strictly confined to the army and those attached to it, and, without that express authority which has been conferred, I should doubt whether they, as courts martial, had any jurisdiction even in the case of a spy. They are tribunals of special and limited jurisdiction; their powers cannot be extended by implication, and they are strictly confined to the powers expressly granted to them. What, sir, is the nature of these tribunals? The accuser prefers the charges; the accuser, in the first instance, selects the judges from his own subordinate officers; the accuser appoints the public advocate; the accuser approves or disapproves the sentence; and the accuser executes it. Lamentable would be our situation if courts martial should be suffered to transgress a single letter of the law which creates them. Their proceedings are contrary to all those safeguards which the municipal law has provided for the security of personal liberty. The charges are not even sanctioned by an oath; the arrest is not founded on oath; the trial is without jury; the decision is in secret, and the correction of their errors depends on the pleasure of him to whom the sentence is submitted. It is now asserted that he may even alter it. By the municipal law of England and of this country, a judge who should venture to pronounce a sentence of death, contrary to the punishment which the law has prescribed; or an officer who should execute even a sentence of death in a different manner from the judgment,

would suffer the punishment of death. Is there anything, then, in the nature or proceedings of a military tribunal, which should induce us to view them with a more partial and indulgent eye? The sword is almost the only emblem of justice which guides them. Shall we now say to Europe that an American army, on entering a foreign country, carries with it these dreadful engines of human misery and oppression? With my consent these transactions shall never be recorded by history as the acts of the nation. Mr. S. here entered into an examination of the charges on which Arbuthnot and Ambrister were tried, and concluded that none of them, (except that of being a spy, on which they were acquitted,) were cognizable by a court martial; that they were inconsistent and absurd; and that, as to Arbuthnot, he doubted whether sufficient evidence was produced to establish them.

But, said he, of infinite consequence will the effect of our vote be on the national character. We profess to be the only free Government on earth; that our intercourse with foreign nations is characterized by moderation and justice; that our institutions are pure and unspotted; that our national character is beyond reproach. Above all, we profess to be Christians. Go, follow the track of this Christian army through the Floridas. It can easily be traced. Every footstep is trodden in blood. The path is strewed with the unbleached bones and livid carcasses of its slaughtered inhabitants. Survey this frightful waste of human life; the awful calamities which have been inflicted on our own species, and say if our posterity will not blush for their ancestors. An incident which occurred during this campaign carries with it the keenest rebuke to our professions of christianity. Duncan McRimmon, one of the Georgia militia, was captured by the Indians in the early part of the war; he was condemned by Hillishadjo to death; the victim was bound in his presence and the instruments of torture were prepared. The daughter of this chief, an artless and uneducated child of the forest, who had never heard of the precepts of our religion, whose only instruction had been received from that father, at the awful moment when he was about to suffer the excruciating death to be inflicted by savage ferocity, this Indian girl rushing between him and his murderers, implored his life. On her intercession it was granted—the life of our fellow-countryman was spared. That father, who thus listened and yielded to the supplication of mercy was the Prophet Francis, whom General Jackson afterwards executed. His orphaned child, in return for the disinterested benefaction which she bestowed upon us, is left to heap up the fallen earth around his grave.* Sir, is this the era of the world when America shall sanction these acts of inhumanity? When the potentates of Europe are compelled, in their alliances, to appeal to the moral sense of mankind to secure the stability of their thrones, when all christendom is awakened, and one universal effort is making to diffuse the gospel and inculcate its precepts of mercy throughout the benighted regions of the globe, shall we turn aside from this work of benevolence, and refuse to efface from our history these examples of barbarous cruelty? A new era has commenced among the nations of the earth. On every side and in every heart the amelioration of the condition of the human race is exciting the noblest efforts of our nature. Every Christian nation is engaged in the abolition of the slave trade. I see around me some of those who have devoted themselves to this alleviation of human misery. Go on, may God prosper you in this noble work of humanity and benevolence—your names shall descend to posterity, associated with Wilberforce and Pitt—your proud reward shall be, that you have bound up the broken-hearted; that you have carried joy, and peace, and comfort, and consolation to thousands of widowed mothers and their helpless children. Let our vote, on this occasion, wash out the stains which have tarnished our reputation by the execution of the Indian chiefs and the death of Arbuthnot and Ambrister. If, however, these deeds of cruelty are to receive the sanction of this House, here, before God and man, I wash my hands of their blood.

The Committee rose, reported progress, and obtained leave to sit again.

MONDAY, January 25.

Mr. JONES, from the committee appointed on the petition of Phœbe Stuart, made a report, which was read; when Mr. J. reported a bill for the relief of said Phœbe Stuart; which was read twice, and ordered to be engrossed, and read a third time.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill for the relief of Robert McCalla and Matthew H. Jouett; which was read twice, and ordered to engrossed, and read a third time.

Mr. THOMAS M. NELSON, from the same committee, to which was recommitted the engrossed bill, entitled "An act regulating the payments to invalid pensioners," reported the same with an

---

* Colonel Arbuckle, commandant of Fort Gadsden, on the Appalachicola, observes in a letter to the editors of the Georgia Journal of the first of November, that, "but few of the hostile Indians have surrendered of late, owing, as I believe, in a great measure, to their having received information that the Spanish Government will again have possession of the Floridas." He adds—

"Duncan McRimmon is here; Milly, the Prophet Francis's daughter, says she saved his life, or used such influence as she possessed to that effect, from feelings of humanity alone, and that she would have rendered the same service to any other white man similarly circumstanced; she is, therefore, not disposed to accept of his offer of matrimony, which had been made, as an acknowledgment of gratitude. The donation, presented through me by the citizens of Milledgeville, to Milly, has been delivered, and she manifested a considerable degree of thankfulness for their kindness."

amendment; which being read, Mr. H. NELSON moved to lay the bill and amendment on the table; which was rejected.

The amendment was then agreed to, and the bill was ordered to be re-engrossed, and read a third time to-morrow.

WEIGHTS AND MEASURES.

Mr. LOWNDES, from the select committee, appointed on the 27th of November last, to inquire whether it be expedient to make any amendment in the laws which regulate the coins of the United States and foreign coins, having been instructed also to inquire into the expediency of fixing the standard of weights and measures, made a detailed report upon the latter subject; which was read and ordered to lie on the table. The report is as follows:

The weights and measures in use in all the States of the Union have been derived from England. In Louisiana they were until lately French, but a recent law has established such as conform to those of the other States. The laws of the colonies, before the Revolution, evidence some attention to their regulation; but, since that event, there have been very few legislative provisions upon the subject in any of the States. But the highly commercial character of the people, their frequent changes of residence, and the absence of feudal institutions, have prevented the establishment of those local usages which are so embarrassing to the internal trade of most of the States of Europe. Although in some of the United States there are no laws for the regulation of weights and measures, and very defective laws in the others, yet is there more uniformity in the composition and division both of weights and measures in the United States than there was in France before the adoption of her new metrical system, or than there is in England now. Indeed, he must be a negligent observer of the manners, the legislation, and even the language, of the country, who does not remark the strong tendency to uniformity which prevails everywhere throughout it. This circumstance facilitates the establishment of a national standard of weights and measures, without superseding its necessity. Where standards are established by the laws of the States, they are in general such as exist in a foreign country, and are inconsistent with each other. The difference which subsists betwen the weights and measures of the different States is certainly less than might have been expected under such circumstances, but it is not inconsiderable.

The documents which accompany this report show a difference of fifty-one grains between the pound weights at Baltimore and Philadelphia; and one of them affords evidence that some banks have used weights for money which are considerably lighter than those of the Mint. Our information on the discordance of measures is less precise and authentic; but (although the committee have been disappointed in the hope of obtaining a satisfactory comparison between those of different States) yet the greater difficulties in the comparison of measures of capacity than of weights, and the known inequality between the English models, from which our measures were originally taken, do not allow us to doubt that the difference of measure in the United States is still greater than that of weights.

The measures used in surveying the lands of the United States are all compared, as the committee have understood, with a brass chain, made under the direction of Mr. Rittenhouse; but in general the officers of the United States employ the weights and measures which are established, or rather used, in the districts in which they live. The changes which have been made by custom in the weights and measures of the United States are such as add to their simplicity. We have discontinued the use of many English weights and measures, and have introduced no new ones.

Of weights, we use the pound and ounce avoirdupois, and the troy grain, with the pennyweight; and for medicine the scruple and drachm. The troy pound and ounce have been discontinued.

Of lineal measures, we use generally the inch, foot, yard, fathom, perch or pole, furlong, mile and league.

We have discontinued the barleycorn, palm, link, nail, span, cubit, and pace.

For dry measures of capacity, we use the pint, quart, gallon, peck, and bushel.

We have discontinued the pottle, loom, quarter, wey, and last.

Of liquid measures, we have discontinued the ale and beer measure, and apply to all liquids the English wine measure.

We use the gill, pint, quart, and gallon. We have discontinued the rundlet.

In superficial measure, we use the inch, foot, yard, pole, rood, and acre, and have discontinued the pace.

For the measurement of firewood, we use the English cord; and for coal, the common bushel, heaped. We have discontinued the chaldron.

The committee are unanimous in the opinion that this subject ought not to be left to uncertain usages, or to the various laws of particular States. They will not enlarge upon its importance. Commercial credit is well secured in every part of this country, by enforcing the punctual performance of contracts. But commerce itself could hardly subsist, unless some security were given (beside the judgment of the purchaser) that the article which he buys is of the quantity which the seller describes; that the weight or measure which is employed is fair. The duty of providing this security has been devolved by the Constitution upon Congress; and the committee express, with great respect, their opinion that it should not be neglected any longer.

It has been frequently proposed in foreign countries "to employ, as the fundamental unit of all measures, a type which should be taken from nature," and be exempt from the alterations to which arbitrary standards are exposed. In execution of this plan, the Government of France has employed, as the base of its system of measures, that arc of the terrestrial meridian passing through Paris which is contained between the equator and the North pole. It has adopted the ten millionth part of this arc as the unit of measures of length, calling it the metre, and deducing from it all its other measures and weights. It has taken as the unit of superficial measures the arc or square of ten metres; as the unit of measures of capacity, both for liquids and dry goods, the litre, or cube of the tenth part of the metre; as the unit of measures particularly intended for firewood, the stere, or cubic metre; and as the unit of weight, the gramme, or absolute weight of a volume of pure water in its state of greatest density, equal to the cube of the hundredth part of the metre.

The standard metre is placed on a rod of platina, and a killogramme of platina (equal to a thousand grammes) has been declared by a law of 1800 to be the standard of weight.

The Government of the Netherlands has lately adopted the French system, without material modification.

The establishment of a standard of weights and measures, which should be deduced from an invariable type in nature, has been more than once discussed in the English Parliament, but nothing definitive has yet been done in it.

In the United States, although the matter has been recommended to Congress by successive Presidents, no progress has been made in determining upon a standard of weights and measures beyond that of receiving a report from the first Secretary of State, Mr. Jefferson; who considers matter, by its mere extension, as furnishing nothing invariable, and its motion as the only remaining resource. He proposes the length of a metallic rod which shall vibrate seconds of mean time at the level of the ocean, in the forty-fifth parallel of north latitude, as the foundation of a system of measures for the United States. The committee abstain from the free quotations which they would otherwise make from this report, on the presumption that its principal views are in the memory of the House.

They do not know that any attempt at a general reform of weights and measures has of late been made in any other country.

The efforts to establish natural standards sufficiently prove the sense entertained of their advantages. These are strongly stated in the report of a commission of the French Institute, to which the subject had been referred by their Government "on the measurement of degrees of the meridian in France, and on the results which have been deduced from it for the determination of the basis of the new system of measures."

"It is the essential advantage," they say, "of this system, that even if all the standards should be destroyed or annihilated, leaving no other trace but the knowledge that one of them was the ten-millionth part of the quarter of the terrestrial meridian, and the other the quantity of water taken in its state of greatest density, and contained in the cube of the tenth part of the first unity, the primitive value of both might be yet recovered."

Of the particular system adopted by France, they observe "that its parts are all intimately connected with each other, all dependent upon the primitive type; and its multiples and subdivisions follow a progression which is natural, simple, easily understood, and always uniform." These advantages were held to justify the expectation that the standard established in France would become the universal standard among civilized nations.

But the plan of obtaining an invariable standard from nature is of no easy execution. The type of such a standard should be equally accessible to all nations. This, indeed, the system is admitted to require. But the figure of the earth is irregular to observation. We do not know that gravitation is uniform in different longitudes, though in the same latitude; nor that the two hemispheres on each side of the equator are equal. If the establishment of the same meridian be proposed, or for the pendulum the same longitude and latitude, it will follow that every country but one must verify its standard in a foreign State. If the figure of the earth be irregular, the extent of that part of the meridional arc which is obtained by computation must be uncertain; and even in ascertaining the part which is submitted to actual measurement, the most perfect instruments and the highest experience have left the accuracy of such a process in some doubt. The improvement which has lately been proposed in the use of the pendulum seems likely to make it more sensible, but not more uniform; and it is singular that respectable authorities differ by more than half an inch (59-100) as to the length of the pendulum which will vibrate seconds at the same level, and at the very latitude (that of forty-five) which has been proposed for the regulating pendulum. If, however, on either plan, a fixed proportion be established by law between the standard and a natural type, the standard itself, whose name and office imply immutability, must change with every corrected estimate of the type which is its base. The first standard of the French measures was accordingly declared to be provisional.

Whether standards derived from the natural types which have been proposed have all the advantages which have been attributed to them, seems, therefore, to be questionable; and the inconveniencies of change are not small. If a difference between the measures of two neighboring towns afford opportunities for fraud, how much greater must these be when entirely new measures are first introduced through a whole country? We have reason, from the experience of France, to think that these will be adopted slowly and imperfectly; partially in some places, and in all with the confusion which results from retaining both the old names and the old divisions, and giving them a new and a double meaning. It is obvious, in such a case, whatever benefits uniformity and system may give to posterity, that the present age must pay no scanty price for them. The difference between the weights and measures of the several provinces of France was so great, that uniformity could not have been obtained without violent innovations. But such is not their condition in the United States.

The principal advantage of deducing a standard of measure from an invariable type in nature is represented to be, that, in the event of its loss or destruction, it may be restored without variation; but the proportion which either natural or arbitrary standards bear to any object of invariable magnitude, which nature may be thought to furnish, may be ascertained with equal accuracy; the restoration of either, therefore, must be equally practicable. The old toise, although not an aliquot part of the terrestrial meridian, may be as well obtained as the metre, which is supposed to be so, by the measurement of a meridional arc.

On the whole the committee believe it best, at least in the circumstances of this country, to adopt absolute standards, conformed to the weights and measures which are in most general use among us. If it be thought necessary to provide by law for the loss of these standards, the provision may be formed on the basis of the best experiment, and the exactest science which the country can now command, and without change of standard. This provision may be varied whenever the advancement of science shall furnish a better process.

The committee will therefore confine the proposals which they shall submit to the House to the object of the first plan proposed by Mr. Jefferson, "to render uniform and stable the measures and weights which we already possess."

In pursuance of this view they propose that models of the yard, bushel, wine gallon, and pound, supposed to conform to those in most common use in the United States, shall be made under the direction of a commis-

sion of —— persons, to be selected by the President of the United States, and, if satisfactory to Congress, that they shall be declared the standard yard, bushel, liquid gallon, and pound of the United States.

If these standards shall be adopted for our measures, the law which will establish them will determine how greater or less measures shall be formed from them. There is no variety in the composition of these in the different States, and, in the opinion of the committee, no adequate motive for proposing a change; there will, consequently, be no difficulty in this regulation.

As to weights, there seems to be no strong objection to confirming the change which general usage has made, by giving up, as is recommended by Mr. Jefferson, the pound and ounce troy, and the quarter and drachm avoirdupois. The pound troy has been long disused; there is no coin as heavy as a troy ounce, and no coin of the United States as heavy as an ounce avoirdupois. The silver or gold contained in the largest coins is stated generally in grains, without the use of any higher denomination. In the sale of drugs or bullion, indeed, large weights are necessary; but drugs are now sold by avoirdupois weight, and the suppression of the pound and ounce troy will produce no change in the weights used for bullion in the United States, as these are now multiples of the pennyweight as far as five thousand. But if it were not so, neither the mint, the banks, nor the merchants who deal with them, can be embarrassed by employing in their large transactions, not a mere weight, but the common pound and ounce of the country.

If we suppose the proportion between the common pound of the United States and the grain used in money and medicine to be as 1 to 7,000, we shall probably not be materially wrong. It is the difference ascertained between those weights in England, from which our weights were derived originally, and observations made, as the committee believe, with great care, at the Bank of the United States, the result of which gives 7,000 grains of the weights of that bank as equal to the pound used in the most commercial city of the United States, (New York.) Assuming this proportion, it will follow that, of weights that are in use below a pound avoirdupois, (if we omit the drachm and quarter pound avoirdupois, and the pound and ounce troy,) the ounce, the scruple, and the grain, are aliquot parts of the pound; the pennyweight and drachm are not so; nor are the drachm, pennyweight, scruple, or grain, aliquot parts of the ounce. The want of a series in which all the weights should be multiples of those which are below them, and aliquot parts of those above them, may be inconvenient, and is certainly not systematic; but the inconvenience is not great. There is the same defect in the coins in common use. The quarters of a dollar are not multiples of a dime, nor the eighths multiples of a cent. The eighths of a dollar, indeed, are foreign coins, but the irregularity is found to be of little consequence.

The committee think that the defect in the series of weights can produce no real embarrassment if we have a uniform pound, with subdivisions descending regularly to the sixty-fourth part of the pound, or quarter ounce; if we have a uniform grain, which is an aliquot part of the pound, (7,000th,) and of the eighth of the pound, or double ounce, and which bears to the ounce a proportion which, though expressed by a fraction, is represented and may be ascertained by weights in common use, (18 dwts. 5½ grs., or 7 drms. 2½ qrs., or 437½ grs.) Small, however, as the defect is, if it can be removed without inconvenience, it ought not to be overlooked. They know no better plan for removing it than that suggested by Mr. Jefferson.

This is substantially to divide the pound into 6,912 instead of 7,000 grains, and the ounce into 18, instead of 20 pennyweights. The grain would be increased by this plan by about 1⅓ per cent; the pennyweight by somewhat less. The eagle would contain three less of the new than of our present grains; or, if it were thought important that it should contain the same number of grains, its value would be about twelve cents greater. In medicine, it may be feared that the knowledge that there was a change might produce some uneasiness in those who could not exactly estimate its extent; nor would it much improve the system of apothecaries' weights, since, though it would make the grain an aliquot part of the ounce, neither the scruple nor the drachm would be so.

The committee think it best that the pound and the grain, which may be considered, for different purposes, as both units of weight, should neither be changed nor be suspected of being so. They propose, therefore, that the commission should ascertain the proportion between the grain and pound, and that the proportion should be maintained unalterably.

In respect to the composition of large weights, it seems proper that the discordance between the use of the hundred and the long hundred, (or 100 and 112 pounds,) and their divisions, should be removed; and of the two sets of weights, that of the hundred pounds, and its divisions, is the simpler and better. As to weights above the hundred, except the ton of shipping, they are properly but the names of vessels of capacity, of no very determinate contents, and ought not to be recognised as weights.

The modes of measurement and the allowances and tares which are used in the different States require correction as well as the measures themselves. The subject was brought to the view of the House by a report of the Secretary of the Treasury, in January last; but in that laborious session there was not time to undertake it. It will still be better to defer the provisions which it may require until they can be included in the law which shall establish the standards.

In fixing standards of weights and measures, it will be proper that Congress shall determine the means which shall be employed for their preservation, and, perhaps, as connected with this object, for their restoration, if they shall be lost; for the distribution of models with which the weights and measures employed in commerce may be compared, and for enforcing the use of such as correspond with these models.

The committee propose that the standards shall be deposited in the office of the Secretary of State. These will be employed but rarely to verify the models which may be issued under the authority of Government. The law which establishes the standard will determine the temperature at which it is to be used.

The means which may be employed for the restoration of the standards, if they should be lost or impaired, are sufficiently analogous to some of those which may be used for securing the accurate execution of the models, as well as the weights and measures in common use, to make it convenient to consider the two subjects together. Indeed, it must be an extravagant fondness for system which would lead us to deny that the models, if proper precautions be taken to secure their fidelity, will probably furnish a suffi-

ciently correct as well as an easy mean for the restoration of the standards, if they should be lost.

The careful observation of the proportions which the standards of measure bear to each other, and that of the relations which each of these holds to the dimensions of a quantity of pure water, of a given temperature, which is equal to the weight of a standard pound, will sufficiently provide for the contingency of the loss of any number of these standards less than the whole. The committee propose that these relations shall be ascertained and reported by the commission whose appointment had been already suggested.

If it be thought prudent to provide for the contingency of the loss, at the same time, of all the standards and all the models on which a just reliance may be placed, it may be done by ascertaining the relation between the standard measure of length and the second pendulum and an arc of the meridian. Which of these relations can be most safely relied upon for the restoration of the standard, can be best determined when its loss shall occur. The designation of these relations by a commission may also facilitate a comparison with the measures of foreign countries. The committee do not, however, recommend the difficult and costly expedient of measuring a large arc of the meridian in this country, but the commission may ascertain the proportion between our standard and the great arc which has been measured by the French mathematicians, or the quarter of a meridional circle inferred from it. They can do this, indeed, only by a comparison with the French measures in which the result of that operation has been stated. The length of a pendulum or rod which shall vibrate seconds of mean time is an object of more convenient comparison; and the commission may probably think it necessary to ascertain the relation between this and our standard of length by their own observatian.

The most accurate designation of the relation between the standard of length and the pendulum on an arc of the meridian, cannot be expected to be of any direct service in promoting the accuracy of measures in common use. Considerable variation is less to be apprehended in the models of lineal measure than in the other; and the determination of the proportions between lineal measures and measures of capacity, and between both of these and weights, may have some effect in enabling us to detect, without too difficult a process, the defects of measures of capacity, and possibly of weights, in common use. For this purpose it would, perhaps, be convenient to establish, not merely the cubical contents of the common measures of capacity, but to fix determinate forms for all these, and dimensions, the correctness of which might be ascertained by the common measures of length. What these forms should be it would be proper to leave to the decision of the commission, although the strength of the cylinder, its general use, and, according to the commission of the French Institute, the greater exactness which may, in practice, be given to that figure, are strong reasons for employing it.

The designation of measures of capacity, the contents of which, if of rain water of a convenient temperature, would be equal in weight to a pound, or any part or multiple of it, would furnish a test which might sometimes be applied to common weights. But it will be easier to avoid considerable variation in the models of weight than of cubic measure; and the determination of the weight of rain water of a convenient temperature, which ought to be contained in the several measures of capacity, furnishes a security of easy employment for the fairness of such measures.

It will be necessary that models of weights and measures, exactly compared with their several standards, shall be deposited in the different States. To prevent unnecessary delay, it may be proper to allow the commission intrusted with the charge of preparing the models which are to be proposed as standards to cause to be prepared also a number of models for distribution. The committee think that there should be sent to each State, to be distributed as may be directed by its Legislature, a number of each of these models equal to the number of members to which the State is entitled in the House of Representatives of the United States, and that models of each standard should be deposited with the marshal of each State, and with every collector of customs throughout the United States. To enable the Government to make this distribution, and to reserve the number of models which it may be proper that it should have at its disposition, the committee propose that —— of each model should be provided.

The committee are not unaware of the difficulty in the accurate execution of models of measure. There are too many memorials of this to allow them to doubt that it is in the province of the artist that the great impediment to uniform measures will be found. They believe, however, that all the practical advantages of uniformity may be obtained by a degree of skill and attention which it is not unreasonable to expect.

The committee do not deem it necessary to propose any penal provisions for enforcing the use of the standards which may be established by Congress. The constant interference which such provisions would imply with the minutest and most frequent transactions of society might be justified by the words, but, unless they shall be found indispensable, would ill comport with the general spirit and character of the Constitution. It was right that there should be a provision for uniform standards of measures and weights as of coins throughout the United States. The only authority capable of establishing these was the General Government. But the power of enforcing the use of measures and weights which shall conform to these standards may be most conveniently and effectually exercised by the State authorities. The laws of many, and perhaps most of the States, are adequate to this purpose without much amendment. But, to admit of amendments where they may be necessary, it may be well, if Congress shall approve the standards proposed, that it should determine on a more distant day than would otherwise be proper, after which no other weights and measures than such as conform to these standards should be esteemed legal. For the execution of contracts made before that day in States whose legal weights and measures have been different from those which shall be prescribed by Congress, a table of equivalents between the new and old weights and measures must be formed; or, in this class of cases, comparatively few, and which will every day become fewer, the old ones may continue to be used without inconvenience.

There does not, however, appear to the committee to be any objection to the employment of the models of weight and measure (as soon as the standards shall have been established) in all the cases in which the Government is a party, either in sales or purchases, or the collection of duties. In old contracts, the same provision must apply to the Government, and to any other party.

The committee are sensible how large a part of their report consists rather in objections to the plans of others than in the recommendation and development of their own. They propose, indeed, that little should be done; that standards conformed to those in most common use among us should be accurately made, and carefully preserved at the Seat of Government; that correct models should be placed in the different districts of the country; and that the proportions and relations between these should be ascertained.

The committee have directed their chairman to move the resolutions which will be necessary to carry into effect the proposals contained in their report.

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President shall be authorized to appoint a commission of —— persons, for the purpose of carrying into effect the following resolutions:

Resolved, That the commission so appointed shall cause to be traced on a rod (of whatever metal they shall deem best adapted to the purpose) the yard measure, which is in most common use throughout the United States.

Resolved, That the commission shall cause to be made (of whatever material and shape they shall deem best adapted to the purpose) a vessel, whose capacity shall be the same as that of the bushel in most common use throughout the United States.

Resolved, That the commission shall cause to be made (of whatever material and form they shall deem best adapted to the purpose) a vessel, whose capacity shall be the same as that of the wine gallon in most common use in the United States.

Resolved, That the commission shall cause to be made (of whatever metal they shall deem most advisable) a pound avoirdupois, of the weight of that which is in most common use throughout the United States.

Resolved, That the commission shall cause experiments to be made, under their direction, to ascertain with the utmost exactness which the state of science permits, the proportion which the yard measure of the United States bears to the length of a pendulum, vibrating seconds of mean time, at the level of the sea, and at the place and temperature at which they shall deem it most advisable that the experiment shall be made.

Resolved, That the commission shall ascertain the proportion which this yard bears to an arc of the terrestrial meridian, intercepted between the equator and the North pole, according to the most accurate measurements which have been made of degrees of a meridional circle, and the best established computations of such arc.

Resolved, That the commission shall cause to be ascertained the number of cubical inches contained in the bushel of the United States, and the dimensions and forms of vessels of equal capacity to such bushel, and to the half, fourth, eighth, thirty-second, and sixty-fourth parts thereof, to which the common measures of length may be conveniently applied, to ascertain such capacity.

Resolved, That the commission shall cause to be ascertained the weight of rain water, at any temperature which they may deem it most advisable to use, which would be contained in the bushel of the United States.

Resolved, That the commission shall cause to be ascertained the number of cubical inches contained in the wine gallon of the United States, and the dimensions and forms of vessels of equal capacity to such gallon, and to the fourth, eighth, and sixteenth parts thereof, to which the common measures of length may be conveniently applied, to ascertain such capacity.

Resolved, That the commission shall cause to be ascertained the weight of rain water, at any temperature they may deem it expedient to employ, which would be contained in the wine gallon of the United States.

Resolved, That the commission shall cause to be ascertained the number of cubical inches of distilled water, at any temperature they may deem it most advisable to use, the weight of which shall be equal to the pound of the United States.

Resolved, That the commission shall cause to be ascertained the proportion between the pound of the United States and the grain employed for weighing medicines and the precious metals.

Resolved, That the commission shall cause to be prepared a number of the models of the yard, bushel, wine gallon, and pound, not exceeding —— of each, of the form and material which may be most convenient for distribution and comparison among the States.

SEMINOLE WAR.

The House then proceeded to the order of the day, and again took up, in Committee of the Whole, the report of the Military Committee, on the subject of the Seminole war.

Mr. BARBOUR, of Virginia, rose, and addressed the Committee, as follows:

Mr. Chairman, it was my wish to have addressed the Committee at an earlier period of the debate, but I have not been so fortunate as to get the floor. The subject under consideration is one which has excited much interest in this House, as well as in the nation. I have bestowed upon it all that reflection which was due to its importance: I feel a disposition to state the conclusions to which I have arrived, and the course of reasoning which has conducted me to them. I feel that I labor under great disadvatages in following gentlemen, whose eloquent and pathetic appeals have affected the feelings and commanded the attention of the Committee; whilst, on my part, I have nothing to offer them but the plainest kind of argument, consisting of a statement of the case, and the principles of public and Constitutional law which apply to it. I feel another disadvantage: Gentlemen who have gone before me have necessarily anticipated some of the points which I had intended to discuss. In presenting my view, then, in continuity, I must unavoidably recur to some topics which have been already touched upon; but I will promise, as far as I am able, when this shall be the case, to avoid the tedium of mere reiteration, and to endeavor to present them in some new point of light, and with some variety of illustration. I will, however, without further preface or apology, proceed at once to the argument.

This subject seems to me to present three distinct questions to our consideration: 1st, the propriety of marching the Army of the United States across the Florida line; 2dly, the propriety of the occupation of the Spanish posts of St. Marks and Pensacola, and the Barancas; and, 3dly, the

trial and execution of Arbuthnot and Ambrister. These are the questions which, it seems to me, we are called upon to decide, and this the natural and consecutive order in which they present themselves. Each of these questions, too, as had been justly remarked by the Speaker in an early part of the debate, presents itself in a two-fold aspect—1st, as between our own and a foreign Government; and, 2dly, as between our Government and its officers. First, then, as between the Government of the United States and Spain, had we a right to march our armies across the Florida line? I shall endeavor to prove that we had. There would be no sort of difficulty in this question, if it were the case of a nation confessedly sovereign and independent. That one nation when at war with another, has a right to pursue that other into its own territory, I am persuaded no member of the Committee would question; and I shall, therefore, take it for granted, as one of those principles which, in public law, have become *axioms*; but the difficulty arises from the anomalous character of the Indian tribes. Gentlemen have gone much into the discussion upon the question, whether they are or are not sovereign. I shall not enter into a controversy about words; I care not whether they are called sovereign, demi-sovereign, or by what other name they are designated. I shall attempt to define their character by some of the attributes of sovereignty which belong to them, or which at least they have been in the habitual practice of exercising. One of the criteria of sovereignty which has been adopted by *Martens*, a writer of some celebrity on public law, is this:

"That a nation is governed by its own laws, and acknowledges no legislative superior on earth; though there are certain limitations or restrictions on its sovereignty, by treaty or otherwise, if it possess this attribute, it is sovereign; and examples are given of States, which, though under treaties of alliance, of protection, and even of vassalage, are nevertheless considered sovereign."

If the character of the Indian tribes be tried by this standard, I believe they will be able to sustain their claim to sovereignty. True, it is, they have no regular legislative body and no code of written laws, but they have customs and maxims, which may be considered as a sort of common law among them—which have been adopted either by express consent or tacit acquiescence—which have been consecrated by time, and handed down from one generation to another by traditionary history; by these maxims and customs are they governed, without any legislative superior, though we claim a right of regulating their trade, and a kind of pre-emptive right of purchasing their lands; yet I have never heard that we pretended to any right of legislating for them, or interfering in their interior concerns, in the administration of justice or otherwise. But there is another distinguishing and characteristic attribute of sovereignty which belongs to them, and which from the earliest settlement of this country they have exercised—I mean that of making war. This bears directly upon the present question. If they have a right of making war, they have a right to make it against whom they please, and they have chosen to make it against us. Have we not a right to defend ourselves against them? Yes, sir, and I will point you to the source from which we derive it. The principle of self-defence is a part of the instinct of our nature; "not written on the heart by precept, but engraven by destiny; not instilled by education, but infused at our nativity;" it belongs to us, as individuals, in a state of nature; we carry it with us when we form societies, which are only aggregations of individuals. We then have a right to defend ourselves against the Seminole Indians. But they reside within the limits of Florida, on lands to which they have at least the title of occupancy, but within the jurisdictional limits of Spain; from thence they make their incursions against us, and, having committed their devastations and murders, repass the Florida line. Shall we cease to pursue them when we reach that line? Is there any principle of national law which tells us that, in our pursuit, thus far we shall go and no farther? If these questions must be answered in the affirmative, then is the right of self-defence a mere mockery; then, indeed, are we in the situation of a man against whom a ferocious wild beast is let loose, and who, bound hand and foot, is cut off from the means of destroying him.

If it should be said that Spain is bound by treaty to restrain them, let it be remembered that there was a time when there was no treaty. At that time it will not be pretended that Spain was responsible for their acts of hostility; they are not her subjects, but a community, as has been shown, sovereign in its character, though subject to some limitations. At the time, then, which I have spoken of, anterior to the date of the treaty, if the Seminole Indians had invaded the United States, and we had no right to pursue them into the territory which they occupied, we should have presented the singular situation of a people invaded, whilst the invaders themselves, by reason of their situation within the territorial limits of another Power, were beyond the reach of our arms, and yet that other Power not responsible for their acts. Before the treaty, then, we should have had a right to have crossed the line; if so, it cannot require argument to prove that a treaty, made with a view to increase our security, to make another nation a guarantee to that security, cannot have the effect of abrogating the great inherent rights, which we before possessed, of defending ourselves.

I think, sir, I have now sufficiently shown that, as it respects Spain, we had a right to cross the line; but, as there is another and a distinct principle upon which it may be justified, I will briefly call the attention of the Committee to it. Without meaning to make a literal quotation, I refer them to Vattel, b. 3, c. 7, s. 133, for the principle which I now advance: "That, if a neighboring 'nation afford to a defeated enemy a retreat—al-'low him time to recover, and watch a favorable 'opportunity to make a second attack upon the 'territory of one of the belligerents—it is not only

'a breach of neutrality, but it gives the belligerent a right to enter his territory in quest of his 'enemy, and thus to make it the scene of war." Now, sir, I think that the evidence before us abundantly makes out the case which has just been stated. If this be so, then there is a clear justification, even supposing that the Indians did not occupy the territory, and that they had no sort of claim to it. Upon this point, then, I tender to gentlemen this dilemma, from which it seems to me there is no escape. If it be considered the territory of Indians, then we rightfully passed into it upon the principles which I first advanced. If, on the contrary, it be regarded as the territory of Spain, then we rightfully passed into it, upon the ground of the breach of her neutrality, in the countenance and aid given to our defeated enemy, and the consequent right which belonged to us, as a belligerent, to pursue that defeated enemy into the territory of a Power giving that countenance and aid.

I have finished my view of the question, as between the Government of the United States and Spain, and will now take up the other aspect of the same question, as between our Government and its officers. I will attempt to show, that there is as little doubt upon the subject in this point of view as in the one which I have just closed. The Seminole Indians had passed the line; had plundered the property, and shed the blood of our citizens; they had invaded us; the war upon our part, then, was a defensive one. The whole evidence upon the subject being before the Committee, I shall not detain them with the tedious process of referring to it in detail; those facts which I think are proven, I shall refer to them as such, and shall assume them as the basis of my argument. As to the crimination on the part of the Indians, that our citizens committed the first outrages, I am satisfied that such is not the fact, and that the war was as just as it was defensive on our part. I shall forbear, however, to trouble the Committee with any remarks upon that subject, because, whatever may have led to it, it was a defensive war in fact, inasmuch as we took up arms to repel an attack which had been made upon us.

Considering the question in this point of view, the Committee will even anticipate me, in assigning the reason why no declaration of war by Congress was necessary; it is of the nature of defensive wars not to require a declaration, though nations sometimes publish a counter-manifesto, setting forth the justice of their cause, with a view to interest other Powers in their favor; yet, the moment war is made against them, that moment they prepare to repel it, and, in so doing, they are warranted by all the writers on public law, and the eternal principle of self-defence. Accordingly, Congress, by an act passed in 1795, have empowered the President, whenever the United States are invaded, or even in imminent danger of invasion, to call out the militia for the purpose of repelling it. The gentleman from Kentucky (Mr. Johnson) had called this a perpetual declaration of war—with a slight variation of terms, he was correct—it was a perpetual declaration of a readiness for self-defence, and a perpetual authority to the President, in the event either of actual invasion, or imminent danger of it, to call the physical force of the country to the field, to repel it. This law is the result of this obvious truth, that, if it had been necessary, in case of invasion, to assemble Congress, the United States might be ravaged and desolated before that could be done, and the proper preparations for defence be made. The army, then, was constitutionally and legally called into the field to repel an Indian invasion; having driven the enemy to the line, must it stop there? I have anticipated the answer to this question in a former part of my argument. I will enforce the idea which I have already maintained, by one or two additional remarks. If we retire from the line, if the Indians perceive that that constitutes an insuperable barrier to our pursuit, the result will be, that either we must keep a force perpetually on the line, or, whenever we retire from the pursuit, they will renew their incursions into our country; we may pursue them again to the line, again they will retreat across it; thus will they be invited to a continual repetition of their daring outrages, and thus, upon every new retirement of our army, will the tide of invasion again be rolled upon our territory, and our frontier be converted into a desert by the devastation of our property, and the indiscriminate massacre of our citizens.

I come now, in the order of my argument, to the second question; that is, the propriety of the occupation of the Spanish posts of St. Marks and Pensacola, and the fortress of Barancas; and, first, its propriety as between Spain and the United States; and here, sir, at the threshold, I will lay down a principle, the correctness of which, I presume, will not be questioned—it is this: That, as it regards Spain, if any act shall have been committed which amounts to war, it is to be considered a public war; regularly carried on by the sovereign power of the United States. The different powers which constitute the whole mass of sovereignty, originally resident in a nation, may be separated or limited according to its will; in conformity with this idea, in the distribution of power, the Constitution of the United States has assigned to Congress that of making war. If the President shall ever encroach upon this Constitutional power of Congress, either by engaging, without a previous declaration in an offensive war, or in the prosecution of a defensive one, by committing any act of hostility which may amount to war against a neutral nation, any question which may arise out of such a violation of the Constitution, will be between himself and Congress. But, surely, it cannot be competent for a foreign Power to open our Constitution, construe it for us, define the distribution of the powers of sovereignty among the respective departments of our Government, and object that the President has impinged upon the sphere of Congressional jurisdiction. No, sir; as between us and Spain, admitting, for the present, that what has been

done amounts to war, it is to be considered and treated as a public war duly declared by the proper authority, and therefore to be followed by all the consequences which flow from one of that character. Assuming this, then, as a principle, the United States, as a Government, will stand justified, if we had just cause of war against Spain. Now, without recurring to ancient grievances, which have long been the subject of negotiation between the two nations, I think, sir, there are two palpable causes of war of recent date; the first is, the violation of her neutrality during and immediately after the late war with Great Britain, in suffering her territory, as well as forts erected on it, to be made use of by our enemies, to our great annoyance; the second is a violation of a positive treaty stipulation, in not only not restraining Indian hostilities, but, on the contrary, in giving them countenance and aid. It does not require a reference to books to prove that a violation of neutrality is cause of war; equally plain is the proposition, that the violation of a treaty stipulation is so too. It rests upon this obvious principle, that a positive stipulation in a treaty imposes a perfect obligation on one party, and consequently vests a perfect right in the other; for right and obligation are always correlative. Now, the violation of a perfect right is on all hands considered as legitimate cause of war.

But it will perhaps be said, that before we proceeded, we ought at least to have made a demand upon Spain, and not to have resorted to force until she had either refused or failed to comply with that demand. If gentlemen will look into the books on public law, they will find many preliminary steps recommended, on ordinary occasions, before a resort to the *ultima ratio*. First, it is said there are even cases in which, for the sake of peace, we may renounce our right, and prudence consists in knowing them: it needed not the authority of Vattel to give us this information. Then it is advised to have recourse, first, to negotiation, next to mediation, and then to arbitration. But the same author tells us—I mean to give the sense, though it is not far from a literal quotation—that it is not always necessary, in order to authorize the having recourse to arms, that all the methods of reconciliation have been rejected. It is sufficient that there is the utmost reason to believe that the enemy will not enter into these measures with sincerity; that the issue of them would not be happy, &c. (See Vattel, p. 348.) Does any member of the Committee doubt that this would have been the case with Spain? If there be one who does, I refer him to our long-continued negotiation with Spain, in which she has evaded doing us justice; to the fact, that, during the late war with Great Britain, the Spanish authorities in Florida committed open violations of neutrality; that, after the termination of that war, they permitted a fort to continue, garrisoned by negroes and Indians, to our great annoyance; that they have, in the Seminole war, given countenance and aid, as I shall hereafter particularly show, to the very Indians, whom they were bound, by treaty to restrain. These circumstances prove, incontestably, to my mind, that it would have been utterly in vain to make any attempt at negotiation, and, indeed, make out the very case stated in Vattel, in which we would have a right to strike at once; and, if we had chosen, would have justified us in following the example of the King of Prussia, who, in 1741, published his manifesto in Silesia, at the head of sixty thousand men; for this, says Vattel, as he might have had good reasons, he was not accountable, according to the voluntary law of nations. For what we have done—I will add, and even if we had gone much further—as we not only might have had, but *actually had* the very best reasons, we are not accountable, either according to the *voluntary* law of nations, which regulates our external rights and obligations with other nations, or according to the *necessary* law of nations, which binds our conscience only.

But now the question presents itself, whether the occupation of these posts is justifiable, as between the officer and the Government of his country? The answer to this question requires that we take a closer view of the character of the war, and the circumstances attending its prosecution. The facts in relation to St. Marks are substantially these: That the commandant of that post had supplied the Indians with munitions of war; that Spanish storehouses were appropriated to their use, and filled with goods belonging to them; that the commandant permitted councils of war to be held by the chiefs in his own quarters; and, finally, that the commanding General had been informed that the Indians and negroes had demanded a surrender of the post, and it was apprehended that the garrison was too weak to maintain it. In relation to Pensacola, these are substantially the facts: That Indians were admitted into that place by the Governor; that many Indians who were known to be hostile, and had just escaped from the pursuit of our army, were in Pensacola on the 15th of April; that the Indians were furnished with ammunition and supplies, and received intelligence of our movements from that place; that eighteen of our citizens, who lived upon the Alabama, were murdered by a party of Indians, who were received by the Governor, and by him transported across the bay, that they might evade our pursuit; and, finally, the commanding General received a protest from the Governor, ordering him to quit the territory of Florida, or that he would repel force by force. Now, sir, whether the occupation of these posts be justified or not, between the officer and his Government, depends upon the light in which we view the transaction. If, under the circumstances which have been mentioned, the act be not incompatible with the rights of neutral nations, or, if the conduct of the Spanish authorities be such as to make them associates in the war, and thus to identify them with the Indians—in either of these points of view the occupation would be justifiable; in the first, because it would not be an act of hostility; in the second, because, though an act of hostility, it required no

declaration of war; "for every associate of my 'enemy is, indeed, himself my enemy;" and 'whatever rights war gives me against my prin-'cipal enemy, the like it gives me against all his 'associates." (See *Vattel*, b. 3, ch. 6, s. 95.) If, on the contrary, it fall not within either of these descriptions, but amount to offensive hostility against Spain, then the act is not strictly justifiable; because the Constitution provides that Congress shall declare war, which, in this instance, was not done.

Let us, then, first inquire whether the occupation of St. Marks, under the circumstances, be compatible with the rights of neutral nations. The rule is laid down in Vattel, b. 3, c. 7, s. 122, thus: "Extreme necessity may even authorize 'the temporary seizure of a place, and the put-'ting a garrison therein, for defending itself 'against the enemy, or preventing him in his 'designs of seizing this place, when the sovereign 'is not able to defend it." There is strong reason to believe that the Indians did design to seize St. Marks, and that the Spanish garrison was not able to defend it. And, so far, the facts bring this case within the rule just quoted from Vattel. But the case seems to me to be deficient in the other requisite—that is, of extreme necessity. In a previous part of the same section, it is said that urgent and absolute necessity suspend all the right of property; and the author seems to intend to give an exemplification of his doctrine in a case which he immediately states: that where an army must perish, or never return to its own country, without passing through neutral territory, it has a right to force a passage by the sword. If the case under discussion be measured by this standard, the occasion, though strong, does not seem to come up to the required point, of extreme necessity; the same remarks apply to Pensacola; the necessity for the occupation of which, is, indeed, not so strong as that of St. Marks.

The next inquiry is, whether the conduct of the Spanish authorities be such as to make them associates in the war; if it were, they were, as I have already remarked, equally our enemies with the Indians, and liable to be treated as such, without any necessity for a declaration of war. Vattel, in b. 3, ch. 6, s. 97, says, "I account associates of my enemy, those who assist him, in his war, without being obliged to it, by any treaty." If, sir, we had been left to this definition alone, it might have been fairly contended that the Spanish authorities were associates, because they assisted the Indians in the war, in various ways, which I have already enumerated. But the author goes on, afterwards, in the same section, to explain, more particularly, this general proposition; and from a case which he puts, and the reasoning which follows, I acknowledge it to be my own opinion that the assistance afforded was not of that character which he requires, to make them associates, so as to authorize the occupation of those posts, without a declaration of war. Considering the subject in this point of view, it results that this part of the proceedings of the commanding General is not strictly defensible; and yet, sir, I cannot concur in a vote of censure upon his conduct; because, in relation to each of the points, to which I have just called the attention of the Committee, the correctness of his course depends upon the decision of a question of degree only. Thus there is a degree of necessity which would justify the seizing and garrisoning a neutral fort, without violating the rights of the neutral to whom it belonged. And there is a degree of co-operation with the enemy, on the part of the Spanish authorities, which would have made them associates; and which would, consequently, have authorized the commanding General to have treated them as his enemies, without the necessity of a declaration of war against them. If, for example, our army had been in imminent danger of being cut off by the enemy, that would have justified their occupation, without making it an act of hostility. If the garrison of St. Marks, or Pensacola, had actually fought with the Indians, or if the Governor of Pensacola had executed his threat, by actually using force, either of these things would have made them completely associates. Here, then, was a graduated scale, before the commanding General, on which there was a degree, both of necessity and military co-operation, which would have strictly justified him. The question for him to decide was, which was that degree? Is there no difficulty in deciding this question? Yes, sir. The nation is divided upon it; the members of this House, after much investigation, after much debate, and quotations from public law, are greatly and variously divided in opinion. Some justify the whole proceedings, some justify a part and disapprove a part. Thus, some think the occupation of St. Marks correct, but not that of Pensacola; some justify the occupation of Pensacola; some approve both, whilst others disapprove both. What one gentleman thinks correct, another altogether reprobates; and even those who agree in the same conclusions arrive at them by different modes of reasoning.

Whenever, sir, a case shall be presented to me, of a man who, led on by inordinate ambition, shall dare to trample under foot the Constitution, for purposes of self-aggrandizement or military fame, I shall be ready to go so far as he who goes farthest, not only in censure, but in punishment, in every Constitutional mode; for I, too, love my country, I, too, love its Constitution; I shall cling to it as the last plank in the shipwreck; I shall flee to it for refuge as to the ark of our political salvation, when the nations of the earth shall be deluged with tyranny and oppression. But when a case is presented to me like the present, in which there is difficulty enough to divide the House, after all its research, in which the officer concerned was called upon to decide, in the wilds of Florida, upon a state of things not anticipated, and without the aid of Bynkershoek or Martens, in which that officer whose distinguished services have identified his name with the character of his country, had, as I believe, and, as has been feelingly said by the member from Kentucky (Mr. JOHNSON) no ambition, but

one, to serve his country; in which I believe he was influenced by an ardent desire to promote the honor and interest of that country; in such a case as this, I repeat it, I will not vote for censure, for I weigh the acts of every moral agent by the intention; I know not how else to weigh them in the scale of moral estimation. It is that which imparts to them their character, which constitutes their essence; if that be good, the act to which it leads is not the subject of censure; if it be bad, it can lay no claim to commendation. *Humanum est errare*, should be our motto. Happy the man who commits the fewest faults! Happier still is he, whose errors even are ingrafted on the noble stock of a patriotic devotion to his country's cause! Before I quit this part of the subject, I will say a few words as to the disobedience of orders. If that subject belonged to our present inquiry, I would say that whatever might have been the orders, which I do not mean to discuss, the subsequent refusal on the part of the President, either to punish or censure the commanding General, is a full answer to every objection urged upon the ground of disobedience to orders. But, sir, with that subject I think we have nothing to do. Our inquiry is not whether the commanding General obeyed the orders of the Commander-in-Chief—that question is between themselves. As well might we descend lower down the scale of rank, and inquire whether the general of brigade obeyed the commanding General. Our inquiry is into the character of the acts which have been done; and whether they do, or do not, under the circumstances, call for our animadversion.

I come now, sir, in the order of my argument, to the trial and execution of Arbuthnot and Ambrister. I beg leave, in the first place, to call the attention of the Committee to the facts, in relation to these two men. Arbuthnot was guilty of exciting and stirring up the Creek Indians to war against the United States, and of aiding and abetting them, by supporting them with the means of war. Ambrister led and commanded the Lower Creeks, in carrying on the war. These are the facts. And now, sir, for the principles which apply to them, which designate the character of their crimes, and the punishment which belongs to them. Before I do this, however, I will say something in reply to what the Speaker said, in mitigation of Arbuthnot's offence. He told us that the Treaty of Fort Jackson, of which Arbuthnot had complained, had imposed hard and severe terms on the part of the Indians. He stated that, in that treaty, the United States demanded, in six successive articles, and in a tone of the most imperious dictation, sacrifices and surrenders on the part of the Indians, beyond any example in history. Mr. Chairman, I do not mention it to reproach my country; but let us cast back our recollection, and see if there be not more cause for regret, in relation to this subject on other occasions, than there is in the Treaty of Fort Jackson. The Indians were the aborigines of this land: they were its proprietors. If we go upon principles of strict justice, we had no right to take from them an acre, but what was necessary for our comfortable existence. When we bought of them, upon the same principle, we ought to have given them a fair equivalent. Have we done so? No, sir, we have gotten from them millions of acres of the fairest land that the sun ever shone upon, for almost nothing when compared with its value. Can gentlemen reconcile this to their feelings in a time of peace? And yet, shall all their sympathies be reserved for an occasion when we had just terminated a sanguinary war? A war, which, on our part had been unprovoked, and on the part of the enemy, marked by the extremest degree of even Indian barbarity. This would, indeed, be, to keck at pap and digest steel.

For, sir, it is one of the legitimate rights which appertain to war, that when we come to adjust the terms of peace, we may repair, at the expense of the enemy, all the losses and dangers which we may have incurred in the prosecution of it. But, sir, with the justice or the moderation of the terms of the Treaty of Fort Jackson, we have now nothing to do. Still less had General Jackson: a military officer, whose duty it was to fight the battles of his country, not to decide the justice of the war. The treaty was duly negotiated, and duly ratified; it received the assent, directly, of the President and Senate, and, indirectly, ours also, by means of an appropriation, made to carry its stipulations into effect. I have been led, for a moment, into a digression. I will return to the subject, and will attempt to show the character of the crimes of Arbuthnot and Ambrister.

Since the institution of Government, if the citizen or subject of one country commit an ordinary outrage against the sovereignty of another, the mode of punishment is a plain and simple one, and is, I believe, almost universally acquiesced in throughout the civilized world. If the guilty person be within the jurisdiction of the offended sovereign, he, without difficulty, punishes him; if he escape, and return into his own country, his own sovereign will either inflict exemplary punishment upon him, or, sometimes, deliver him up to the offended State, there to receive justice. But, sir, if, instead of its being an ordinary crime, it have a hostile character; if it be an act of war, in alliance with, or under the auspices of the enemies of the country against which the hostility is committed, then it assumes a different aspect; it is either sanctioned by the nation of the person committing it, or it is not: if it be sanctioned, then it is cause of war against that nation; if it be not, then the person, by thus committing an act of hostility, imparts to himself the character of the people with whom he unites himself. If they be civilized, he, in common with them, is entitled to the laws of civilized war. If they be savage, in like manner he must be content, having embarked himself upon the same bottom, to share the same fate. What that fate may rightfully be, will now be the subject of my inquiry; and here, sir, it will be necessary to ascend to first principles, in order to un-

derstand the rights of war, in the various circumstances in which nations may be placed.

"War," says Bynkershoek, page 2, "is a contest by force." The author goes on to remark, that every force is lawful in war; that it is lawful to destroy an enemy, though he be unarmed and defenceless; it is lawful to make use of poison, of missile weapons, &c.; in short, he adds, that everything is lawful against an enemy. This, then, is the original and fundamental principle of the rights of war. In the progress of time, as civilization advanced, and moderation and philanthropy obtained a great prevalence, the nations of the earth have ingrafted upon this principle many modifications, the whole of which combined constitute what are called the usages of civilized warfare. Though, therefore, by the original principle the mere existence of war made every individual, and every description of property belonging to each country, mutually and reciprocally hostile, and subject to destruction in every possible mode, yet, since the usages of civilized warfare were introduced, certain instruments of war are altogether reprobated, and persons as well as property of certain descriptions, and under particular circumstances, are spared Sir, at the moment of expressing this sentiment I behold one memorable exception to this mitigated rule, in an act perpetrated by a nation conspicuous for its civilization. I see the Capitol of my country just rearing its head from a heap of ruin and desolation; in its destruction a lasting monument of British outrage; in its re-edification a magnificent emblem of the recuperative energy of my country! But I will let the pall of oblivion fall upon any painful recollections—I will return to my subject. Those usages of civilized warfare which I mentioned a moment since to the Committee, are the subject, though not of express yet of tacit compact; they are founded upon the idea of an equivalent, and based upon the principle of reciprocal obligation. Thus the language of one nation to another is, spare my monuments of art, and I will not ravage your country—spare my people engaged in the peaceable pursuits of agriculture, and I will spare your women and children. Am I asked for the proof of this? It is found at once in the doctrine of retaliation, universally recognised as a sound principle of public law. If, contrary to the rules of modern war, you put my soldiers, when made prisoners, to death, in return I may inflict the same severity upon yours, if, by the fortune of war, they shall chance to fall into my power; because, in this instance, as you have violated your part of the compact in relation to mitigated war, I am consequently absolved from mine, and restored to my original rights. What is an exception merely in civilized States, is the general rule in relation to savages; because, as they never acknowledge the obligation of the rules of modern war, they are without the pale of the compact, and can, therefore, claim no benefit from it. But as against them we have a right, if we choose, to exercise, in its fullest extent, the original rule which I have just laid down. True it is, sir, that we do extend to them many of the benefits of this compact, but it is a gratuitous act on our part, and what, therefore, they have no right to demand; for, in the language of Bynkershoek, though justice may be insisted on in war, yet generosity cannot.

These, then, are the principles which fix the fate of the two men who were executed; first, when you make common cause with my enemy, without the authorization of your Government, you must share a common fate with them. Second, that enemy being, in the present instance, a savage one, you are subject to the original rule of war, which makes it lawful to put you to death. As to Ambrister there is scarcely a difficulty—he was in the ranks of the enemy, and led them on to battle. Now, according to Vattel, b. 3, ch. 15, s. 230, volunteers taken by the enemy are treated as if part of the army in which they fight; and why, sir? I will give you the author's reasons in his own words: "Nothing can be more 'reasonable; they, in fact, unite themselves to 'this army; they support the same cause—no 'matter whether it be from obligation or free 'will." The case of Ambrister is so fully up to this, that argument cannot make it plainer. As to Arbuthnot, if the file do not afford a precedent in point, yet we shall be able to decide it by principle. Perhaps, sir, the particular case may not be found, because there was no people standing in the same relation to the States in Europe as the Indians do to us. But, sir, upon principle, if the individual in the ranks be subject to this fate, is not the reason stronger against him who is the exciter—the instigator of the war? If that man be liable to the punishment of death, who lends to the enemy only the aid of his individual physical force, how much more does he deserve it, who, by the moral force of his delusive promises and persuasions, puts into action against us the physical force of a whole tribe of Indians? Would not a contrary doctrine, in effect, amount to this, that, whilst you may punish the arm, you must suffer the head to escape with impunity?

Sir, it was Arbuthnot who poured the secret poison of discontent into the minds of the Indians; it was he who awakened the sleeping tiger and let him loose against us, with all his native ferocity whetted by exasperation; it was he who sharpened with new keenness the edge of the tomahawk; it was he who used the deluded savages as the instrument of his wicked purpose, as the man who stabs you to the heart makes use of the poniard. But, said the Speaker, we have never, in a long series of wars, practised retaliation for Indian barbarity. Sir, this is not retaliation. That consists in a literal execution of the great precept of "an eye for an eye, and a tooth for a tooth"—that "measures blood by drops, and bates not one in the repay." It is never appeased until it sacrifice just as many victims as the enemy has, and those, too, of the same grade, if within its reach. Thus, if the Indians had killed three hundred of our men, women, and children, we should, upon this principle, put to death an equal number of theirs. Retaliation

then not only may, but frequently does, fall upon the innocent. The execution of these two men is, in the most prominent points of view, the reverse of this. Instead of the innocent, we have punished the guilty; instead of counting the victims, and sacrificing an equal number, though we have lost *hundreds*, we have only executed *units*. It is said, however, that we have never departed from the rules of modern war, but in burning their habitations and destroying their food. Is this departure, indeed, allowable; and will gentlemen yet say, that it is not a measure of more rigorous severity than the death of the two men, who are the subject of this discussion?

When we destroy their habitations, we turn out, not only their warriors, but the old and the young, without respect to age or sex, without a roof to shelter them from the pelting of the pitiless storm. The miserable pittance of property which they own, is all consumed by the same devouring flame which destroys their dwellings and makes them houseless wanderers. When we destroy their food, we expose them to the danger of all the horrors of famine which may involve in indiscriminate death the guilty and the innocent; whilst, in the execution of these men, the guilty only have suffered. Gentlemen have, indeed, in the most glowing colors of pathetic eloquence portrayed to us the sufferings of Arbuthnot and Ambrister. If I could dip my pencil in as vivid colors as they have used, and if I had occasion to use them, I, too, could present a picture which, I am persuaded, would excite the keenest sympathies of the human heart. I would present to you, not two guilty men, suffering death according to the sentence of the law, but a scene of slaughtered innocence—not one or two suffering victims only, but a group, a family group. That is but a miniature painting. To make it as large as life, I would present you almost a national group. The figures represented on it would be, old men bending beneath a weight of years, inhumanly butchered; multitudes of women and children gored with wounds and weltering in their own blood; and others, sleeping in the arms of death, with here and there a solitary survivor to deplore their fate. But, sir, I will not attempt to harrow up the feelings of the Committee by even a further description of such scenes—it is not necessary; for I cannot but believe that the execution of these men stands justified by the laws of nature and of nations.

But, it has been objected, that whatever our rights may have been, it was not competent to the commanding General to execute them. Do gentlemen mean to say, that their offences were cognizable before any court having criminal jurisdiction? I answer, that they could not have been tried in the United States; because the acts were not committed within our jurisdictional limits. They could not have been tried in England, for the same reason. And, indeed, though the offences were committed within the territorial limits of Spain, yet the authors of them were on the lands owned, or at least occupied by the Indians. I do not believe that they could have been tried there—for, I will ask, whether we should claim jurisdiction to punish an offence against a foreign Government, committed by an Indian on the lands occupied by his tribe within our boundary? This, however, is an objection to jurisdiction founded upon locality only. I assume a much higher ground. I object to it upon the ground of the nature and character of the act committed, My principle is this—that it is a right directly derived from, and appertaining to war, and, therefore, the civil power has no jurisdiction over it.

I will not undertake to say that Congress might not have made some legislative provision as one of the rules and regulations by which our army should be governed in relation to this subject—but, however that may be, as to which I now shall say nothing, I think I shall be able to show that, in the case under discussion, the commanding General acted within the sphere of his legitimate power in the course which he pursued. These two men were taken prisoners, and the question was, what should be their fate—how should they be disposed of? This question must be settled according to the laws of war, as they relate either to a civilized or savage enemy. It is one of the questions which arise as to the mode of carrying on the war. The conduct of the war belongs to the President as Commander-in-chief, and under him to his commanding General, who is supposed to represent him. Is there any member of this Committee who denies that the mode of treating prisoners belongs to him who commands your armies? Suppose, for example, it was a mere exchange of prisoners, then there would be no difficulty, because it is the habitual practice of the commanding General to regulate that, and conceded to him by all. Now, sir, I will show that this is but one of the modes of treating prisoners, and, with a view to throw some light upon the subject, I will beg leave to take a short retrospect of former times. Originally all prisoners were put to death. The next mode of treating them was, to reduce them to slavery; then was established the system of ransom; and, finally, the present mode of exchange—see *Vattel*, b. 3, ch. 8, p. 151, 2, 3, in relation to this subject. During the existence of each of these modes of treatment, from the most severe down to the most lenient, the whole power and authority upon the subject, in the nature of things, belonged to the commanding General. When, then, a case occurs like the present, in which the original treatment of prisoners is justifiable, the same power must have authority over it. This idea is strongly supported by the doctrine of retaliation, and particularly by the mode of its execution; for if the enemy causes prisoners to be put to death, the prince whose people are thus treated, or his general, has a right to refuse life to some of the prisoners he may take. Again, sir. It was long the principle, and is now even contended for by some, that a governor of a place who makes a desperate defence, and causes a great effusion of blood thereby, may be put to death. By whom? of course by the commanding

general of the enemy. One case more, sir, and I have done with quotations upon this point. When, says *Vattel*, b. 3. ch. 8, s. 151, "our safety 'is incompatible with that of the enemy, though 'subdued, it is out of all question but that in cool 'blood a great number of prisoners should be put 'to death." By whom? It must be by the commanding general. This principle is precisely recognised by the resolve of the Old Congress, read by the member from Kentucky, for they resolve, expressly, that not only the Commander-in-chief, but the commander of a separate army, had the right of retaliation. Two examples have been referred to which have been supposed to prove the contrary. One during the quasi war with France—the other during the late war with Great Britain, in which legislative provision was made upon the subject. In relation to the first, I will observe that there really was no actual war, and consequently none of the rights of war could strictly be exercised. As to the example during the late war with Great Britain, the law contains two distinct sections: the first authorizes the President to retaliate on Great Britain any violation of the rules of civilized war; and the second authorizes him to retaliate on British subjects for outrages committed by Indians in alliance with them. The last contains an entirely new principle, because it authorizes retaliation upon the soldiers of the principal, for cruelties committed by the allies. It, therefore, has no application at all to this case. And, as it respects both the provisions, they are subject to this remark, that they relate to retaliation, as to which, though the President had the power, he might not choose to exercise it without the sanction of Congress, inasmuch as it would fall upon the innocent exclusively. I have already endeavored to show that in this case it falls on the guilty only.

In regard to the court martial, gentlemen say it had no jurisdiction. This is conceded to be correct; and I have attempted to show, that the power belonged to the commanding General. Although, however, the court had no jurisdiction to decide the fate of the two men, it was not improper through them to get at the facts; and though they had no jurisdiction, it would have been desirable that the General, after submitting the case to them, should have followed the sentence which they pronounced, but for an unanswerable reason, which, I believe, has already been urged, that the punishment which they pronounced in the case in which their sentence was not followed was unknown to the national law, and therefore could not properly be inflicted. I have thus, sir, shown, as I think, that the power of putting these men to death, belonged to us as one of the rights of war, and that it was legitimately exercised by the commanding General; and yet, sir, I acknowledge that I feel a regret at their execution—but what kind of regret? Just such as I would feel for the execution of a man who had been sentenced to death under the municipal law of the country, and in whose favor, under certain circumstances, I might join in a petition for a pardon, which petition was rejected. I could not, however, in the case which I have stated, concur in a vote of censure against the executive officer for refusing this pardon, because he has only executed the sentence of the law; because he has carried into effect the public justice of the country; and, because an act, conformably to law, and in accordance with the principles of justice, even if you call it stern justice, cannot be *morally wrong*.

It is true, sir, that mercy is a godlike virtue, and that "earthly power shows likest to divine, when mercy seasons justice;" but there is a point, when even her pleading voice should not prevail; but the sword of justice should execute its office. How long we should listen to her entreaties, and when we should become deaf, even to them, it is impossible, certainly, to say. One thing, however, is certain—that, whilst the propriety of the interposition of mercy depends on circumstances, the principles of justice are immutable; the same yesterday, to-day, and forever. Though, therefore, I should have been pleased if they had been spared, yet, when I recollect that we have labored in vain to extend to the Indians the mild precepts of religion, and to excite in their bosoms feelings of philanthropy; when I see them, upon the breaking out of every new war, again exercising all their native ferocity; when I recollect that the punishment which has been inflicted, is justified by the principles of public law; and, that an example like the present, by the monitory lesson which it affords, may contribute to the future peace and safety of our citizens, and spare the effusion of much blood, as well of our own people as of the Indians themselves; when I recollect these things, I am brought to the conclusion, that whatever may be my feelings of regret, mercy to those men might have been cruelty to a whole community; and I cannot, therefore, concur in a vote of censure for their execution.

I have finished my view of this whole subject. I shall vote against all the resolutions. I thank the Committee for their polite attention, and will not trespass longer upon their patience.

Mr. Sawyer, of North Carolina, rose and said—

Mr. Chairman: As it is not my intention to go over the same grounds that other gentlemen have, my observations will be necessarily few. And I am sorry to be obliged to differ with my friend from New York, in the outset, with respect to the powers of this House over the present question.

I think the principle a new one; that Congress has no power to pass any resolution of condemnation or removal, nor of censure, of any military officer. If such a power exists, let it be pointed out. I have examined the Constitution, clause by clause, for such a power, but I have searched in vain. The Legislative and Executive powers are distinctly marked and independently delegated, and we cannot pursue this course without infringing upon the rights of the Executive. He is, by the Constitution, the Commander-in-chief of all our forces, and to him alone are our officers responsible. Besides, a resolution of this

kind implies a censure on our Executive, by intimating that he had been so negligent in his duty or partial in his affections, as to permit a fault in one of his officers to pass unnoticed, which this House might think worthy of animadversion. I have too much confidence in the Executive to believe he would fail to do his duty, upon the commission of any criminal act on the part of General Jackson. But I am yet to learn whether such has been the case on the part of the General. What is the true state of the case? Arbuthnot and Ambrister were apprehended in the Indian country, under such circumstances as would have justified their immediate execution. But General Jackson, wishing to afford proofs to the world of their guilt, ordered a special court of inquiry to convene at St. Marks, the 26th of April last, for the purpose of investigating the charges, and imbodying the evidence against them. [Here, Mr. S. read the order, &c.] This court, as a court of inquiry, had no right to pass judgment. They were sitting merely as jurors, and were to find a verdict of guilty or not guilty. They did find the prisoners guilty of such charges as subjected them to the punishment of death. They found Arbuthnot guilty of both charges; exciting the Creek Indians to war against the United States, and of comforting and supporting the enemy, by furnishing him with the means to carry it on. This was, in fact, treason against the United States; for these Creek Indians were quasi citizens, enjoying the protection, and were under the jurisdiction of the United States, and, notwithstanding Arbuthnot was a foreigner, he could commit treason against the United States as well as a citizin, and would be either punished for it civilly, by being turned over to the civil authority, or by martial law, for such other offences as came under the cognizance of that tribunal. As to Ambrister, it was proved that he gave intelligence to the enemy, and he plead guilty to the second charge, that of being a party and even a leader in the war; of course, they brought on themselves and justly deserved that punishment, which the right of retaliation entitled us, and the orders of General Jackson commanded him, to inflict upon the savage foe. The prisoners being found guilty on such charges as subjected them to capital punishment, there was an end of the authority of the court, and it remained with General Jackson to apply the law of the military code, and see it executed. The opinion which the court thought proper afterwards to express, that the offence of Ambrister did not deserve capital punishment, could only be viewed by General Jackson as a recommendation to mercy by several respectable individuals; but which, in obedience to the laws of the army, he could not observe. But it was inconsistent with the sentence which they had already pronounced against Arbuthnot; for they had ordered him to be hung, although he was only an accessary in the war, and how could they condemn Ambrister to a less severe punishment, who was a principal in it! General Jackson was merely reconciling their own decisions, when he, at the same time, conformed to the laws of his country, which forbid the infliction of torture, and was the minister of even-handed justice, that "returned the poisoned chalice to their lips who prepared it."

Although I am hurt at the zeal with which I see this prosecution carried on, and the joy manifested at it from a certain quarter of the House, yet I cannot be so uncharitable as to impute their motives to the conduct of General Jackson prior to this event. Surely no gentleman within these walls can harbor a prejudice against him for his victories over any of our enemies. I must believe their motives are pure, but I cannot but think their views are erroneous. What would they have, even admitting, for argument's sake, that the conduct of General Jackson was not strictly legal? Would they wish to see that man, at his time of life, grown gray in his country's service, dragged before a military tribunal to answer for it? Can his age—can his services—can his victories—plead nothing? Must they all be buried at the shrine of two demi-devils, whose conduct has drawn tuns of blood from an unoffending country's breast? I trust not. The blaze of Jackson's glory is too bright, in my eyes, to be obscured by the transaction. But the course proposed is very extraordinary. Are we a self-constituted tribunal, to whom General Jackson is responsible? What purpose can it serve to pass a resolution criminating the commanding General? Have we any authority, and can we claim the privilege of attacking the characters of the best and greatest men among us, and of depriving them of the most "precious jewels of their souls?" This is a new species of legislative domination, dangerous to the liberties of the people. If you claim the use of it, what man can be safe? There is no man of elevated rank but what may be obnoxious to some member of this House; and would it be right for him to use his privilege of a member to assail his character? Will the people endure to be dragged before this council of anatomists, to undergo the worst of all dissections? I for one will not, by any act of mine, sanction the extension of this censorial power over my constituents. The age of proscription, I trust, is over, never to be revived. There is a proper tribunal, clearly marked out by the Constitution, for the punishment and censure of every grievance; to that tribunal General Jackson is answerable, and no other. If the President has omitted to do his duty, let the gentleman impeach him; but this criminating course, in this House, is mere *brutum fulmen*, without any corresponding power, but fraught with great mischief, by fixing a sting in the bosom of a person who is not permitted to be present to make his defence. What effect can the passage of this resolution have? Can it deprive General Jackson of his commission? If the President approves his conduct, will he be driven to act the ungrateful task of dismissing from his service the man whom he may think deserves well of his country, by any officious intermeddling on our part? Sir, I trust the President has too high a sense of his

own rights and dignity. The Government—the people—have too high a sense of Jackson's merit, ever to give him up as a victim to the manes of such creatures as Arbuthnot and Ambrister. So far from censure, he deserves the grateful thanks of this House, and I trust he will receive them. I consider we are bound to tender him a vote of thanks, as a balm to his wounded spirit—as an antidote to the worst of all poisons—that which is inflicted with the tooth of ingratitude?

If you pass this resolution, what must be the feelings of General Jackson? Methinks I can hear him exclaim, "Farewell—farewell to the neighing steed, the shrill trump, the ear-piercing fife, the spirit-stirring drum, the 'star-spangled banner,' and all the quality, pride, pomp, and circumstance of glorious war"—Jackson's occupation's gone.

Sir, when I saw the gentleman from Georgia (Mr. Cobb) the first to commence this attack, I felt emotions that I cannot undertake to express. It was the last quarter of this House that I expected it from. That gentleman, in common with the people of Georgia, are under obligations to General Jackson that are not easily cancelled. Sir, General Jackson watched while they might sleep. He presented himself between them and the ruthless savage, exposed his own life that their wives and children might slumber undisturbed by their midnight yells. Is this the return? If such be the sentiments of the people of Georgia I am sorry for it, but I trust my countrymen have very different. Sir, the gentleman has talked about law, and called on us to mention any law that Arbuthnot and Ambrister had violated! Sir, I can answer him by asking him to tell us what laws they had not violated? Then does he conceive that the court of inquiry, composed of such respectable names, with General Gaines at their head, disregarded their oaths by condemning them without law? Sir, they violated the ninth rule of the articles of war, by furnishing the enemy with aid and assistance, and committed more offences than I have language to clothe them in. With murder, rape, rapine, robbery, burning, in their train; like furies they issued from their dens, "cried havoc, and let slip the dogs of war." But does the gentlemen expect us to apply the same laws to savages that are observed among civilized nations? Let him, with his code of laws, undertake to enforce their obligations to a savage, armed with a tomahawk, and see which will make the greatest impression. Pray, sir, what laws, human or divine, do they observe? Indians! demons! But the gentleman says we never exercised the right of retaliation before. If we had not, that is no reason we never should. I believe many instances of retaliation have been enumerated; if they had not, it would be paying a compliment to our humanity, which, I hope, will never be deserved again. Mercy, Mr. Chairman, is my delight; but when that mercy degenerates into weakness, it sometimes produces cruelty to ourselves. This was the case in the present instance, and made it necessary to change our policy.

Sir, as to the resolutions of the gentleman from Georgia I shall not consider them, particularly at this time, for I do not think they come fairly before me. I think, for myself, I have a right to complain at our treatment. After a subject has been regularly referred to a committee, and by it reported to the House, and a special charge against General Jackson, grounded on the trial and execution of Arbuthnot and Ambrister, and made the order of a given day; when the subject is taken up what is the course pursued? An attempt is made to lead us from the ground we occupied, by forcing us to consider several abstract propositions, without their ever having been agreed to be considered by the House. Why they should be entitled to a preference over other resolutions I cannot conceive. But what are we to infer from this course? Is this marching up to the subject boldly, manfully, and directly, or is it not retiring from the field and laying an ambuscade?

The gentleman has asked us to justify General Jackson's conduct by any law, in occupying the Spanish posts of St. Marks and Pensacola. Sir, he was justified in occupying them by one law at least, the force of which all are ready to admit—self-preservation. He had a right, under that law, to deprive them of one post, and to cut them off and intercept their supplies by the capture of the other.

And here I beg leave to quote the General's own words, for, as ably as he has been defended on this floor, I believe his own defence, considering all circumstances, is nearly as good as any that can be made for him. I will take the liberty of reading an extract from his letter of the 5th of May last, dated at Fort Gadsden, to the Secretary of War. This letter affords another proof that he had the heart to conceive, the hand to execute, and the talents to defend, the best measures which the urgency of the occasion required.

"I hope the execution of these two unprincipled villains will prove an awful example to the world, and convince the Government of Great Britain, as well as her subjects, that certain, if slow, retribution awaits those unchristian wretches, who, by false promises, delude and excite an Indian tribe to all the horrid deeds of savage war. Previous to my leaving Fort Gadsden, I had occasion to address a communication to the Governor of Pensacola, on the subject of permitting supplies to pass up the Escambia river to Fort Crawford. This letter, with another from St. Marks, on the subject of some United States' clothing, shipped in a vessel in the employ of the Spanish Government to that post, I now enclose, with his reply. The Governor of Pensacola's refusal to my demand, cannot but be viewed as an hostile feeling on his part, particularly in connexion with some circumstances reported to me from the most unquestionable authority. It has been stated that the Indians at war with the United States have free access into Pensacola, that they are kept advised, from that quarter, of all our movements; that they are supplied from thence with ammunition and munitions of war; and that they are now collecting in a body, to the amount of four or five hundred warriors in that town; that inroads from thence have been lately made on the Alabama, in one

of which eighteen settlers fell by the tomahawk. These statements compel me to make a movement to the west of the Appalachicola, and, should they prove correct, Pensacola must be occupied with an American force, the Governor treated according to his deserts, or as policy may dictate. I shall leave strong garrisons in Forts St. Marks, Gadsden, and Scott, and in Pensacola, should it be necessary to possess it. It becomes my duty to state it as my confirmed opinion, that so long as Spain has not the power or will to enforce the treaties by which she is solemnly bound to preserve the Indians within her territory at peace with the United States, no security can be given to our southern frontier, without occupying a cordon of posts along the shore. The moment the American army retires from Florida the war hatchet will be again raised, and the same scenes of indiscriminate massacre, with which our frontier settlers have been visited, will be repeated, so long as the Indians within the territory of Spain are exposed to the delusion of false prophets and poison of foreign intrigue; so long as they can receive ammunition, munitions of war, from pretended traders and Spanish commandants, it will be impossible to restrain their outrages. The burning their towns, destroying their stock and provisions, will produce but temporary embarrassments. Resupplied by Spanish authorities, they may concentrate and disperse at will, and keep up a lasting and predatory warfare against the United States, as expensive to our Government as harassing to our troops. The savages, therefore, must be made dependant on us, and cannot be kept at peace without being persuaded of the certainty of chastisement being inflicted on the commission of the first offence. I trust, therefore, that the measures which have been pursued will meet with the approbation of the President of the United States; they have been adopted in pursuance of your instructions, and under a firm conviction that they alone were calculated to insure peace and security to the Georgian frontier."

There would have been no end to the war, if he had permitted the enemy to retreat to those strong-holds, the Spanish forts, without pursuing them with fiery expedition. The trial was made, and as soon as our forces retraced their steps, the Indians recommenced their system of robbing and murder. Does the gentleman require that we should be at the expense of keeping up a regular standing force throughout the whole extent of the Georgia frontier; to make it an armed barrier against the savages? Ought he not to be satisfied that the war has terminated in the manner it has, in the complete dispersion and conquest of the enemy, by the only mode in which it could be done promptly and completely? Ought he not to be thankful that his constituents can now pursue their peaceful avocations, without hourly apprehensions of murder and conflagration? If any irregularities have happened in the course of this war, leave it to be settled between us and Spain; let us not be guilty of such monstrous ingratitude to our worthy commander as to forget all his services, his midnight vigils, and his uniform success, by passing a string of resolutions which many of us do not comprehend, and which he never could have intended to violate. For, I believe it is not usual to censure a general for his success; he could have expected no worse had he been beaten. This is but poor encouragement to our officers.

But, sir, I consider these resolutions of the gentleman from Georgia as a complete acquittal of General Jackson. Because they imply that the prohibitions they impose did heretofore exist. For, if they do exist, where is the use of their being now enacted? And if they do not, of course General Jackson could not violate them.

As to the power of General Jackson, he had the most plenary. I will not occupy your time by reading the many letters from the War Department on this head, but will content myself by calling your attention to the concluding paragraph of a letter from the Secretary of War to Governor Bibb, of the 17th of May last: "General Jackson is vested with full power to conduct the war in a manner he may think best." Comment on this sentence would be an insult to the understanding of this House. General Jackson, then, had the fullest power to conduct the war in his own way. The Government divested itself of all authority over it: nothing could be added to the one—nothing could be taken from the other. Sir, I shall now come to a close. I believe that we have not the right to pass this resolution by the Constitution; and I know it would be unmerited. Sir, the honorable Speaker closed his speech by an impressive caution to us not to set a precedent which might destroy the liberties of our country. While we are guarding the Constitution against invasion from other quarters, let us take care that we do not violate it ourselves. Sir, we are treading upon sacred ground. If we proceed, instead of being the palladium, we may become the grave of our liberties. If we pass these resolutions, we aim a death-blow at the independence of the Executive.

Mr. MERCER (after an unsuccessful motion for the Committee to rise) proceeded to unfold his views in support of the resolutions; and had spoken a short time, when, a motion for the Committee to rise being made, the Committee rose, reported progress, and obtained leave to sit again.

Mr. MERCER then, agreeably to an intimation which he had given in Committee of the Whole, offered the following resolution:

Resolved, That the Secretaries of War and the Navy be directed to lay before this House a copy of the military orders in virtue of which the Negro Fort, within the Territory of East Florida, was destroyed in the month of July, 1816, together with the correspondence of Colonel Clinch and Commodore Patterson, in relation to that event.

On suggestion of Mr. STROTHER, the following was received by the mover as a part of the resolution:

"And any other information which may be in their power, in relation to the movement of the Indians in the Seminole country."

Some conversation took place on this resolution, in which Mr. MERCER stated his object to be to show, by the papers called for, &c., that the United States were the aggressors in the war which ensued with the Seminole Indians.

On putting the question on Mr. Mercer's resolution, it was discovered that there was not a quorum of the members present; and the House adjourned.

Tuesday, January 26.

Mr. Smith, of Maryland, from the Committee of Ways and Means, reported a bill making appropriations for the support of Government for the year 1819; which was read, and committed to a Committee of the Whole to-morrow.

Mr. Bassett addressed the Chair, and said that he rose to perform a pleasing task, because it was connected with humanity. It was to give praise and honor where praise and honor were due. It was, continued Mr. B., said last night, from that chair, that sensible objects most forcibly attracted us. My heart responds to its truth. Most sensibly did I feel, on beholding in that chair a man whose life has been devoted to the amelioration of the state of man; one who, without influence of kindred or country, and without any aid save that of a common tongue, has passed the vast Atlantic, to make known the hidden powers and blessings of knowledge. Thousands, said Mr. B., are now enjoying the happy fruits of his exertions, and millions to come will reap their profits, and drink again and again of the never-failing spring. I should do injustice to the feelings of the House, to dwell on this subject, Mr. B. then submitted the following resolution, which was read and agreed to:

Resolved, That Joseph Lancaster, the friend of learning and of man, be admitted to a seat within the hall of the House of Representatives.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act making appropriations for the military service of the United States, for the year 1819," with amendments, in which they ask the concurrence of this House.

The amendments were read, and referred to the Committee of Ways and Means.

On motion of Mr. Spencer,

Resolved, That the Senate of the United States be requested to permit the attendance of the honorable David Daggett, and the honorable William Hunter, members of their body, before the committee of the House of Representatives, appointed to inquire into the official conduct of William P. Van Ness and Matthias B. Tallmadge, to be examined touching the subject of the said inquiry.

On motion of Mr. Mercer, the House took up and proceeded to consider the resolution submitted by him yesterday, near the hour of adjournment, calling for copies of certain documents from the War and Navy Departments, illustrative of the inquiry now pending before the House—and agreed to the same.

The engrossed bill regulating the payment to invalid pensioners; the engrossed bill for the relief of Robert McCalla and Matthew H. Jouett; and the engrossed bill for the relief of Phœbe Stuart, were severally passed and sent to the Senate for concurrence.

The bill for the relief of Hannah Ring and Luther Frink, was ordered to a third reading; and the bill for the relief of Lewis Joseph Beaulieu, was taken up, and ordered to lie on the table.

REGULATION OF COINS.

Mr. Lowndes, from the committee appointed to inquire whether it be expedient to make any amendment in the laws which regulate the coins of the United States, and foreign coins, made the following report:

That the laws of the United States make all gold and silver coins issued from their Mint, and Spanish dollars, and the parts of such dollars, a legal tender for the payment of debts. The gold coins of Great Britain, Portugal, France, Spain, and the dominions of Spain, and the crowns and five franc pieces of France, are also declared to be a tender, by an act passed on the 29th of April, 1818. These coins, excepting the five franc pieces, had been made legal by two earlier acts, which had been allowed to expire, and their renewal, with slight modification, must be attributed, not to a disregard of the inconveniences which the use of coins so various and unequal in their purity must produce, but to the exigencies of a country endeavoring suddenly to recover a specie circulation. The act of 1816 was accordingly passed but for three years, and will expire on the 29th of April, 1819, after which, no foreign coin but the Spanish dollar will, under our present laws, pass current as money within the United States. The act for establishing a Mint was passed in April, 1792, and it was then expected that foreign coins, including the Spanish dollar, might be disused after three years. But, neither an examination of the laws which regulate the currency of American and foreign coins, nor the observations of the effects which they have as yet produced, will justify us in expecting that a continued reliance upon them will enable us to dispense at any time with foreign coins.

The gold or silver bullion carried to the Mint by individuals is coined, if it be of standard fineness, without charge or seignorage, and if it be below the standard, the expense of refining it only is paid by them. All foreign gold and silver coins received by the Treasury, must be "coined anew, previous to their being issued in circulation." These are the only provisions which the law has made for supplying the Mint with gold and silver; and the last provision is without effect, since banks have become the only depositories of public money.

The silver which is most frequently brought into the United States, in the common course of commercial business, is the Spanish dollar. But individuals have no inducement of interest to send this coin to the Mint. Within the United States it has an equal value with the American dollar, and in many foreign countries a much higher value. The Mint, however, has been employed in converting Spanish into American dollars; but it has been employed by banks, not individuals. The American dollar and half dollar, however, have been found not unfit for exportation, and the Bank of the United States has made large importations of the five franc pieces of France, which it prefers, because it supposes them less likely to be exported than other coins.

The legal value of the American and foreign coins which are current in the United States, is so nearly proportioned in each to the pure metal which it con-

tains, that, where a remittance is to be made in specie, the foreign and national coin will be sent to many countries almost indifferently, except that coin of the nation to which the remittance is to be made, will be preferred, whenever it can be procured. On the other hand, if a remittance in specie is to be made to the United States, the coins of half of Europe serve the purposes of money here as well as our own. This variety of current coin, results indeed from a temporary law; but, while the dollar of Spain, and that of the United States, are of exactly the same value within the United States, and of nearly the same value in many of the foreign countries to which our remittances of specie take place, it would be unreasonable to expect that the merchant should not often make them indifferently the subjects of exportation.

It is, however, true, that in Canton, and many parts of the East Indies, the Spanish dollar is valued much higher than that of the United States, or than any other coin, in proportion to the quantity of pure silver which it contains. In many parts of the East Indies, indeed, no other coin is current. But, in such as have mints of their own, as in the British possessions, our coins are estimated at their real value, or nearly so. The annual exportation of silver from Canton to British India, is known to be very large, and this circumstance can hardly fail to raise the price of American silver, even in Canton, slowly as customs and opinions change there; at any rate they cannot calculate on the preference of Spanish dollars leading exclusively to their exportation; while of the articles which we import from the East Indies, including China, nearly one-half is drawn from countries in which our coins are all valued nearly in the just proportion to their purity and weight; and such was the proportion in our importations, at least during the year 1817.

The equal proportion between the legal and intrinsic value of American and foreign coins, which tends to produce their indiscriminate exportation, has also an unfavorable effect upon their use in manufactures. The difference between the quantity of pure silver in the American and Spanish dollar, is not such as to form any obstacle to the employment of the former, by the manufacturer of plate. Fortunately, however, an objection to it is frequently found in the quality of the alloy, which makes it more difficult to be worked. As to our gold coins, they are employed with as much advantage by the manufacturer as any foreign coins, and with more advantage than some of those which are made current by law. Nor is the quantity of gold and silver annually employed in the manufactures of the United States, now an inconsiderable one.

To preserve the coins which are issued from the Mint from being melted and exported, the laws must give them some advantages in internal commerce over foreign coins of equal purity and weight. In respect to the gold coinage of the United States, the Mint depends for its supply of bullion upon banks or individuals, as it does in the coinage of silver. But there is a difficulty in the operations of the Mint, which is peculiar to the coinage of the gold. The relative value of gold to silver is fixed by our law at one to fifteen, which is much below the relative value which is assigned to it in all those countries from which we might have expected to procure it. In Spain and Portugal, the legal value of gold is to that of silver as one to sixteen; and in the colony of Spain with which our intercourse is most frequent and valuable, (Cuba) its price in commerce is at least seventeen for one. Hence, we are not only precluded in the common course of trade from obtaining gold from these rich sources of supply, but the little which finds its way into the country from other quarters, is drawn from us by the higher estimate which is there placed upon it. In France, the legal value of gold is to that of silver nearly as 1 to 15 1-2. In most parts of Italy, it is somewhat higher. In England, silver coin is only current in small sums; but if a specie circulation shall be restored in that country on the basis of its present mint regulations, the relative value of gold to silver will be about 1 for 15 1-5. The exaction of a seignorage on its silver coins makes the comparison less easy; but the merchant who shall carry bullion to the British mint, will obtain very nearly the same amount of current money for one ounce of pure gold, or 15 1-5 of pure silver. In Holland, the relative value of gold to silver is estimated (if there have been no recent changes in respect to it) at 1 to about 14 3-4. In Germany, and the north of Europe, the value may be stated as rather below an average of 1 to 15. The West Indies, which are probably our most considerable bullion market, estimate gold in proportion to silver very little, if at all, below an average of 1 to 16. And this is done, although some of the most considerable colonies belong to Powers whose laws assign to gold a lower relative value in their European dominions. This estimate, which was forced upon many of the colonies by the necessity of giving for gold the price which it commanded in their neighborhood, and particularly in the countries which formed the great sources of their supply, seems to indicate the fair proportion between the metals in the West Indies, since it is believed to have been in most instances, confirmed by the colonial laws, rather than introduced by them. The difference established by custom in the United States, between coined gold and silver, before the establishment of the present Government, seems to have been nearly as 1 to 15 6-10. The difference proposed by Congress, in their resolution of the 8th of August, 1786, was nearly 1 to 15 1-4; and the reduction in the valuation of gold by the act of April 12th, 1792, to the proportion of 1 to 15, may be attributed to the belief, which was expressed in the report on which that act was founded, "that the highest actual proportion in any part of Europe, very little, if at all, exceeds 1 to 15; and that the average proportion was probably not more than 1 to 14 8-10." The difficulty of obtaining correct information upon points of this kind, makes it not improbable, that there may have been some error as to the state of the Mint regulations of Europe at the period of the report. But, be this as it may, the principle which seems to be assumed in it, that the valuation of gold in this country should be higher than in Europe, would lead to the conclusion, that the present valuation of 1 to 15 is too low.

This conclusion is confirmed by the circumstance of the contract made not long since, between the Bank of the United States and Messrs. Baring and Reed, for the supply of specie. Under this contract, gold and silver were to be furnished, if it were practicable, in equal amounts, according to the American relative valuation of 1 to 15. Upwards of two millions of dollars of silver have been accordingly supplied, but not an ounce of gold.

As the committee entertain no doubt that gold is estimated below its fair relative value, in comparison to silver, by the present regulations of the Mint; and as it can scarcely be considered as having formed a material part of our money circulation for the last

twenty-six years, they have no hesitation in recommending that its valuation shall be raised, so as to make it bear a juster proportion to its price in the commercial world. But the smallest change which is likely to secure this object (a just proportion of gold coins in our circulation) is that which the committee prefer, and they believe it sufficient to restore gold to its original valuation in this country, of 1 to 15 6-10.

But, although the Mint regulations may affect the proportion of American and foreign, or of gold and silver coin, in the country, it seems difficult to suppose that they can reduce the general amount of specie below the quantity which our business really requires. And yet, there is no complaint more generally made, than that of a want of specie, in any shape.

What, then, are the circumstances which produce this acknowledged difficulty of retaining gold and silver coin in this country? We are told of the immense amount of our foreign importations, and it is plain enough, that if we did not import from other countries, we should not export silver or anything else. But we retain, and employ in our service, among all the articles which we produce, and all we traffic in, whatever suits our wants, convenience, or taste. Warehouses enlarge, and shops multiply, to the measure of the augmented demand; and even gold and silver, in every shape but that of money, are imported from abroad, or manufactured at home, and lose their migratory character whenever they become plate, and cannot be exported without loss. The want of gold and silver coin cannot, therefore, proceed from an inability on our part to buy, or in other countries to supply our wants.

There is, however, one branch of commerce which seems obviously connected with the disappearance of specie, and which must be admitted to exert a strong disturbing power on the whole system of our currency. The trade of the East Indies, has, in all ages, carried to those countries the silver of every part of the world which consumed their produce, and the United States have a very large share of this trade. The whole amount of our current coin is not probably more than double that which has been exported in a single year to India, including China in the general term. Will not an exportation as great as this, go far to account for the deficiency of silver in our circulation? And yet, a direct trade with India, if it encourage a lower consumption of her produce, gives us that produce at a much lower rate, if it carry from the country a great amount of specie, probably adds by an equal sum to our sales in foreign markets. The annual exports in American vessels from the United States, and all other places, to China and the East Indies, can hardly be estimated at more than twelve millions of dollars, and it cannot be doubted that our sales of East Indian articles in Europe, exceed that amount. The value of merchandise from China and India, annually consumed in the United States, is probably equal to five millions of dollars; and if this be so, the consumption of East Indian articles by the United States, is paid for by the mere profits of the trade. A branch of industry in which three thousand men (for this is about the number of seamen in the India trade) add $5,000,000 to the annual produce of the country, would be worthy of protection even if it were not connected with considerations of naval defence. These views may make us doubt whether the India trade tends to diminish the average quantity of silver in the United States. Its effect in the nations which have engaged in it before ourselves, has been, generally, to increase their specie circulation as well as their naval strength. And it seems reasonable that it should have done so. No man supposes that Holland, by supplying the rest of Europe with spices, left her own wants unsupplied. Nobody apprehends that our market must be destitute of teas, because we export millions of pounds annually, and why should the dealers in silver, rather than in spices or teas, make no provision for the home demand? When Genoa, Venice, Portugal, Holland, carried on an extensive trade in East Indian articles, and had no paper circulation, they were the depositories of the silver of Europe. When the States of America had no trade to the East Indies, but a full paper circulation, they were destitute of silver. Whenever the trade has existed without the paper, specie has been abundant, and scarce always where the paper has existed, either with or without the trade. We must conclude that when precious metals become scarce, while the price of foreign and domestic productions continues high, their scarcity results not from the country being unable to procure or retain them, but from its choosing to employ a substitute for their use.

While, however, the India trade has probably no tendency in itself to lessen the average amount of specie employed in the country, it produces, under the present mint and bank system of the United States, the most inconvenient effect on the currency. The general demand of the commercial world for the material of which we make our money, is useful by giving stability to its value. But if a state of things be supposed in which one country has a constant demand for this money, taking from us nothing else, while we are obliged to keep up our quantity of importations from other States, it is obvious that a demand and supply like this, instead of making our circulation equable, or proportioned to our wants, must produce that very instability in the value of money which the precious metals are employed to remove. Undoubtedly a nation, like an individual, if it owe a debt must pay it; and if it have no other means of payment, must even export its coin for the purpose. But, although this exportation cannot be prevented, when a general balance exists against the nation, it is still true, that the coin or money of the country should not be the object of regular remittance in any foreign trade. Nor is it so with any commercial nation but the United States.

But the inconvenience of making the coin or money of the State the object of regular remittance in a foreign trade, is greatly enhanced in a country which, like the United States, has a mixed circulation of specie and of the paper of banks of discount.

While these banks remove a large portion of coin, whose place they supply by their notes and credits, they give a new character to that which remains. Their obligation to pay specie upon demand, makes it the most important office of the precious metals to regulate and restrain the issue, and to support the credit of bank paper.

A prosperous condition of trade, an abundance of native products, and a foreign demand for them, which requires a large circulation, produce an increased issue of paper on the part of the banks. This very prosperity is the incentive to a trade to India, which not only abstracts very largely from the silver coin of the country, but obliges the banks to withdraw a still larger amount of their paper. Under this system, indeed, the importation of what the laws make current coin, is encouraged, as well as its exportation; but the quantity of our money, and its value fluctuate with the seasons and

the winds. The banks are obliged to contract their discounts, not only by a general or durable state of exchange, but from temporary causes, and from the condition of a particular trade.

But the India trade, under the present system of our coins, produces another and, ultimately perhaps, a worse effect upon the operations of the banks. We have spoken of the inconveniences which that trade must cause, if the banks which issue paper redeem it by specie whenever it is presented. On this supposition the merchant will make no effort to prepare the bullion or the Spanish dollars which he wants for the India market; the bank collects them without charge; he will draw from that reservoir, and avoid the risk and trouble of the double operation. But the banks do not always pay specie promptly and willingly when it is required for the India trade. Their resistance indeed must be often ineffectual, although it costs something to the merchant and gives some profit to the broker. But if a combination of banks can close their vaults whenever the public interest may seem to require it, the best limitation upon the issue of paper is destroyed, and the stability of our currency, and the execution of contracts, have no higher security than the public spirit and disinterestedness of their directors. While our coins are such as it is the interest of the merchant habitually to remit to India, the apology for evading their engagements will be sometimes made by the banks and encouraged by the people.

Whether we are to have banks or not, however, the principles which would proscribe the India trade, are incompatible with fair and wise legislation; but it is desirable that the regulations of the Mint should be such as may prevent that trade from alternately filling and draining the circulation of the country; such as shall not encourage the merchant to make its coins the regular subjects of foreign exportation.

The inconveniences which have been attributed to our present system of coins, would in a great measure be removed, if gold should be made the only legal tender for all debts above a moderate amount. In favor of such a provision, it may justly be said that there has been less variation for some centuries in the value of gold than of silver, and that it would avoid the embarrassments which are inseparable from a mixed circulation of both metals. The balances of payments between different States would be settled with more ease than if our coins were principally silver, and the traveller would be relieved from the loss and imposition which he frequently suffers when he carries with him bank notes, the value of which must vary with the course of trade, because their transmission cannot extinguish a debt, though it may change its form and its parties. But, whatever may be the advantages of a circulation, consisting principally of gold, we have been too long accustomed to consider silver as the principal measure of value to make it prudent, or indeed, practicable, to supersede its office. To attempt by law to prevent the currency, or to decry the value of a metal which the public consider as the standard of value, would be much more futile than the enterprise of giving legal value to a substance intrinsically destitute of it. There have, indeed, been countries in which the use of silver, in large payments, has been abolished, and gold substituted, but it is believed that in those instances law has only confirmed the change which had been made by custom.

We may conclude that, in any amendment which may be made to the laws respecting the coins of the United States, those of silver must continue to be a tender in payment of all debts,

An advantage may be afforded to American silver coins in internal commerce, over foreign coins of equal purity and weight, either by assigning a diminished value to foreign coin, and particularly to Spanish dollars, or by reducing the weight of the American dollar.

The first is impracticable. The Spanish dollar, whatever our laws may be, will be received by the banks and the people.

In all civilized countries, (except China, in which there is no mint,) it has been considered as the office of the Government to ascertain, by its stamp, the weight and fineness of the metals which are used as money. In some countries, and these the most enlightened and liberal, the State exacts no duty upon this stamp or coinage, so that the individual receives from the Mint, in coin, the exact quantity of pure metal which he has deposited in bullion. This is the case in France, in Britain, in respect to her gold coins, and it was so until recently in respect to her silver, and in the United States. In France and Great Britain, however, no foreign coin is allowed to be current. Under this system, the merchant is encouraged to carry to the Mint whatever bullion he receives; the circulation of the country is increased or diminished without artificial impediments, as the state of its trade may require, and the value of the coin is made to depend upon the general value of the metal in the commercial world. It is believed that, both in France and England, however, it is made penal to export or melt the coin.

Upon the first establishment of a Mint in the United States, the question of a seignorage upon the coin was necessarily presented to the Legislature. The Secretary of the Treasury, in his report on the establishment of a Mint, urges the propriety of commencing our coinage without a seignorage, or with a small one. "It will be better to increase it hereafter," he says, "if this shall be found expedient, than to recede from too considerable a difference."

A seignorage in the United States will produce the effect which results in other countries, from foreign coins not being allowed to be current. It will cause the national coin to be more valuable at home than abroad. It will prevent its being melted or exported while other coin can be procured, and may thus effect, in some degree, by an application to the interests of the citizen, an object which the penal provisions of other States have been very unsuccessful in attaining. It will indirectly exclude foreign coin from circulation, and thus make the quantity and value of coin which we employ more uniform. It must be considered, however, as principally recommended by the character and amount of our trade to India, and it will be remembered that this trade had been scarcely opened at the period of Mr. Hamilton's report.

If a small seignorage be imposed upon the silver coin of the United States, and no other foreign coin but the Spanish dollar be allowed to be current, it is probable that silver, from the same countries and to the same amount, would be sent to the Mint as if there were no seignorage. Without a seignorage, it would be sent only when it was wanted for the circulation of the country; and it would be as valuable to the individual for this purpose, after the duty was deducted, as if there were none. The Mint would not, in this case, receive Spanish dollars, and it does not

now. The banks would have an obvious interest in converting all their coin into that which would be least liable to exportation. The India merchant, unable, after a short time, to collect his cargo to advantage from the circulating money of the country, would prepare his silver for India, as he does his muslins for Europe. Neither this regulation, however, or any other, will retain in the country a quantity of coin disproportioned to the amount of property which it is employed in exchanging. It will not prevent the perpetual banishment of the precious metals, if a paper not convertible into specie is supported by law or public opinion. It may, indeed, well be questioned whether a sound circulation can be obtained with an amount of bank paper as large as we have had, even at periods subsequent to the late war, and whether the amount can be permanently diminished unless the present bank capital of the country be reduced. But these questions do not fall within the province of the committee appointed to report on the laws "which regulate the coins of the United States and foreign coins."

In a fair exposition of the effects of a seignorage upon coins, it must be admitted that, where it is exacted, coin will be generally, but not always, more valuable than its weight in bullion. While, then, it is believed that, in the United States, it would tend to make the value of our money more uniform, it is not denied that an opposite result may sometimes, and where the seignorage is high enough to make it a resource of Government, may often be produced by it.

A nation which employs both gold and silver as its legal money has an additional inducement to those which have been mentioned for establishing a seignorage on one or both metals. The relative value of these continually changes; and a small change which, without a seignorage, would make it the interest of the merchant to export the one and import the other, will not produce that effect if there be a seignorage upon the undervalued metal.

The reasons which may be urged in favor of a seignorage upon silver have not the same force in respect to our gold coins. There is no country to which gold is the regular object of remittance from the United States; and a difference of valuation is not necessary in order to give to the gold coin of the United States an advantage, in internal commerce, over other coin, because it is not impracticable to exclude foreign gold directly from general circulation.

The committee submit to the House the following provisions:

1. That 14 85-100 grains of pure silver shall be deducted as a seignorage out of every amount of 371 25-100 grains of such silver deposited for coinage at the Mint, so as to make the dollar of the United States contain 356 40-100 of pure silver, or 399 36-100 of standard silver; and that the smaller coins shall contain proportional quantities of such silver.

2. That the eagle shall contain 237 98-100 grains of pure gold, and 259 61-100 of standard gold, and the smaller coins proportional quantities.

3. That the provision of the present law, making parts of dollars less than halves a tender in payment of debts, shall be limited so as to apply only to debts below five dollars.

4. That an appropriation shall be made for enabling the Mint to coin a greater number of pieces than it now can.

5. That the act making certain foreign gold and silver coins a tender shall be continued for eighteen months, so far as relates to the silver coins.

Any plan which may be proposed for supplying the United States with coins of their own would probably be liable to considerable difficulties; but the inconveniences of the present system are not slight. An annual exportation of the current money of the country, to an amount much greater than our own Mint can supply, perhaps half as great as our circulation employs; an irregular importation from other countries to repair the loss; the use of foreign money so various that our current coins are now of at least seven different standards; a provision for a national Mint, which was expected, after three years, to dispense with foreign coins, and which, after twenty-six years, has left the great mass of our coins still foreign; these circumstances seem to show that some change is necessary. The wisdom of the Legislature must determine what that change shall be.

Mr. LOWNDES, from the committee appointed on the 27th of November last, to inquire whether it be expedient to make any amendment in the laws which relate to the coins of the United States and foreign coins, reported the following bill:

Be it enacted, &c., That the Treasurer of the Mint shall be, and he is hereby, directed to retain fourteen grains and 85-100th of a grain of pure silver from every amount of 371 grains and 25-100th of a grain of such silver deposited for coinage at the Mint, after the passage of this act, so as to make the dollar of the United States contain 356 grains, 40-100th of a grain of pure silver, and 399 grains, 36-100th of standard silver, and smaller coins proportional quantities of such silver; and the sum so retained shall be accounted for by the said Treasurer with the Treasury of the United States.

SEC. 2. *And be it further enacted*, That the gold bullion deposited for coinage at the Mint after the passage of this act, shall be coined as is now provided by law into eagles, half eagles, and quarter eagles. But the eagle shall contain 237 98-100 grains of pure gold, and 259 61-100 grains of standard gold, and the smaller coins proportional quantities of such gold respectively. And the person or persons by whom the said gold bullion shall have been deposited shall receive in lieu thereof gold coins containing an equal quantity of pure gold with that contained in the bullion. *Provided, always*, That when gold or silver bullion shall be deposited for coinage at the Mint, which bullion shall be below the standard of the United States, a sum equivalent to the expense of refining the same shall be charged, in the manner provided by the act respecting the Mint, passed on the 24th of April, 1800.

SEC. 3. *And be it enacted*, That nothing in this act shall be construed to affect the regulations of the Mint now provided by law, in respect to assays, alloy, remedy, or in respect to the duties and liabilities of the officers of the Mint, so far as such regulations are compatible with the provisions of the preceding section.

SEC. 4. *And be it enacted*, That the parts of Spanish dollars, and coins less than half dollars, issued at the Mint of the United States, shall not be deemed to be a legal tender to an amount exceeding five dollars on any one debt.

Mr LOWNDES, from the same committee, also reported a bill continuing the currency, for a limited time, of the crowns and five franc pieces of France; which bills were severally twice read and committed.

SEMINOLE WAR.

The House then again proceeded, in Committee of the Whole, (Mr. PITKIN in the chair,) to the consideration of the report of the Military Committee, and the amendments moved thereto by Mr. COBB, touching the transactions of the Seminole war.

After Mr. SAWYER had closed his remarks yesterday—

Mr. MERCER addressed the Chair, and, adverting to the late hour of the day, moved that the Committee should rise, in order that he might have it in his power to call upon the Departments of War and of the Navy, by a resolution which he read in his place, for information on a subject intimately connected with the present topic of debate. He had been informed, Mr. M. said, that the combined attack of a military and naval force of the United States, upon the Negro and Indian Fort, situated on the Appalachicola river, in East Florida, in the Summer of 1816, was made without the authority of the President of the United States. Regarding this as the commencement of the late Seminole war, he deemed it proper to obtain the information which he sought, in as early a stage of the debate as practicable. The Committee having, however, refused to rise, Mr. MERCER proceeded, in substance, as follows:

The report of the Military Committee, Mr. Chairman, coupled with the resolutions submitted by the honorable member from Georgia, (Mr. COBB,) have relieved me from much inquietude. Having, before the report of the select committee was received, denied the authority of Congress to punish a military officer, I rejoice that a course has been adopted, which, while it falls strictly within the province of this House, is calculated to heal the recent wounds inflicted on the Constitution, and to vindicate the insulted character of the nation.

I would watch, said Mr. M., with equal jealousy, the encroachments of Legislative as of Executive power. And, aware that the former is least capable of precise definition, and, therefore, most easily enlarged, could I behold, in the resolutions on your table, an attempt to invade the rights of any of the other departments of the Government, they would meet my most decided opposition.

Punishment implies responsibility. The responsibility of every military officer is to the President of the United States; his responsibility to Congress, through the Constitutional medium of impeachment, and through that alone.

But the resolutions before us have for their object neither a censure of General Jackson nor of the Executive. Pursuing the natural course of legislation, they ascertain the existence of a public abuse, and recommend the application of a Constitutional corrective. They spring from an inquiry into the conduct of the Seminole war, to which the President's Message at the opening of the present session, called the attention of the House. It cannot be forgotten, that, during the two first administrations of the Federal Government, the President, at the commencement of every session of Congress, met in person the two Houses, convened together, and pronounced the address which his Secretary now conveys to us in the form of a Message. In relation to every part of the address, the two Houses separately exercised the unquestioned right of responding. These responses brought into brief review the whole course of administration. All the political acts and the actors of the past year were held open to the scrutiny and opinion of either House.

Such was the operation given to this Government by the framers of the Constitution, who filled the first Congress which assembled after its ratification. Such continued to be its operation for the first twelve years of its existence.

During the last eighteen years, this practice has been disused, but it would be difficult to prove that the powers of this House have been abridged by the substitution of the President's Message for his speech. Like the latter, the former yet undergoes, at the opening of each session, a political analysis, which terminates in the reference of every important member of it to some committee, charged with the duty of reporting an opinion upon the subject which it embraces, and of recommending, if necessary, some correspondent act of legislation. Hence the origin of the report which has given rise to the present debate.

Is it not absurd to imagine, even, said Mr. M., that the President of the United States can apprize this House that its highest powers have been usurped? That the Constitution has been violated, and yet no complaint can be made of the usurpation, nor any exertion to prevent its recurrence?

The history of our Government, Mr. Chairman, is replete with inquiries analogous to the present. Need I remind you of that into the conduct of the first Secretary of the Treasury? Of the subsequent inquiry into the failure of St. Clair's expedition against the northwestern Indians? Or of the more recent investigation of the causes which led to the destruction of the Capitol?

Were it necessary, these authorities could be corroborated by a reference to the long established practice of that legislative assembly after which our own has been modelled.

The existence of a power of legislation implies the auxiliary authority to inquire into all those abuses or defects of the laws which may, by any possibility, call for its exercise.

If, indeed, in the progress of our present inquiry, the character of General Jackson, or of the Executive, shall suffer in the public estimation, such, although it should prove an unavoidable consequence, will not have constituted the motives of our investigation.

Remembering, as I do, Mr. Chairman, with feelings common to us all, the triumph of the American arms on the plains of New Orleans, I need scarcely say that I entertain no personal hostility to the commander of our Southern army. I frankly acknowledge, too, sir, that I cannot, in this inquiry, wholly separate the President of the United States from the military

officer whose conduct he has approved. And yet, it can hardly be required of me to say that I entertain no personal hostility to our present Chief Magistrate. Sir, I behold in him the friend of my early youth; a yet more sacred feeling swells my heart—he was, sir, my father's friend.

Nor do I entertain any settled hostility to the administration over which he presides. I expressed, beyond these walls, a different sentiment, at a time and under circumstances which prevented its public avowal from advancing either my personal interest or my political consideration.

Still less, sir, have I been an enemy of the army, whose conduct I am about to investigate. I appeal to the recollection of the House, if I did not zealously, though, indeed, most unsuccessfully, endeavor to preserve to those gallant men, who had merited and received the thanks of their country, the pecuniary reward of their valor, which had been granted to them by the justice, and confirmed to them, as I vainly thought, by the faith of the nation. I, too, Mr. Chairman, in a humble path, ardently sought to follow their bright example; and the party in Virginia, whose political denomination I bear, never yielded to their more fortunate opponents, in devotion to the Commonwealth.

Sir, the friends of these resolutions are the best friends of the army. Let the army gain an ascendency over the Government, and it will become an object of jealousy with the people. They will esteem it a smaller evil to disband the army than to surrender their Constitution. The adoption of the resolution is, therefore, essential to the preservation of our present Military Establishment. If the resolutions fail, the army ought to be, and will be reduced.

About to enter upon a wide field of debate, to consult numerous authorities and documents, I cannot hope, at this late hour, to command the attention of the Committee, and respect for their comfort, sir, induces me again to make way for a motion that the Committee rise.

The ensuing morning Mr. Mercer proceeded.

Having sought, Mr. Chairman, to remove some of the prejudices which obstructed my way, and established the Constitutional power of the House to pass the resolutions on your table, I shall proceed to inquire into the origin and conduct of the Seminole war. In the prosecution of this inquiry, I mean to establish the following propositions:

That the Constitution of the United States has been violated, by an unauthorized war against the Indians of East Florida.

That it has been farther violated by the unauthorized capture of the Spanish fortresses of St. Marks, of Pensacola, and the Barancas, during a period of peace between Spain and the United States.

That the rules of judicial proceeding, established by the laws and usages of the United States in the trial of military offences by courts martial, have been disregarded in the trial and execution of Arbuthnot and Ambrister.

That the accustomed clemency of the United States, in all former wars, has been outraged by the unnecessary execution, in cold blood, of unresisting captives, brought within the power of our arms by the chance of war.

And, lastly, that these accumulated abuses of power call not only for the expression of the opinion of this House, but for the interposition of its authority to prevent their repetition.

I find myself arrested, Mr. Chairman, on the very threshold of my first proposition, by the assertion of one of my colleagues, (Mr. Smyth,) that the Indians cannot wage war; because, he added, they do not make prisoners of war; while another honorable member, (Mr. Johnson,) who preceded him on the same side of the question, maintained that our statute book contains a declaration of perpetual war against all the Indian tribes within our limits. Let the statute book answer these extraordinary doctrines. The aborigines of this country have been our associates, or our neighbors, for more than two centuries; and we have maintained towards them, during that period, relations of commerce and amity, as well as of war, by the same means by which we have regulated our intercourse with other States. Instead of recurring to the treaty and correspondence of Ghent, allow me to consult the volume which I hold in my hand, and to ascertain, from our own intercourse with this unfortunate race of men, in what light we have hitherto regarded them. To ascend no further back than to the formation of our Union, the first volume of the laws of the United States will afford us Indian treaties, embracing every variety of stipulation known in the diplomatic intercourse of the most polished nations; from the articles of agreement and confederation with the Delaware nation, a treaty of alliance and commerce, concluded at Fort Pitt in 1798, down to the articles of agreement and capitulation, a treaty of conquest, but of peace also, concluded at Fort Jackson in 1814. In direct contradiction of the assertion of my colleague, we find among the intermediate conventions stipulations for the mutual exchange of prisoners of war; and, in hostility with the doctrine contended for by the honorable member from Kentucky, the far greater number of them are treaties of peace, promising the oblivion of past injuries, and the establishment of perpetual friendship. Nor will a recurrence to the history of the United States authorize an unfavorable comparison of the good faith of these untutored savages with that of our more polished European allies. With the Chickasaw and Choctaw nations, we have made several treaties of boundary, but have had occasion to make no treaty of peace since that of Hopewell, concluded two and thirty years ago, under the old confederation. The treaty of Greenville, with the Northwestern Indians, endured from 1795 till the battle of Tippecanoe, in 1813. The first treaty with the Creeks and Seminoles, concluded with the White Chief, McGilvray, in New York, in 1790, was, with the exception of some border hostilities with Georgia, of questionable origin, and terminated by the treaty of Colerain, in June, 1796, preserved invi-

olate till 1815. Compare these dates, sir, with those of our treaties with England, France, and Spain. Call to mind the repeated violations of these treaties, and then ask your conscience if it will permit you to cast an imputation of bad faith on your savage neighbors?

In all these treaties, Mr. Chairman, the Indians are denominated tribes or nations; they are all negotiated and signed with the usual solemnity of national compacts, and were ratified under the old Confederation, as they have been under our present constitution of Government, by the same authority and in the same manner as our other foreign alliances. In none of them will the least foundation be discovered for the claim now set up, to regard the Indians as the lawful subjects of our Government. No, sir, the God who gave them being gave them freedom too, and, while we have voluntarily promised them protection, they have never sworn to us allegiance.

The treaty of New York, with the Creeks and Seminoles, like that of Greenville, and almost every other original treaty with the Indian nations in our territory, carries the recognition of their independence so far as "to declare that 'every American citizen who shall attempt to 'settle within their territory, shall forfeit the pro-'tection of the United States, and may be pun-'ished at their pleasure." The guarantees of their reserved territory, which distinguish their numerous treaties of peaceful cession, are not more inconsistent with their independence than the celebrated guarantee of our liberty by France was inconsistent with our acknowledged sovereignty; or our guarantee of her West India Islands with their dependence upon the mother country.

Sir, it is a maxim of experience that as a man acquires power he forgets right. The first of the numerous treaties to which I have adverted, if compared with the last which we have concluded with the friendly Creeks, or with the doctrines lately maintained on this floor, will furnish a striking illustration of this melancholy but ancient truth. The former treaty, throughout all its numerous provisions for the passage of troops, for the trial of fugitives from justice, and for commercial intercourse, not only regards the Delaware nation as a sovereign and independent people, but, after repelling the insinuation that the United States design to exterminate them, and possess their country, guaranties to them their whole territory, and tenders to them an admission into the American Union as a co-ordinate member of the confederacy.

There is a doctrine of national law inserted in two of our earliest treaties, which is worthy of being held in perpetual remembrance. In each of our separate treaties with the Choctaw and Chickasaw Indians, concluded at Hopewell, in 1786, there is this stipulation, which not only recognises the Indian right of war, but seeks to regulate its exercise, in conformity with the maxims of humanity, from which, to the honor of our country, it has but recently departed. "It is understood," say we to these Indians, and they to us, "that the punishment of the innocent, under 'the idea of retaliation, is unjust, and shall not 'be practised on either side, except where there 'is a manifest violation of this treaty, and 'then it shall be preceded first by a demand of 'justice, and, if refused, then by a declaration of 'hostilities." What is this but that law of nations so often misquoted or misapplied in the course of this debate?

Sir, who are the Indians of East Florida? Those very Seminoles with whom we treated at New York, by their white chief, McGilvray, and the wretched Creeks, who, refusing to ratify the Treaty of Fort Jackson, fled from the bloody field of Talapoosa, to the only asylum left open to their retreat. Man has a natural right to live somewhere on the earth. A civil war had raged among the Creeks; we united our arms with the weaker party, and when victory declared in our favor, we made a bargain with our friends, articles of capitulation for the territory of our enemies, and demanded of the former to deliver up all the prophets and instigators of the recent war, whether foreigners or natives, who had not submitted to the arms of the United States, if ever they shall be found in the Creek territory. They fled, sir, and with reason, to Florida. Did they afterwards return to make war on us? No, sir; the President's message at the opening of the last session of Congress informed us that we were then at peace with all the world. These wretched Seminoles and their miserable allies, the fugitive Creeks and negroes, had not then invaded our frontier. They were beyond the limits of the United States, occupying towards us the relation of an independent people—the relation under which we had treated with them for peace, at New York and Colerain—and under which, even in our Spanish treaty of 1795, we had expressly reserved the right to treat again with them for the same object. They were at peace when detachments of our army and our fleet invaded their territory, without the authority, I yet hope, of the American Government; blew up their only fortress, and scattered over the surrounding plain the burnt and mangled bodies of two hundred and seventy unoffending Negroes and Indians. Sir, this massacre occurred in East Florida, two hundred miles from the Georgia settlements, and fifteen months before it is even pretended that these unhappy people had renewed their outrages within our territory. Nay, after those outrages did occur, the message of the President, as we have seen, announced that we were at peace. The seizure of Amelia Island, sir, was justified on the ground that, if the brigands who landed there were a foreign Power, a secret law of the United States, then first published to the world, in order to warrant that act, authorized the President to occupy the territory in question. But the Indians of East Florida were not a foreign Power, and they were not brigands, as our former treaty with them sufficiently evinces. Their right to wage war against Spain herself was as perfect as the recognised right of our Indians to wage war on us.

Nor had we a right, either as regarded them or Spain, who claimed the sovereignty of their territory, to force a passage through it, as we did, even had our object been peaceable. Is it required of me to establish this principle of public law? I shall adduce, for that purpose, but a single authority. It is that of a writer who, himself the subject of a small principality allied to the free cantons of Switzerland, and claiming the protection of a sovereign who had often to contend for his own independence, has applied the maxims of natural reason to the maintenance of political truth and justice. "When some 'petty officers," says Vattel, "violated the territory of Savoy, in order to carry off from thence 'a noted smuggling chief, the King of Sardinia 'caused his complaints to be laid before the Court 'of France, and Louis XV. thought it no derogation to his greatness to send an ambassador extraordinary to Turin, to give satisfaction for 'that violence."

"Since," says the same writer, "the passage of 'troops, and especially that of a whole army, is 'by no means a matter of indifference, he who 'desires to march his troops through a neutral 'country must apply for the sovereign's permission. To enter his territory without his consent, is a violation of his rights of sovereignty 'and supreme dominion." "If the neutral sovereign has good reason for refusing a passage, 'he is not obliged to grant it." "In all doubtful 'cases we must submit to the judgment of the 'proprietor respecting the innocence of the use 'we desire to make of things belonging to another, and must acquiesce in his refusal, even though 'we think it unjust. When the passage is not of 'absolute necessity, the bare danger which attends the admission of a powerful army into 'our territory may authorize us to refuse them 'permission to enter." "Let it not be said with 'Grotius, that he who requires the passage is not 'to be deprived of his right on account of unjust 'fears. A probable fear, founded on good reasons, give us a right to avoid whatever may realize it; and the conduct of nations affords but 'too just grounds for the fear in question." "The Switzers, in their alliances with France, 'have promised not to grant a passage to her 'enemies; they ever refuse it to all sovereigns 'at war, in order to secure their frontiers from 'that calamity; and they take care that their territory shall be respected." To this doctrine the only exception admitted, is in favor of *urgent and absolute necessity.* "As where an army find 'themselves exposed to imminent destruction, or 'unable to return to their own country unless 'they pass through neutral territories, they have 'a right to pass in spite of the sovereign, and to 'force their way, sword in hand. But they ought '*first* to request a passage, to offer security, and 'pay for whatever damage they may occasion. 'Such was the mode pursued by the Greeks, on 'their return from Asia, under the conduct of 'Agesilaus."

The author here supposes the passage to be for an innocent purpose; to have been asked of the sovereign, and to be forced, after a refusal, only in a case of extreme necessity.

It has not, and I presume will not be pretended, that the destruction of the negro and Indian fort near the mouth of the Appalachicola, was required by any absolute necessity. The Governor of Pensacola, so far from authorizing the act, expresses his expectation "that, until he receives the 'decision of his Captain General, no steps will 'be taken by the Government of the United 'States, or by General Jackson, prejudicial to the 'sovereignty of the King of Spain, or the district 'of Appalachicola, a dependency of his Govern-'ment." It cannot be pretended that this hostile measure was taken with the consent of the Seminole Indians; and if, as I hope, it was done without the order of the President of the United States, it was certainly without any legitimate sanction—the authority of Congress.

If the alleged reason for this wanton injustice were deemed sufficient to warrant it, "that the fort had become a refuge for runaway negroes and disaffected Indians," where would it carry us? With what neighboring nation, civilized or savage, could we preserve relations of amity? Will it be pretended that we have a right to punish disaffection in those who owe us no allegiance; or to recover by violence the persons of our fugitives, whether bond or free? The attempt to gloss over this cruelty by the suggestion that the force of the miserable negroes was "daily increasing, and that the fertile banks of the Appalachicola were about to yield them every article of subsistence," is calculated to shed additional horror over a transaction wanton in its motive, and savage in its execution. A war upon the peaceful negro settlements on the Wabash would be equally politic, and, in principle, alike justifiable.

I have thus traced the Seminole war, Mr. Chairman, to the unauthorized invasion of East Florida in 1816; but, from thence to the month of October of the ensuing year, the terror inspired by this act seems not to have produced the usual retaliation of savages—the indulgence of private revenge. Along a line of four hundred and seventy miles, from the mouth of the St. Marys to the intersection of the Perdido, by the thirty-first degree of latitude, we hear, in fact, of scarcely an Indian aggression. The destruction of their fort, and the murder in cold blood of two of their chiefs, must have inspired the sentiment of hostility, but they wanted the means of indulging it. Even at the moment when the friendly Indians of Fowltown, who had preserved their neutrality during the whole Creek war, were assailed by order of the American General, there had been no invasion of our territory by any Indian force. Stories, indeed, sir, have been told us of Indian massacres, at the recital of which my very soul sickened; and, were it not for the documents on our table, I should believe that the tomahawk and scalping-knife had deluged our Southern frontier with blood. But, in addition to the President's declaration on the 16th of November, 1817, that we were at peace with the In-

dian tribes, I discover that, with but two exceptions, the murder of a family on St. Marys river, and of some travellers five hundred miles off in the Alabama Territory—transactions which I deplore as much as any man—we were ourselves the aggressors. The unfortunate detachment of Scott, (the attack upon which is said to have given a new character to the Seminole war, and to have justified the invasion of Florida,) fell a victim to savage revenge, upon the river Appalachicola, without the territory of the United States. After the destruction of the Indian fort in the preceding year, was it too much to expect that the Seminole Indians would resist the progress of another armed force through the bosom of their territory? Had they to consult authorities for the right of self-defence? They recurred to that which nature has stamped upon the hearts of all men. Sir, these Indians are represented to have been sufficiently powerful to be the objects of our fears. They must be regarded as independent of us from our own express acknowledgment. Spain asserted that they had subverted her sovereignty; and, under our Constitution, war could not be waged upon an independent neighboring Power without the authority of Congress. At one moment, indeed, we hear the Indians of East Florida styled wretched savages, outlawed Creeks, fugitive slaves. At another they are represented to be capable of bringing a force of thirty-five hundred men into the field, a force equivalent to half our military establishment, and the most alarming necessity is plead to justify the infraction of the neutrality of Spain in our hostilities against them.

This necessity brings me to the second infraction of the Constitution by the entrance of Florida, and the seizure of the Spanish fortresses of St. Marks, Pensacola, and the Barancas. In regard to the much questioned passage of the line, I have only to add that, with the exception of the right reserved by our treaty of 1795, to make peace with the Florida Indians, we have ever regarded the sovereignty of Spain to be complete over the Indian territory within her limits. And the hostile invasion of that territory is as much an act of war against Spain as against the Indians themselves. Being equally unauthorized by any act of Congress, it involves a similar violation of the Constitution. Our attention, however, is borne along from the Florida line to less questionable infractions of the neutrality of Spain. That the forcible seizure of the Spanish fortresses would be an act of war against Spain, unless accompanied by some extraordinary justification, is not denied. But it is defended on the ground of necessity, as regards St. Marks; and, as respects Pensacola and the Barancas, for the additional reasons, that the Spanish Governor refused to allow the passage of provisions up the Escambia; and by a public threat, rendered the seizure of those fortresses essential to the maintenance of the honor of the American arms. This reasoning is further attempted to be sustained by reference to the obligations of Spain, to restrain by force the Indians within her territory from committing, it is said, hostilities against the United States.

Allow me, Mr. Chairman, briefly to consider the nature of this Spanish obligation, which appears to me to have been altogether misunderstood. The fifth article of the Spanish Treaty of 1795 stipulates "that Spain and the United 'States shall restrain by force all hostilities on 'the part of the Indian nations living within 'their boundary," an obligation which is afterwards thus explained: "So that Spain will not 'suffer her Indians to attack the citizens of the 'United States, nor the Indians inhabiting their 'territory; nor will the United States permit 'those last-mentioned Indians to commence hos-'tilities against the subjects of His Catholic Ma-'jesty, or his Indians, in any manner whatever." The residue of the clause prohibits either party from making with the Indians, within the territorial limits of the other, any future alliance whatever, except treaties of peace. This stipulation not only supposes the possibility of future wars between the Indians and the contracting parties, but, as the employment of force by either party to suppress Indian hostilities against the other is evidently founded on a perfect reciprocity of duty and interest, the interposition of force by either, for the purpose of restraining the Indians, is expressly limited to the commencement of hostilities. Spain will not permit her Indians to attack, that is, to commence hostilities against the citizens of the United States. But the treaty does not impose upon her the unnatural and unreasonable obligation to aid the United States in attacking the Indians who inhabit her territory, and whom she considers under her protection. Spain must be regarded as the natural ally of her own Indians, but did this treaty bind her to an offensive and defensive alliance with us against them, either of two conditions would release her from the obligation which it imposes: her inability to fulfil it, or her incapacity to do so, without exposing herself to evident and imminent danger, to say nothing of her right to inquire into the origin of our war. When the United States were called upon to fulfil their guarantee to France, of her West India islands, we replied that France began the war in which she was engaged with Great Britain. But the relation of Spain to the Indians within her acknowledged limits cannot be regarded as less intimate than a defensive alliance; and, so considered, the conduct of the Spanish Governors of St. Marks and Pensacola falls far short of making them associates in the war; but, if it did make them associates, their acts were then acts of war against the United States, which it was the province of Congress, and of Congress alone, to resent by war. My honorable colleague, (Mr. BARBOUR,) though he does not concur in this conclusion, has candidly admitted that the Spanish Governors were not associates in the Seminole war. Regarded as the allies of the Indians, if they went no farther than to maintain with them their accustomed intercourse of commerce and friendship, still this would not constitute them the associates of our

enemy. "The contrary principles," says Vattel, 'would tend to multiply wars, and spread them 'beyond all bounds, to the common ruin of na- 'tions. It is happy for Europe," he adds, "that, 'in this instance, the established custom is in ac- 'cord with the true principles. Switzerland, in 'virtue of her alliance with France, furnishes 'that Crown with numerous bodies of troops, 'and, nevertheless, lives in peace with all Eu- 'rope." "The real associates of my enemy being 'my enemies, I have against them the same rights 'as against the principal enemy. But it is not 'thus with those nations which assist my enemy 'in a defensive war; I cannot consider them as 'his associates. If I am entitled to complain of 'their furnishing him with succors, this is a new 'ground of quarrel between me and them. I may 'expostulate with them, and, on not receiving 'satisfaction, prosecute my right, and make war 'on them. But, in this case, there must be a 'previous declaration." "Grotius," says Vattel, "appositely quotes the example of Ulysses, and 'his followers, blaming them for having, without 'any declaration of war, attacked the Ciconians, 'who had sent succors to Priam during the siege 'of Troy."

And if a previous declaration of war is required, where the powers of declaring and waging war are trusted to the same discretion, how much more necessary is such a declaration, where the constitution of a nation vests the power of making the declaration in one department, and of conducting its operations in another branch of its Government.

To have constituted the Governors of St. Marks and Pensacola associates in the war, they should have lent their whole aid to its prosecution, which is not even charged upon them.

I will now proceed to consider the alleged necessity of seizing those fortresses. And, first, that of St. Marks. General Jackson, as early as the 25th day of March, soon after crossing the Florida line, announced his intention of taking St. Marks "as a depot for his supplies, should he find it in the possession of the Spaniards, they having supplied the Indians." That he derived no right to take it from the latter use of it, I have already demonstrated, and that he derived none from the use which he meant to make of it himself, an attention to the local position of St. Marks will readily evince. St. Marks is situated one hundred and four miles to the northwest of the Suwanee towns, the main object of General Jackson's campaign. It stands on the bank of the river to which it has given or owes its name, and nine miles above its mouth. The fort is surrounded by an open prairie, about two miles across, and below it extends an open forest of pine. As a military depot, a position below St. Marks, on the same river, would have been more accessible to the vessels, which were to furnish supplies from New Orleans; and the labor of a fatigue party, for a few days, would have constructed, of the adjacent forest, a protection sufficiently strong to resist the attack of any savage force which could have threatened the safety of the position. Such is the necessity, on which this infraction of neutral right is grounded. The Spanish fort deriving its supplies, also, from the water, would have been dependent on the American, and the danger of an Indian attack, which threatened St. Marks, before the arrival of the American army, had ended with its approach. Nor is it the least extenuation of this unauthorized act of war, that discoveries were made, after the capture of the fort, which evinced that its commander was unfriendly to the American arms. The antecedent act should be tried by its own evidence. The subsequent discoveries, if they amounted to anything, constituted, as I have remarked, a cause of war against Spain, which General Jackson had no right to declare, or to wage, without a declaration.

St. Marks was more than a hundred miles from the Suwanee towns. To reach Pensacola, it was necessary to march across West Florida one hundred and fifty miles further from the principal theatre of the war. The necessity, however, which urged the occupation of the capital of West Florida is, if possible, less apparent than that which was plead for the seizure and occupation of St. Marks. The defeated Indians had retired down the peninsula of Florida, or crossed over it towards St. Augustine. Fort Gadsden and the Appalachicola river, to say nothing of St. Marks, then in our possession, cut off their retreat upon Pensacola. Above Pensacola itself, on the Canuco, a branch of the Escambia, Fort Crawford served as a check upon the Indians in that vicinity, and fifty miles from this last position stood the American fort Montgomery, on the Alabama. The desert country between the Appalachicola and the Bay of Pensacola, contained neither Spaniards nor Indians; yet, on the 5th of May, after having discharged a part of his force, and proclaimed the war to be at an end, General Jackson announces to his Government his intention to occupy Pensacola, if certain reports, which he had heard, should prove true, while the whole tenor of his letter of that date evinces a determination to occupy it at all events. He expresses it to be his confirmed opinion, "that, so long as Spain 'has not the power or will to enforce the treaty, 'by which she is solemnly bound to preserve the 'Indians within her territory at peace with the 'United States, no security can be given to our 'Southern frontier, without occupying a cordon 'of posts along the sea shore." After the seizure of Pensacola, he enforces the same reasoning, in an argument in favor of its restoration.

In his preceding letter to the Secretary of War, of the 25th of March, he informs him, "that, find- 'ing it very difficult to supply Fort Crawford, on 'the Canuco, by land, he had ordered the sup- 'plies for that garrison by water" up the Escambia, that is, by Pensacola, and through the Spanish territory: and that he had "written to the 'Governor of Pensacola, that if he interrupts 'them during the present Indian war, he shall 'view it as aiding the enemy, and treat it as an 'act of hostility." In his letter to the Governor, written on the 23d of May, the day before he en-

tered Pensacola, he tells him "that, by a refer-
'ence to my communications of the 25th of March,
'you will see how far I have been the aggressor
'in the measure protested against. You are there,
'(he adds) distinctly advised of the objects of
'my operations; and that every attempt, on your
'part, to succor the Indians, or prevent the pas-
'sage of my provisions in the Escambia, would
'be viewed as hostile acts on your part." Rejecting the vague reports, mentioned in his letter to the Secretary of War, of the assemblage of the Indians, in force, in the vicinity of Pensacola, General Jackson here evidently rests his authority to seize Pensacola on the ground which he had assumed on entering Florida, of the necessity of supplying Fort Crawford with provisions, by a passage through the territory of Spain, and the right to consider the refusal of that passage as an act of hostility. In his letter to the same officer, of the 27th of April, he, in fact, assumes the prerogative of declaring war: "America," he writes, "just to her treaties, and anxious to maintain
'peace with the world, cannot, and will not, permit such a savage war to be carried on in disguise any longer. Asylums have been granted
'to the persons and property of an Indian foe,
'fugitives from the territory of the United States.
'Facilities, deemed by me necessary to terminate
'a war, which, under existing treaties, should
'have been maintained by Spain, for feeding my
'troops, and liberating the subjects of Spain,
'imprisoned by the Indians, have all been denied by the officers of His Catholic Majesty.
'All these facts prove the unjust conduct of the
'Spanish agents in Florida. It cannot longer be
'tolerated; and, although a republic, fond of peace,
'the United States know her rights, and, at the
'expense of war, will maintain them."

In deciding upon the necessity of supplying Fort Crawford with provisions, by the bay of Pensacola and the Escambia, the Committee must be already struck with the language in which General Jackson himself describes it. Finding it very difficult to supply Fort Crawford, on the Canuco, by land, he resolved to supply it by water. Here is no necessity—none that could justify the consideration of a refusal to permit the passage of provisions through a neutral country, as an act of hostility. Most truly does General Jackson speak of the difficulty only of obtaining the supplies by land; and in his letter to the Governor of Pensacola, in which he apprizes him that he has ordered a supply of provisions to be sent from New Orleans, by way of Pensacola, to Fort Crawford, on the Canuco, he adds, that this route has been adopted, as the most speedy one of provisioning one of his garrisons.

Sir, when you cast your eyes on the map near you, and recollect that part of the supplies of Fort Scott, on Flint river, were obtained from Fort Montgomery, at the distance of many hundred miles; and when you perceive that the river Alabama connects the latter with the port of Mobile; that from Fort Montgomery to Fort Crawford there is a public road, of fifty miles only in extent; you will readily comprehend the nature of that necessity urged, not by General Jackson, but by his friends in this House, and especially by one of my honorable colleagues, (Mr. SMYTH,) as a justification of the seizure of Pensacola. But, if the land carriage of fifty miles, for the provisions required to supply a garrison, consisting of one hundred men, was a serious impediment to the military operations of General Jackson, allow me to point out another channel, which would reduce this transportation, by land, to half that distance. The Perdido river, I am warranted, by an honorable delegate in this House, in representing to be navigable to the Florida boundary, in boats drawing less than eighteen inches water, and from a point on that river, opposite Fort Crawford, the distance over land is but twenty-five miles.

But, let the difficulty of obtaining supplies for Fort Crawford by any other channel than the Escambia be magnified to any extent, did the Governor of Pensacola refuse to grant the request of General Jackson? No, sir, the complaint of such refusal is reduced, at last, to the narrow ground, that exorbitant duties are charged on the entry of the provisions at Pensacola. The whole necessity, therefore, is resolved into the expense of paying those duties. Sir, the resources of the United States do not require, that, to save the duties, however exorbitant, (and their amount is nowhere stated,) upon the provisions necessary for the supply of one hundred men, the sovereignty of an independent nation should be trampled under foot. But even this plea for occupying Pensacola is finally removed by a letter of the Governor to General Jackson, dated six days before its seizure, in which he says, "that,
'with respect to the passage of provisions up the
'Escambia, I have not hitherto prevented it.
'And," he proceeds, "now that the free com-
'merce of this people with that of the interior is
'declared admissible, by higher authority, there
'will in future be no difficulty in allowing the
'merchants to transfer from hence to Fort Craw-
'ford, and other forts on the frontier, as well by
'water as by land, whatever provisions and
'effects they may need or desire, by which means
'these posts will readily be provisioned, and your
'excellency will be satisfied." Not so, however; General Jackson had advanced too near his object to be thus diverted from it; and as the necessity of occupying Pensacola, in order to insure the safe transportation of his supplies, had ceased altogether, a new reason occurs to sanction the measure. "On my march, on the 23d of May," says the General, in a letter to the Sec-
'retary of War of the 2d of June, "a protest
'from the Governor of Pensacola was delivered
'to me by a Spanish officer, remonstrating, in
'warm terms, against my proceedings, and order-
'ing me and my forces instantly to quit the ter-
'ritory of His Catholic Majesty, with a threat to
'apply force, in the event of a non-compliance."
"This," adds the General, "was so open an indi-
'cation of a hostile feeling on his part, after hav-
'ing been early and well advised of the object of
'my operations, that I hesitated no longer on the

'measures to be adopted. I marched for, and 'entered Pensacola, with only the show of re-'sistance, on the 24th of May." Sir, let us examine the language in which this threat was couched, and ascertain whether it was of the character described by General Jackson, or of such a character that the honor of the army required it to be resisted by the seizure and occupation of Pensacola and the Barancas. "It hav-'ing come to my knowledge," writes Governor Mazot, "that you have passed the frontiers with 'the troops under your command, and that you 'are within the province of West Florida, which 'is subject to my Government, I solemnly pro-'test against this procedure as an offence to-'wards my Sovereign, exhorting you, and re-'quiring of you, in his name, to retire from it, as, 'if you do not, and continue your aggressions, I 'shall repel force by force." To which he adds, "as the repeller of an insult has never been 'deemed the aggressor, you will be responsible 'both to God and man for all the fatal conse-'quences which may result." Is this an order to General Jackson and his force "instantly to quit 'the territory of Spain, with a threat to apply 'force in the event of a noncompliance?" If you do not, and continue your aggressions, I shall, said the Governor, repel force by force. What force? The entry into Florida. That occurred very early in March; and this protest is dated on the 24th of May, though doubtless written on the 23d, for the Aid of General Jackson certifies that it was received on that day from a Spanish officer, who met the American army on its march shortly after it had crossed the Escambia river; and, consequently, when General Jackson was within a few miles of Pensacola.

Neither the object of the American commander, nor the nature of this threat, could then be mistaken. It was that, if General Jackson continued his aggressions, by attacking Pensacola, force would be repelled by force. In the Governor's letter from the Barancas, of the following day, you have his explanation of this threat. "Your excellency," he writes, "lays to 'my charge the blood which may be shed by my 'refusal to deliver up the province, as your ex-'cellency requests, which I shall never do; nor 'can I, without covering myself with dishonor at 'the close of my life and of my long military 'career. I am firmly persuaded your excellency 'would, in my case, do the same, as you would 'not venture to stain the honorable laurels with 'which you are adorned. I expect, from the 'generosity of your excellency, first, that you 'will set the officers and troops that garrisoned 'Pensacola at liberty, and that, after supplying 'your army with provisions, you will shortly 'evacuate the territory of this province, and not 'carry on a partial war against West Florida at 'a time when our nations are in profound peace. 'Finally," he adds to this conciliatory letter, "if, 'contrary to my hopes, your excellency should 'persist in your intention to occupy this fortress, 'which I am resolved to defend to the last ex-'tremity, I shall repel force by force; and he 'who resists aggression can never be considered 'an aggressor."

In the subsequent proceedings of General Jackson, a more striking illustration is offered of the extent to which his conduct was influenced by this threat. Not satisfied with the seizure of Pensacola, without resistance, he proceeded fourteen miles below it, invested, and, after a heavy cannonade of many hours, took the fortress of the Barancas and the Governor, by capitulation. Nor did he stop here; but, regarding the Spanish troops as prisoners of war, and all West Florida as a conquered country, he shipped the former to the Havana, and usurped over the latter the civil, as well as military, administration. One of my honorable colleagues has, with singular felicity, offered the same apology for these defensive measures of the American commander which he allows to the Emperor of France for subverting the Prussian monarchy. The honor of the French arms required that a threat should be repelled! Sir, the force of the argument will appear very nearly the same, in both cases, when reference is had to the relative strength of the combatants; but there is this remarkable difference between the Emperor of France and General Jackson, that the former was the acknowledged sovereign of France, and the latter had merely usurped the authority of Congress to make war upon a foreign State. Whether General Jackson's conduct was in obedience to his orders, as my honorable colleague (Mr. Smyth) has so earnestly and ingeniously maintained, is a question between him and the authority from which he derived them, except so far as regards the pernicious example of military insubordination, which is afforded by the impunity of this act. But my honorable colleague will be sensible, on mature reflection, of the embarrassment to which he exposes himself when he seeks to get rid of the express limitation contained in the order of the 16th of December, not to attack the Seminole Indians should they shelter themselves under a Spanish fort, but to notify the Executive of the fact. My colleague has contended that, as the Indians never did seek shelter under the walls of a Spanish fort, this order should be construed as if the limitation which it contains had constituted no part of it. In other words, although General Jackson had no authority to attack a Spanish fortress, which protected the entire army of our enemy, he had a right to attack such fortress without any such provocation or necessity. Sir, in relation to these orders, it is proper to remark, that, departing from military usage, the Government assigns to the officer charged with their execution, reasons for the restraints which they impose on his authority. "The state of our negotiations with 'Spain, and the temper manifested by the prin-'cipal European Powers, make it impolitic, in 'the opinion of the President, to move a force at 'this time," fourteen days only before the order which I have quoted, "into the Spanish possess-'ions, for the mere purpose of chastising the 'Seminoles for the depredations which they 'have heretofore committed." And if policy re-

quired this abstinence, what shall be said of the seizure of the capital of West Florida when these Indians had been chastised, and all the professed objects of the invasion of their territory attained? Such, sir, was the exposition given of his orders by the President himself, in announcing to Congress that he had authorized the American army to cross the Florida line; and, notwithstanding his refusal to censure General Jackson for disobeying them, such must have been the construction given to them by the President, when, on the 14th of August last, he ordered the restoration of the conquered posts and territory to Spain.

Much, Mr. Chairman, has been said, in the course of this debate, of the motives which induced the American commander to depart from his orders. An honorable colleague of mine, (Mr. BARBOUR,) while he has asserted that necessity would have justified General Jackson, has admitted, although he means to vote against the resolutions on your table, that there existed no such necessity for seizing either St. Marks or Pensacola. He has told us that there are degrees of the necessity which would warrant the seizure of a neutral fortress by a military commander. Sir, necessity, which is without law, can know no degrees: and my honorable colleague might as well attempt to resolve duration into time, or infinity into space, as such necessity into degrees. With the motives of General Jackson, except as they illustrate his acts, this House have nothing to do. The conformity of those acts to the Constitution of the United States, is the subject of our present inquiry. We are in the hall of the Representatives of the people, asserting their rights, to have the Constitution administered according to its true spirit. The course of argument of my colleague would be strictly pertinent on an indictment for murder. He might reduce the offence to manslaughter, or to excusable homicide. Our present purpose is not the trial of a public offender, but the maintenance of our own Constitutional powers. Sir, the very worst acts have been done with the very best motives. Political and religious enthusiasm have at times subverted the fairest constitutions of Government, and shrouded Religion herself in blood. I repeat it, sir, I look, in this inquiry, to higher objects than the character and motives of General Jackson—to our Constitution and laws—to the character and genius of the American people.

The doctrines of our opponents, on this question, are more alarming, if possible, than the acts which they seek to justify or to excuse. If, as my honorable colleague contended, who addressed the Committee some days ago, (Mr. SMYTH,) a declaration of war is nothing more than "a recognition that war exists," what becomes of the Constitutional authority of Congress—of all the restraints which the Constitution has sought to impose on ambition, improvidence, and corruption, by vesting the power of declaring war in the Representatives of the nation? The examples derived from the practice of other nations, among whom declarations of war, it is remarked by Vattel, have fallen into disuse, are inapplicable to us, because they are inconsistent with the genius of our free Constitution.

Alike extraordinary is the conclusion of my colleague, that, because the President is charged with the execution of our laws, and treaties are the supreme law of the land, he may execute within the territories of Spain the provisions of a Spanish treaty; or the yet more extraordinary doctrine, that all the powers of this Government, which may at any time be exercised beyond the limits of the United States, are concentered in the hands of the President. This Committee will pause before it sanctions doctrines, alike subversive of the independence and laws of other nations, and of the theory and maxims of our own Constitution.

There is one objection urged to the adoption of the resolutions, which I deem it proper to notice before I quit this branch of my inquiry. It has been said by our opponents that, without intending it, we are throwing the weight of our opinions in the scale of a foreign nation, between whom and our Government a negotiation is depending, which involves questions of great importance to the public prosperity.

On the other hand, several honorable gentlemen, on the same side of this question with myself, seem to have regarded it, as a duty to themselves, to disavow the direction thus given to their arguments, and to express sentiments bordering, at least, on hostility to Spain.

Allow me, also, Mr. Chairman, to say, that, although Spain, in my opinion, has given us ample cause of war, I am decidedly opposed to a declaration of hostilities against her. We claim, I understand, as our western boundary, the territory west of the Mississippi, as far as the Rio del Norte. If by treaty it is ours, let it be occupied by our arms; and, having taken possession of that which belongs to us, let us tender to Spain the exchange of that part of it adjacent to her Mexican possessions, for Florida, which she does not want, and which would be to us of great value. If she shall now reject this proposition, the time must speedily arrive when she will perceive it to be her interest to accede to it. So far would I go, and no farther. Not from any apprehension of the power of Spain, but for reasons of policy, too obvious to require to be enforced. A war, even with Spain, would cripple that commerce, on the prosperity of which materially depends the future growth of our yet infant navy. In such a war we would have to contend, not with Spain alone, but to encounter, under the disguise of a Spanish flag, the enterprise and resources of France, of England, and I greatly fear of some of the most abandoned of our own citizens.

Having, Mr. Chairman, consumed so much of the time of the Committee on the first propositions which I proposed to sustain, I shall pass, with more brevity, over the last, which involves the character rather than the Constitution of our Government. In the inquiry, whether the rules of judicial proceeding in the trial of military officers have been wantonly disregarded in the trial and execution

of Arbuthnot and Ambrister, an unexpected difficulty is started by our opponents, who question whether the special court which tried them was a court martial, or a mere board of officers. It was not sufficient, it seems, that General Jackson informed the Secretary of War "that Arbuthnot and Ambrister were tried under his orders by a special court of select officers; legally convicted; legally condemned; and most justly punished:" or, that he calls the court a court martial wherever he speaks of it, whether in his letters or his general orders. His friends, acknowledging their utter incapacity to defend him, on his own grounds, persist in denominating the court a mere board of officers. Its proceedings they regard as subject to no legal restraint; its judgment as mere counsel or advice, submitted to the discretion of the General, to be altered or extended at his mere pleasure. Is their view then, sir, correct? Were Arbuthnot and Ambrister tried by a court martial, or merely examined by a board of officers? A court martial is either a general court for the trial of all offences whatever, or a regimental or garrison court, for the trial of offences not capital. The former must consist of five, and may consist of thirteen officers. The latter cannot exceed three. A prisoner was here sentenced to death, and the assemblage of officers who sentenced him to that punishment consisted of thirteen; it was, therefore, either a general court martial or no court at all. A general court martial is required, by the rules and articles of war, to consist of "any number of commissioned officers from five to thirteen; but it shall not consist of less than thirteen, where that number can be convened without manifest injury to the service." The court which tried Arbuthnot and Ambrister consisted of thirteen officers, with a supernumerary appointed to act, in case of unforeseen absence or incapacity of any one of that number. A general court martial is required to have a judge advocate, whose duty it is to administer to the officers the oath prescribed by the sixty-ninth article of war, and to act as counsel for the accused as well as the court. The court which tried Arbuthnot and Ambrister had a judge advocate, who administered the oath required by law, and interrogated the witnesses. The prisoner may challenge any member of a general court martial appointed to try him. Arbuthnot and Ambrister were called upon to exercise this privilege. The prisoner before a court martial is regularly arraigned upon charges and specifications filed against him. So were Arbuthnot and Ambrister. He is entitled to counsel if he requires it. Arbuthnot made application for counsel, and counsel was allowed him. A court martial sits with open doors, except when it decides a question, and then the doors are closed. So proceeded the court which tried these prisoners. A court martial has only a limited jurisdiction, both as to offences and persons. So this court decided, for, of the third charge and specification against Arbuthnot, the court decided, "upon the suggestion of a member, after mature deliberation, that it had no jurisdiction." A court martial can sit, unless by express permission from the officer creating it, only between certain hours of the day. This court was, by order, allowed to sit without regard to hours. In the organization of a general court martial the members are seated alternately, according to rank, on each side of the President. So was this court arranged. A court martial records, along with a minute of its proceedings, all the testimony laid before it. So did this court. It is its special province to decide on the guilt or innocence of the accused, and on the punishment, if any, which shall be inflicted upon them. So was this court required to do, and so it did. A general court martial is required to pronounce upon every charge and specification exhibited against a prisoner. This court obeyed this requisition by acquitting the prisoner, Arbuthnot, of being a spy, and responding to all the charges and specifications against him except that, of which they disclaimed any jurisdiction. A general court martial cannot sentence a prisoner to death, without the concurrence of two-thirds of its members. A concurrence of two-thirds of the court is here certified.

It was a general court martial, convened in virtue of a general order, "for the purpose of investigating the charges exhibited against Arbuthnot and Ambrister, and such others, similarly situated, as might be brought before it." It is, therefore, denominated, by General Jackson, "a special court." All its proceedings were approved by General Jackson; and his approval showed that his order had not been disobeyed. And yet, had this been a board of officers, they would not have presumed to make exception to their own jurisdiction, over any matter upon which their opinion was asked by the commanding General; nor would they have invited the prisoner to challenge any one of their number. A supernumerary officer would not have been appointed; their proceedings would not have been with open doors; a concurrence of two-thirds would not have been required to be certified; nor would an extension of their hours of sitting, by a general order, have been at all necessary. Conforming in so many particulars to the articles and usages of war, it is to be greatly deplored that this court martial, and the General who convened it, departed from both in the most important essentials of justice. For neither the articles of war, nor the treatises on courts martial, authorized the trial of Arbuthnot or Ambrister by the court which tried them. "For the persons," says Macomb, "who are subject to the military laws of the United States, and amenable to be tried by courts martial, are all persons who are commissioned, or on pay, as officers, or who are enlisted, or on pay, as non-commissioned officers or soldiers. All sutlers and retainers to the camp, and all persons whatsoever, serving with the armies of the United States in the field, though not enlisted soldiers, all military storekeepers, commissaries, military agents, surgeons, surgeons' mates, paymasters, quartermasters, chaplains; all officers, conductors, gunners, matrosses, drivers, or other persons, whatsoever, receiving pay or hire in the service

'of the artillery or corps of engineers of the Uni-
'ted States, and all officers and soldiers of any
'other troops, whether militia or others, being
'mustered and in pay of the United States, when
'acting in conjunction with the regular forces,"
and by a special act of Congress, "all spies."

In this enumeration of persons subject to the cognizance of an American court martial, a search will be made in vain for a description corresponding with Arbuthnot and Ambrister, after the former had been acquitted of being a spy. Even where a particular offence is cognizable by a court martial, the character "of the person determines
'whether it may be tried by a civil or military
'tribunal. The harboring or concealing of de-
'serters is a civil or military offence, according to
'the state or quality of the person who commits
'it." If by a soldier, it may be tried by a court martial; if by a citizen, a law of the United States expressly provides that it shall be tried by a civil court. The same doctrine is established by the Constitution, which provides, "that no
'person shall be held to answer for a capital, or
'otherwise infamous crime, unless on a present-
'ment or indictment of a grand jury, except in
'cases arising in the land or naval forces, or in the
'militia, when in actual service, in time of war
'or public danger."

But the mode of trial was not less exceptionable than the jurisdiction of the court. The proceedings of the court are marked alike by the exclusion of competent testimony offered by one of the accused, and by the admission of incompetent testimony against him. The following rules of evidence are laid down by the best American author on this subject—an author to whom the Committee has referred us, as in common use—and who is known to this House, from having received its thanks for his distinguished gallantry. "The evidence," says Macomb, "on trials by court martial, is the same that is required in civil prosecutions."

"In all cases where a party would avail him-
'self of the incompetency of a witness, on account
'of his conviction of a crime, it is necessary that
'he should produce to the court the record of con-
'viction, or a sufficient proof of it." Yet, before any trial, the testimony of Ambrister was rejected as incompetent, when offered by Arbuthnot, in his defence.

"Letters of correspondence and all familiar
'writings must be proved, upon oath, to be writ-
'ten by the person of whose handwriting they
'are alleged to be." Yet, the letters ascribed to Arbuthnot are received as evidence, without a shadow of proof. For the author, from whom this evidence is quoted, also adds, that, "even the
'comparison of handwritings, though it may be
'usefully employed in the detection of forgery,
'is no evidence to authenticate any writing what-
'ever, as evidence, in a criminal prosecution."

"An attestation of a witness must be only to
'what he actually knows, from his own observa-
'tion of the facts in issue. He is not to be exam-
'ined as to what he has heard, or been informed
'of by others; for his testimony being in that
'case a reference to the information of another,
'who is not upon oath, is no evidence at all."
Yet, in the case of Arbuthnot, the hearsay evidence of Indians, who, as the report of the select committee justly remarks, would not have been competent witnesses, if present, was received by the court.

"*Facts* are the subjects of evidence, not *opin-*
'ions." It is therefore "to the truth of facts that
'evidence is regularly brought, and to form opin-
'ions of these is the province, not of the witness,
'but of the judge or juror who is to decide them. No
'party therefore in a trial is entitled to obtrude
'the opinions of a witness upon the court, or to
'call upon a witness to answer questions of opin-
'ion." Yet a witness, Hambly, a Spanish renegado, the personal and open enemy of the prisoner, is expressly and repeatedly invited by the court, on the trial of Arbuthnot, to give his opinion of the prisoner's guilt or innocence.

But, admitting the prisoners to have been legally tried by a court of competent jurisdiction, and legally condemned, the execution of Ambrister was in defiance of the sentence of the court, and a mockery of its authority. An honorable colleague of mine (Mr. SMYTH) has contended that there were two sentences in the latter case, and justifies the approval of the first, which condemned the prisoner to death, because the last was illegal. "The judgment of a court martial
'is always under its own control," says Macomb,
'until it is communicated to the officer by whom
'it is convened." In this case, the first judgment was reconsidered. The reconsideration restored the court and the prisoner to the same situation in which they had stood before any sentence whatever was pronounced; and the final judgment was, therefore, the only judgment of the court. This judgment sentenced the prisoner to be whipped and to hard labor.

General Jackson "disapproved the reconsideration, approved the finding and first sentence of the court, and ordered Ambrister to be shot." Had he authority to do so? "With the appointment or constitution of the court martial," says the high authority I have already quoted, "the
'power of the officer over the prisoner ceases
'until that court shall have pronounced judg-
'ment. The President of the United States, or
'General, can no more interfere in the procedure
'at courts martial, in the execution of their
'duty, than they can with any of the fixed courts
'of justice; nor, even after the court martial has
'pronounced its sentence, is it in the power of
'the President, General, or other officer ordering
'the court, to add to or alter that sentence in any
'one particular, unless a recommendation to that
'effect shall be therein contained. The Presi-
'dent, or Commander-in-chief, in virtue of his
'prerogative of mercy, may entirely remit the
'punishment which the court has awarded, or,
'by disapproving the sentence, he may order the
'court to sit again, and to review their proceed-
'ings and judgment: but he can no more decree
'any particular alteration of their sentence than
'he can alter the judgment of a civil court, or

'the verdict of a jury." Arbuthnot and Ambrister were, therefore, tried by a court of incompetent jurisdiction. The former was condemned upon illegal evidence, and the latter executed by order of the commanding General, in defiance of the judgment of a court of his own appointment; all of whose proceedings he approved, except their single act of mercy—the reconsideration of their sentence against Ambrister.

The general order of the 29th of April, commanding the immediate execution of Arbuthnot and Ambrister, uncondemned even to this day, nay, more than tacitly approved, is, Mr. Chairman, a stain on the records of the judicial proceedings of this nation, to the insecurity of the honor and life of every officer and soldier of the armies of the United States, and of every citizen of America, who may be legally, or otherwise, subjected to the judgment of a court martial; a proceeding which imperiously calls for the interposition of the authority of Congress, in order that, instead of being converted into a precedent for future imitation, it may be shunned as an object of abhorrence. Sir, it is no little cause of alarm to behold the highest military court of criminal justice, which should be the shield of innocence, converted into a rod of oppression. While I listened with equal attention and delight to the eloquent and able argument of my honorable friend from New York, I thought that even he underrated the security which a military court is designed to afford to an innocent prisoner. I thought he supposed that a military judge was not sworn to discharge the duties of his office with fidelity and impartiality. [Mr. Storrs arose to explain. He had remarked, he said, that the charges were not sworn to on which a prisoner was arrested.] I misunderstood my honorable friend, said Mr. Mercer; but even here the charge must be sanctioned by the honor of an officer. A general court martial derives its appointment from the sound discretion of the highest military authority in an army; its sentence is inoperative until it receives his approbation; and any officer who should seek, by the instrumentality of such a court, to gratify secret resentment or malignity, would render himself odious to his whole corps.

The ingenuity of my honorable colleague (Mr. Smyth) will in vain attempt to discover an analogy between this trial and any event in the judicial history of this nation. The board of officers who reported Major Andre to be a spy were not constituted a court martial, but if they had been, their sentence was not disregarded. The gentleman will turn in vain to the annals of the Revolution for a precedent to extenuate the enormity of this whole proceeding. We have been asked, "whence this sympathy for two British prisoners?" Sir, my sympathy is not with them, but with our violated laws. The people have seated us by the fountain of justice, and charged us to preserve its purity from contamination. Extraordinary and alarming as are the doctrines of martial law maintained in this debate, there is yet some consolation in perceiving that our opponents have deemed it necessary to take a double ground; and, lest the judgment of the court martial should not sustain the execution of the prisoners, they have resorted to the broad right of retaliation—which brings me to the last proposition that I undertook to maintain—that the accustomed clemency of this nation, manifested in all former wars, has been disregarded in the late Seminole campaign, by the execution in cold blood of unresisting captives, subjected to our arms by the chance of war. Without inquiring into the manner in which the two Suwanee chiefs were decoyed into our grasp by the use of the British flag, or Arbuthnot was dragged from beneath the protection of the neutral flag of Spain—acts which, coupled with the succeeding tragedy, imbue its closing scene with deeper horror—I utterly protest against the application which has been made of the exploded usages of war to justify these barbarities. Nor will I distinguish between the treatment of our Indian and white prisoners—a distinction which, until this debate, was never heard within the councils, nor known until the late Seminole war, in the practice of this nation, or of any of the numerous States of which it is composed. The doctrine that Ambrister was not entitled to be regarded as a prisoner of war, because he had no commission from his own Sovereign, would have equally applied, as the select committee have remarked, to the most distinguished officers of our Revolution; men to whom the venerable Congress of that day voted statues and monuments, and whom our enemy, in all the pride of his power, dared not but respect. The other doctrine of my honorable colleague, (Mr. Smyth,) that Ambrister had no commission from the Indian nation, to which he united his arms, is disproved by an authority which he himself will admit—by the charge to which the prisoner plead guilty, and upon which he was condemned to be shot by his prosecutor; the charge of leading and commanding the Lower Creek Indians in carrying on a war against the United States—unless, indeed, it be contended that he commanded and led his forces without their consent. The crime of aiding, abetting, and comforting them, on which the remaining charge was founded is evidently merged in the heavier accusation to which he plead guilty, and which he sought at least to justify. And if, sir, the war was defensive on the part of those unhappy Indians, a justification more complete in all its parts could not be well imagined. The benefit of that justification would alike extend to Arbuthnot, a mere trader in the usual subjects of Indian commerce, since they have laid down the bow and arrow, and resorted for subsistence as well as security to the musket and rifle, if he had not in fact discountenanced their resistance of a force that he saw must overwhelm them.

Who, sir, were the other captives condemned to death? It has been said of some of the Suwanee chiefs, that he was the author of the massacre of Scott's detachment, destroyed, as I have proved, in that Indian territory which our army was not only preparing to invade, but had,

in fact, invaded; and the participation of this chief in the bloody massacre which closed this scene, is unsustained by any proof whatever.

As to his unfortunate comrade, the Indian Prophet, what are his imputed crimes? That he was, himself, the victim of superstition; that he deluded his wretched followers. Such was the guilt, sir, of all the augurs and soothsayers of the ancient republics, sometimes Prætors, Consuls, and Dictators, not to Rome alone, but to a conquered world. A guilt, in which lies still involved three-fourths of the human race; many of whom yet groan, in cities, in palaces, and temples, beneath a superstition, compared with which, the religion of the wandering inhabitants of our western wilds is simple, peaceful, and consolatory. Or did his guilt consist, in returning home with a foreign commission, after having crossed the Atlantic in quest of aid, to sustain the sinking fortune of his tribe? Has it, then, become a crime, in our day, to love our country; to plead her wrongs; to maintain her rights; or to die in her defence? Sir, had not the God I worship, a God of mercy as well as truth, taught me to forgive mine enemies, did he, as the Great Spirit whom the Seminole adores, allow me to indulge revenge; were I an Indian, I would swear eternal hatred to your race. What crimes have they committed against us, that we have not, with superior skill, practised upon them? Whither are they gone? How many of them have been sent to untimely graves! How many driven from their lawful possessions? Their tribes and their very names are almost extinct. My honorable colleague, (Mr. BARBOUR,) who differs from us on this question—my honorable friend I will call him, for he inspired that sentiment, while he eloquently described the wrongs and sufferings of this unhappy race—will not condemn in a poor Seminole Indian that love of country, of which, if it be indeed a crime, no man is more guilty than himself. But it seems he was an Indian. The Suwanee chief, his comrade, was so too. Arbuthnot and Ambrister, who inspired their counsels and led them to combat, are to be regarded as themselves, and, under the law of retaliation, they were all liable to suffer death, at the pleasure of General Jackson. And thus, Mr. Chairman, the clemency which has been observed, for two centuries, in all our conflicts with the aborigines of America, is at length discovered to have been an impolitic abandonment of the rights which we derive from the laws and usages of war. Nay, sir, the victories of all our former commanders, in all other Indian wars, are cast into the shade, in order to magnify the effect of this new policy. In the hard-fought battle of Point Pleasant, in which I have heard that three hundred Virginians fell, my colleague (Mr. SMYTH) tells us, that only eighteen Indian warriors were found dead on the field. Before the impetuous charge of the gallant Wayne, but twenty fell. At Tippecanoe, but thirty. On the banks of the Tallapoosa, General Jackson left eight hundred Indians dead. Sir, it is consolatory to humanity to look beyond these fields of slaughter, to the peace which followed them, the only object of a just war. From the battle of Point Pleasant to the present day, Indian hostilities have ceased in Virginia. The victories of Wayne led to the treaty of Greenville, and was followed by a peace of eighteen years. The treaties of Hopewell, of New York, and of Colerain, preceded by no battles, were succeeded by a peace, which, with the Creeks and Seminoles, it required, after the lapse of nineteen years, another British war to disturb; and which, with the Choctaw and Chickasaw Indians, endures to this moment. While the splendid victory of Talapoosa, and the treaty of Fort Jackson, have not yet, it is said, secured to us peace, although aided by our new code of retaliation, and its practical commentary, the execution, in cold blood, of four Indian captives.

Mr. Chairman, it has been justly remarked, that the only lawful end of retaliation is lost on an Indian foe. Death has no terrors for a North American savage. Hunting and war are his delight. He hates labor. You may punish him by requiring him to construct another wigwam, by laying waste his cornfields, or destroying the fruits of his harvest. So far our retaliation has hitherto gone. And the peace which it has purchased has evinced its efficacy. The Indian is as generous as he is brave. In our past intercourse we have sometimes conciliated his friendship by presents; and, by kindness, softened his ferocity. Why not persevere? With him revenge is lawful. By departing from the maxims observed in all former wars, we shall rival our savage foe in cruelty, without his apology to plead in its extenuation.

I admit the power of a military commander to put his prisoners to death, but I deny his right. No man has a right, derived from God or nature, to practise cruelty or injustice; and all needless severity is both unjust and cruel.

The law of nations sanctions no such pretensions. Two of our Indian treaties furnish a more correct exposition of this law, than our adversaries have done. "It is understood (said the old 'Congress and their Indian allies) that the pun-'ishment of the innocent, under the idea of retal-'iation, is unjust." "A nation (says Vattel) may 'punish another, which has done her an injury, 'if the latter refuses to give her a just satisfac-'tion; but she has not a right to extend the pen-'alty beyond what her safety requires. Retali-'ation, which is unjust between private persons, 'would be more so between nations; because it 'would, in the latter case, be difficult to make 'the punishment fall on those who had done the 'injury."

Wherever this humane writer seems to contradict this doctrine, as when he sanctions the departure from the usages of civilized warfare, to retaliate on nations who disregard them, it is to bring those nations back to reason and conscience. If this be impossible, the retaliation is unjustifiable.

Would you make slaves of Algerine captives because the Turks enslave their christian prison-

ers? Europe has never thus retaliated on the States of Barbary. How speedily would the practice of this doctrine replunge the world in barbarism. In refusing to wage war for revenge, and blending martial courtesy with valor, a nation advances her true glory. That enemy is most to be dreaded, who conquers by his clemency as well as his sword. "Who, though the lion in combat, the battle once ended, has the heart of a lamb." Such has ever been the character of an American soldier, and such, I trust, Mr. Chairman, will continue to be the boast of our arms.

How gratifying will it hereafter be to the feelings of this nation, in looking back on the course of this debate, when all its irritation shall have subsided, to perceive that the most laborious research into the past history of our country, from the first period at which our fathers landed on this continent, down to the late Seminole war, has not been able to furnish a solitary example of the execution of an Indian captive, in cold blood. Usage is the best expositor of national law, and the usage of two centuries excludes this new law of retaliation from the humane code of America.

It has been urged by one of my honorable colleagues, (Mr. SMYTH,) to whose argument I have often had occasion to advert, in the course of this debate, that the glory of a nation consists of the fame of its great men. I had thought it more comprehensive. That it embraced all the blessings, moral and physical, with which the munificence of Heaven has crowned the lot of any people. The extent of their territory, the salubrity of their climate, the fertility of their soil, the multitude and variety of its productions, the scenery of their country, its capacious bays, its noble rivers, its lofty mountains; their commerce, their arts of peace as well as of war, their manners, their customs, their institutions, their laws, their morality and piety, and the wide diffusion of their happiness. With us, sir, the security of all these blessings, that which stamps on them their durable value, is our excellent constitution of Government. This is the cement of our Union, the spring of our commerce, the shield of our security, the pledge of our peace, the guardian of our freedom. Whatever other sources of distinction we may possess, they will be found to be contained, at last, in our liberty. From this source, distinguished men have doubtless sprung, and will be multiplied in all future time. But let us not mistake the fruit for the tree; and, attracted by the lustre of the one, leave the other to perish by neglect.

In the progress of my argument, I perceive, Mr. Chairman, that I have anticipated my last proposition, and have removed, I trust, the necessity of offering any further reasons in support of the resolutions on your table. Of those which are immediately practical, one will, I hope, furnish an additional sanction to the acknowledged law of nations, which forbids a belligerent to enter a neutral territory, without permission, except in fresh pursuit of a flying enemy; and the other, which requires the assent of the President of the United States to sanction the execution of a prisoner of war, on the supposition that he may be tried by a court martial, extends the security for human life very little farther than the present articles of war. Following the American army everywhere, they now require that no judgment of a court martial, in time of peace, inflicting capital punishment, shall be executed, until it has received the approbation of the President.

Mr. COLSTON said that he rose at that late period of the debate, trusting that the Committee would excuse his trespassing, for a short time, upon their attention, whilst he discharged his duty to himself, his constituents, and his country, by expressing his sentiments on this important question, involving, as it did, the Constitution and laws of the country. In the investigation of it, he would not be deterred from expressing his opinion freely, either by the declarations of those high in authority, that General Jackson's conduct must be defended, or by the character of the individual who was the subject of this investigation, or by any of those means which had been used to prevent the expression of disapprobation by those who thought his conduct censurable.

He would not deny that, in the defence of New Orleans, General Jackson had rendered important military services, and had thus acquired a high reputation with his countrymen; but this rendered it the more necessary strictly to scrutinize his conduct, for the history of the world would show, that wherever the liberties of a nation had been subverted, it was always done by those the splendor of whose actions had screened from censure their first violations of the laws and constitution of their country. He should, therefore, proceed to the investigation of General Jackson's conduct in the Seminole war; and if, in the course of it, he found that he had violated the Constitution, infringed the laws, disregarded his orders, and adopted, as a rule of nations, principles at variance with those laws, and to all the received opinions of this people, he should not hesitate to express his most decided disapprobation.

Sir, had an ordinary man said that the Governor of an independent State had no right to issue a military order to the militia of that State, under his command, whilst an officer of the United States was in service, we should have smiled at his ignorance of our peculiar form of Government; but the same doctrine, coming from General Jackson, becomes dangerous. Had one individual indulged in the same style of correspondence with another individual, which is used in the letters to the Governor of Georgia, we should have considered it rude; but, coming from a General in the service of the United States, and that officer General Jackson, it has an awful squinting towards the degradation of State authorities—the prostration of State sovereignties, with the preservation of which is connected the best interests of this nation. And, finally, had a man unknown to fame executed two individuals, without any law of this nation to justify it, we should have found no difficulty in giving to the deed a name; but, when it is done under claim

of military authority, it constitutes a political offence of a much higher and more dangerous nature. Such acts, he must confess, roused all his jealousy of military power and military usurpations.

Mr. C. said he would have occupied the floor at an earlier period of the debate, had it been practicable; but the very able views which had been taken of the general subject, particularly by the honorable Speaker, the gentleman from New York, (Mr. STORRS,) and his friend who had preceded him, whilst it left him little to say, gave him reason to rejoice that his wishes had not been gratified. He would not fatigue the Committee by going over the ground that had been so ably occupied, but would principally confine himself to such views as had, from the hurry of debate, escaped those gentlemen who had preceded him, or not been sufficiently urged by them, from a want of time.

The power of declaring war had, for the wisest reasons, been confided, by the framers of the Constitution, to Congress; and yet we have seen the province of a nation, with whom we were at peace, invaded; her fortresses besieged and stormed; her towns taken; the blood of her citizens shed; her Government subverted; her laws abrogated; the civil power usurped, and those soldiers who had been placed there to preserve her authority and enforce her laws, sent off from the province they were intended to defend, and all this without any act of Congress to warrant it.

If these were not acts of war, he knew not what were; and yet, as he before observed, Congress had not been consulted. He had no hesitation in saying, that this was the most flagrant and palpable violation of the Constitution—the most violent encroachment upon the rights of that House, which had ever occurred in this country; an encroachment, too, not depending upon a literal construction of the Constitution, but was the assumption of a power expressly withheld from any other branch of the Government than Congress; as such, he entered his protest against it, and expressed for it his most entire disapprobation. The Constitution then, sir, has been violated; let us see whether this violation has proceeded immediately from the Executive or from General Jackson.

With regard to entering Florida, much national law had been quoted to justify the measure; but all those principles apply to sovereign Powers, and only serve to show that this nation, in its high sovereign capacity, would have had a right to order its armies into that province, without giving just cause of offence to Spain. But where is this sovereign power lodged by the Constitution of this country? In Congress, unquestionably, and not in the Executive. I am not prepared, however, to say that, being once involved in war with the Seminoles, the Executive had no right, even under our form of Government, to order the troops into Florida, without the consent of Congress, as an incident to that war. But here another question will arise as to the power of the Executive to enter into that war, without a law. The wars which have heretofore been waged against Indian nations have always been against those within our acknowledged territorial limits. The use of the army against them has resembled more the case of suppressing an internal enemy, than waging a foreign war. The President, therefore, has, under the authority of a general law, exercised the power of calling out the militia, and sending against them the military force of the United States, without a particular law to authorize it; but surely the case is very different in relation to Indian nations without our territorial limits, and, as far as regards us, to all intents and purposes independent. With regard to these, he had no doubt the assent of Congress to the war was as necessary by the Constitution as in any other war whatever, although he had no doubt the omission to obtain that assent arose from the former practice of the Government, and their not having reflected upon the change in circumstances, which, in the present instance, required a change of that practice. He was never disposed to blame, upon slight grounds, the Executive Magistrate of the Government. But these two last questions were entirely of a domestic nature, and were only differences of opinion as to the mode of exercising a right unquestionably belonging to the nation; and, as he before observed, that Spain had no right to complain of the entrance into Florida, so also she has no right to inquire into the legality of this war against the Seminoles. But, with regard to other acts in the progress of this war, of which Spain had just reason to complain, which might have involved this nation in a foreign war, and which did, in effect, amount to a war on her part against Spain, let us again recur to the original question, whether they proceed from the Executive, or were the acts of General Jackson, upon his own responsibility.

To ascertain this, let us examine his orders. They were given to General Gaines on the 16th of December, 1817, and are referred to in the order directing General Jackson to take the command of the army. In those orders the Executive strictly conforms to the established laws of nations; they permit the army to cross the Florida line, if necessary, but expressly direct that, if the Indians should even take shelter under a Spanish fort, and be protected by them, not to attack the place, but to report it to the War Department, and wait for further orders. Did General Jackson obey these orders? Let St. Marks, Pensacola, and the Barancas answer. But I am not disposed to censure General Jackson unjustly; there may have been some reason for his taking St. Marks, notwithstanding his orders. As far as the laws of nations are concerned, it might certainly be justified by a milder code than that from which he has drawn his definition of a pirate. But where was the necessity of taking Pensacola and the Barancas? General Jackson himself shows that there was none; for, in his letter of the 20th of April, he states that the war may be considered at an end—that only a few Red Sticks, &c., remained, who were not a for-

midable enemy, and that even if the war were renewed, the posts they then had, with only a small military force, would be sufficient to restrain the Indians. If this be the case, where the necessity of taking Pensacola? General Jackson himself does not put it upon the ground of necessity, nor entirely upon the ground of their hostility, manifested by affording comfort and supplies to the Indians; for that could not have justified him, inasmuch as his orders had forbidden him to attack a Spanish fort, even under circumstances of much greater hostility, viz., the Indians taking shelter under it, and being protected by it. What, then, is the immediate cause assigned for the capture of that place? He states that on the 23d of May, being then in full march towards Pensacola, he received a protest from the Governor of that place, which protest Mr. C. was surprised to hear some gentlemen call a threat. Now, what was this protest? Only that he disapproved of General Jackson's conduct in approaching his command with a large military force, in a time of profound peace between the two nations, without having given those explanations and security against aggressions which the neutral has always a right to demand; and a declaration, that, if the aggression was continued, that is, his post attacked, he should repel force by force. And this General Jackson construes into such a manifestation of hostility, that he no longer hesitated upon the course to be pursued, but marched the next day to take possession of the place. A manifestation of hostility, sir! What could the Spanish officer have done less? He did his duty merely, and less would have been inconsistent with his own honor, or that of his nation. In this transaction, sir, General Jackson seems to have yielded to the impressions of anger, that any one should have dared to oppose the slightest obstacle to his wishes. He took the place in violation of his orders; and, in violating them, he violated the Constitution of his country, and for this the Congress of the United States should express their decided disapprobation. And yet some gentlemen speak of voting thanks. Thanks, sir, for what? Mr. C. confessed that, for his part, in the conduct of the Seminole war, he saw but little to approve, and much, very much, to censure.

But, said Mr. C., my honorable colleague (Mr. Barbour) tells us that, although he disapproves this conduct, he will not express anything that looks like censure, because he believes the motives of General Jackson were good in these transactions. Sir, if the question were, whether the General should be in any manner punished for these things, my colleague's principle would be correct. I do not myself intend to impeach his motives; but, when the question is, whether the Congress of the United States shall or shall not express their opinion as to a violation of the Constitution, in order to preserve that Constitution in its purity—to prevent encroachments upon their own powers, and to prevent these acts from being hereafter drawn into precedent, and again repeated, I cannot see that we have anything to do with motives. It is sufficient for us that the Constitution has been violated and our powers disregarded.

My honorable colleague has also said, that he was unwilling to censure the conduct of the General, because, although the case did not justify the act, yet a higher degree of the same necessity would have justified the capture of Pensacola. If he means that a case might have existed in which it would have been justifiable, we agree; but that would be to suppose a case different from that which the documents presented. The principle of the laws of nations is, that a case of *extreme* necessity will justify the seizure of a neutral post. The argument of the gentleman supposes degrees in cases of *extreme* necessity, which cannot exist.

Mr. C. said, he would now proceed to examine the trial and execution of Arbuthnot and Ambrister. The ground which General Jackson assumed to justify his conduct had been pretty generally abandoned upon that floor. He had heard but one gentleman (Mr. Johnson, of Kentucky,) attempt to defend it, by a quotation from Vattel, to prove, that an individual who made war upon a nation was to be considered an outlaw and a robber. The gentleman would find, he believed, upon almost the same page in Vattel, (he spoke and quoted from memory,) that even an officer holding a commission, who attacked another nation without an express order from his Government, did it upon his own responsibility; his commission did not protect him; he is to be considered as an individual. He would leave it to that gentleman to reconcile the passages, and apply them to the case under discussion. But, sir, as gentlemen have found it necessary to abandon the ground assumed by General Jackson, and to place his defence upon another, let us examine the ground they have taken, and see if it is more defensible. That ground is the right of retaliation. Mr. C. would not encumber the question with another, viz., whether the testimony were sufficient to identify Arbuthnot with the Indians, but would meet it fairly and openly. Before he did so, however, he would beg leave to suggest one difficulty in the case. It was a principle in the laws of nations that, under certain circumstances, a belligerent might enter a neutral territory. It was equally well established that, in doing so, they were bound to abstain from all acts of hostility by which the neutral could be compromitted with the other belligerent. This being the case, although he did not know what the practice of nations was in that respect, he should suppose, that, although, if an armed and embodied enemy were found in the territory, he might be attacked, yet, if the belligerent so entering a neutral territory should find there an individual enemy, (and particularly if unarmed,) reposing under the protection, and relying upon the hospitality of the neutral, they would have no right to capture him, because his capture would be an act of hostility committed in the country of the neutral, not to be justified by the same necessity which authorized the entrance into his country, and by which his peace might be compromitted with

your enemy. Apply the same principles to a fort which you are under the necessity of occupying, and, if they are correct, Arbuthnot ought never to have been considered a prisoner of war. But, to the doctrine of retaliation. He called the attention of the Committee to the difference between the right of a nation, and the right of a general, to retaliate. The foundation of this right was the protection and preservation from injury, by inflicting upon another those injuries he has committed on you. Inasmuch, then, as the injuries which may be inflicted upon a nation are so much more numerous, and of such different characters from those which may be inflicted upon an army, their right is much more extensive in this respect than that of a general. The right is only co-extensive with the object, and can never exceed it. It is a sort of extension of the general law, for a particular object, and must be limited by the occasion. The nation has the right to retaliate all outrages committed against the nation, but the general only possessing this right for the preservation of himself and his army against outrage, Mr. C. would maintain, without fear of contradiction, that he has only a right to retaliate for offences against the practices of war, committed in relation to him or them. The cases of Asgill and others, which have been cited from our own history to support this doctrine of retaliation, all go to prove the same fact. They are all instances of retaliating upon the enemy some offence against the laws of war, in the persons of those attached to the army. But what are the charges against Arbuthnot? Is he charged with any violation of the practices of war, or with any outrage against the General or his army? No, sir, he is charged with an offence against the Government of the United States. And has this Government fallen so low that it cannot protect itself from injury without the strong arm of military power to shield it from the attacks of individuals? The doctrine of retaliation, then, will not bear the gentlemen out in the execution of Arbuthnot, because he is charged with no offence for which the General had a right to retaliate. Again—not to mention the ground which has been taken by the honorable Speaker, of the total inapplicability of the principles of retaliation to Indian warfare, and which I have not yet heard successfully controverted—in order to justify retaliation, it should be declared to the enemy to be so, and the particular offence for which it is a retaliation should be announced. Had this been done? The charges themselves are a sufficient answer to this question. Sir, of human blood we should always be tender; and, although gentlemen may say that much benefit may result from this exemplary punishment of an individual whom they conceive to have been mischievous, this Committee cannot with safety sanction that doctrine in morals—that evil may be done that good may come of it.

But, if gentlemen have recourse to the laws of nations to support this doctrine of retaliation, let them take the whole law in relation to the subject. Now, it is a principle fairly deducible from that law, that in those cases in which a nation is compelled to resort to extraordinary remedies to protect herself from harm, she is also bound to resort to the mildest remedy that will effect the object. If, then, a course can be pointed out which would have been milder than that pursued, and answered every purpose equally well, that takes away of itself all justification for the harsher course. Now, we had Arbuthnot and Ambrister in our power; they might have been confined until the war was at an end; and, if they had violated the laws of nations with regard to the United States, we might either have required of Spain their punishment, or, if they could not have been punished, we might have required their perpetual banishment from the province, as persons inimical to us, fomenters of war, and dangerous to our peace. This would have answered every national purpose of protection to us; and, by the principles of the laws of nations, this is the course we were bound to pursue.

But again, sir, General Jackson has undertaken to execute this man for a supposed offence against the laws of nations, in taking part against us in a war, whilst his country and ours were in a state of peace. Now, not to mention that his "well established principle" is not the law of nations at all, and cannot be supported by any acknowledged authority on that subject, nor the hostility of this principle to all the heretofore received opinions of this nation, I contend that, in this country, no violation of the laws of nations can be punished without an act of Congress prescribing that punishment. The framers of our Constitution, for the wisest reasons, determined that the persons and property of their citizens should not be subjected to condemnation, under a system of laws not to be found in their own statute book, but for which they would have to wade through the pages of Vattel, Grotius, and Puffendorf; and which would be as entirely inaccessible to most of them as were the laws of the Roman tyrant, who had them placed upon high poles, written in small characters, that he might have an opportunity of satiating his thirst for blood by their ignorance of his edicts. They have therefore declared, in that Constitution, that Congress alone shall have the power to prescribe the punishment for violations of the laws of nations; thus abrogating at once all that code, as far as it operates upon the persons and property of individuals. Before any man, then, can be punished for a breach of those laws, an act of Congress must prescribe it; and will gentlemen inform us where the statute is to be found in which the penalty for the offence charged upon Arbuthnot is to be found? Mr. C. would apply this remark also to those cases of retaliation or severity which had been cited from our own history, to justify this deed. They all occurred before the adoption of this Constitution, before the abrogation of the national law operating upon individuals, and had that law for their justification, but surely cannot be considered as authority since the great change which the Constitution has made in our situation.

General Jackson. then, has in this instance, as well as in others which have been alluded to, vio-

lated the Constitution, which we have sworn to obey and support; and, for my own part, said Mr. C., I feel myself bound, by the sacred obligation of that oath, to express my disapprobation of it.

As for Ambrister, many of the observations which have been made will equally apply to his case; but it may be sufficient to say, that he was not condemned to death by the court, and that his execution was without any warrant or justification whatever.

But Mr. C. had promised not to trespass long upon the time of the Committee, or to pass over ground that had been already sufficiently examined. He would not, therefore, go into a particular examination of those trials, or of the testimony upon which they were convicted. He agreed entirely with the report of the Military Committee, as to the injustice which had been done by the court in the trial of Arbuthnot, by the admission of testimony which should never have been received; in the manner of examining the witnesses, in rejecting testimony on the part of the prisoner which he was entitled to have examined; and, indeed, in the whole course of this proceeding. But he would go further, and say, that the testimony, even as taken by the court, was totally insufficient to support the charges, the charges totally insufficient to warrant his execution, and his blood had been shed contrary to the laws of God and man.

Mr. STROTHER, of Virginia, rose in opposition to the resolutions, and had proceeded for some time in his argument; when, on motion, the Committee rose, reported progress, and obtained leave to sit again.

WEDNESDAY, January 27.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to which was referred the amendments proposed by the Senate, to the bill, entitled "An act making appropriations for the military service of the United States, for the year 1819," reported their agreement thereto, and the amendment was committed to a Committee of the Whole, to-day.

Mr. MARCHAND, from the select committee, to whom was referred the petition of Benjamin Wells, made a report thereon, which was read; when, Mr. M. reported a bill, supplementary to the act, entitled "An act for the relief of Benjamin Wells;" which was read twice and committed to the Committee of the Whole, to which is committed the bill for the relief of John Wells.

A message from the Senate informed the House that the Senate have passed bills of this House, of the following titles, to wit: "An act for the relief of Sampson S. King;" "An act for the relief of Daniel Renner and Nathaniel H. Heath;" and "An act making appropriations for the support of the Navy of the United States, for the year 1819;" with amendments. They have also passed bills of the following titles, to wit: "An act further to extend the judicial system of the United States;" and "An act further to extend the jurisdiction of the circuit courts of the United States, to cases arising under the law, relating to patents;" in which amendments and bills, they ask the concurrence of this House.

The bill from the Senate, entitled "An act further to extend the judicial system of the United States," was read twice, and referred to the Committee on the Judiciary.

The bill from the Senate, entitled "An act to extend the jurisdiction of the circuit courts of the United States, to cases arising under the law relating to patents," was read twice and also referred to the Committee on the judiciary.

The amendment proposed by the Senate, to the bill, entitled "An act for the relief of Daniel Renner and Nathaniel H. Heath," was read and referred to the Committee of Claims.

The amendment proposed by the Senate, to the bill, entitled "An act for the relief of Sampson S. King," was read and concurred in by the House.

The amendments proposed by the Senate, to the bill, entitled "An act making appropriations for the support of the Navy of the United States, for the year 1819," were read and referred to the Committee of Ways and Means.

An engrossed bill, entitled "An act for the relief of Hannah Ring and Luther Frink," was read the third time and passed.

The House then took up, in Committee of the Whole, the amendments of the Senate to the military appropriation bill, which, being agreed to by the Committee of the Whole, were reported to the House, and, with the bill, laid on the table.

SEMINOLE WAR.

The House then proceeded to the orders of the day, and resumed, in Committee of the Whole, (Mr. H. NELSON in the chair,) the report of the Military Committee on the subject of the Seminole war.

Mr. STROTHER concluded the speech which he yesterday commenced in opposition to the report, &c., in which he occupied nearly three hours. It is given here entire, as follows:

Mr. STROTHER said, that at that late hour of the day, when the subject had been so much exhausted, and the attention of the Committee so much wearied, he with reluctance engaged in the debate; but his excuse would be found in the artificial importance the subject had assumed by the wide excursions in which gentlemen had indulged, embracing, in the scope of their arguments, not only the illustrious chief against whom the attack is directly aimed, but mounting up to the Executive, and charging him with a violation of the Constitution.

He said, the advocates of these resolutions claimed to be the exclusive guardians of the Constitution: a portion of them, he admitted, held the title by prescription; they had sounded the tocsin when the midnight judiciary disappeared; they had raised a warning voice against the embargo, and the whole restrictive system, as infractions of that sacred charter; and they protested against rejoicing for the brilliant victories

achieved by our heroic armies and gallant navy, as unbecoming a moral and religious people: when now called upon, as formerly, to put the finger upon the principle which is wounded in that instrument, they cannot agree upon the point where it is to be found; it was an intangible, fleeting principle, which eludes the grasp of examination. He claimed no participation in the vision, but he claimed a conscientious discharge of duty, and the credit of the humble endeavor to vindicate the honor of the nation, and to preserve the Constitution inviolate.

He objected to the mode of proceeding; he denied Congress had power to proceed in this manner; the bright page that records the immortal deeds of our ancestors, and the happiness of this favored people, is shaded by the paroxysms of party heat. The Congress of the United States once stepped down from the elevated duties of legislation, to censure the self-created democratic societies; it was then the eloquent Ames sung the syren song that spell-bound the people: the delusion was but for a season; the enchantment dissolved; the nation awakened from its trance, and, gifted with the energy that freedom bestows, sprung upon that basis of correct principle upon which the present Administration stands; then the democratic party contended, in vain, that the right to the proceeding was not vested in this House. On another occasion, when the army, commanded by St. Clair, sustained a bloody and disastrous defeat, a democratic member proposed a resolution, requesting the then President, General WASHINGTON, to set on foot an inquiry into the causes of that inglorious affair; the Federal majority rejected the proposition as unconstitutional and improperly interfering with the powers of the Executive department.

Each party was correct when contending for the negative, as will appear from an examination of the question. This is a Government of departments, shedding light, emitting heat and promoting political health. When each revolves in its peculiar orbit, the limits and extent of each are distinctly marked out in the Constitution. Congress can speak an army into existence; by repealing the law that gave it being, you annihilate it; or, by refusing to appropriate the means of subsistence, it languishes and expires. The management of this army is placed in the hands of the Executive; speak it into existence, it bounds into another sphere beyond your control. This division of power is wisely ordained—guarding against this dangerous machine by legislative jealousy, and giving it energy and promptitude of movement by the Executive. This army, existing by your will, is only responsible to the Executive and the Judiciary. Personal wrong, and the invasion of private rights, give the courts jurisdiction. If the peace of the nation is compromitted, and its honor tarnished, the Executive holds the corrective; and, if this high Constitutional officer sleeps at his post; if he shield the delinquent, and hesitates to redeem the sullied justice of his country, he becomes accessary—is implicated in the guilt, and subjects himself to punishment, by impeachment. The inconvenience and impracticability of exercising this power, prove it is not granted to this department of the Government. If it is your right and your duty to stoop beneath the Commander-in-chief, to lay hold of a Major General, it is equally incumbent upon you to descend into the ranks; place a private soldier into legislative inquisition, and gravely discuss, and sagely decide, upon his demerits. The doctrine contended for lays hold of both ends of the Military Establishment. He said, amidst the awful convulsions of the French revolution, the Convention wasted an entire night in examining a sergeant; descending from "riding in the whirlwind, and directing the storm," to the examination of a soldier. Some claim the right to censure, as the correlative of the practice of giving thanks. He denied that this practice was predicated upon right. This is no novel idea, intended for the present moment. In a proposition to return thanks to General Wayne, for the brilliant victory of the Miami, Mr. Tracy and others denied that Congress possessed this power. The practice has grown out of usurpation. It can only be claimed upon the pre-supposition that Congress represent the entire sovereignty of the people, and reflect their feelings. On the contrary, the members of this House are only special agents, for limited and defined purposes. This power is not delegated to you by any affirmative grant, nor is it incidental to any express grant. When Congress, warmed by the gratitude which glowed in the bosom of this nation, poured out the rich libation of its thanks, and entwined the laurel around the brow of the hero, no one paused to inquire if, beneath the leaf, the asp was hid, whose poison would wither that laurel, and sting the wearer to death.

No, sir, this people have not constituted you the agents to confer her thanks, or to select objects of benevolence, and distribute her gratuities. More arduous employments are assigned—more important duties imposed. You have been tolerated in weaving eulogies, and braiding and festooning them with all the art of taste and criticism to decorate the favorite of the day. It was an innocent waste of time; it did not render a heroic deed more brilliant, nor did it sully the bright chastity of a well-earned renown. But when you censure you desert legislation; you exercise high judicial power; you inflict punishments upon ex parte examination; you deprive a man of that property which he holds in a cherished reputation; that property which he hugs nearest to his heart, and which is the richest and most precious patrimony of his descendants; your censure "rives and blasts like the lightning of Heaven," leaving its victim exposed to scorn and contumely, and brings him to trial, if a military court shall be ordered, with presumed guilt, and anticipated conviction. By practice you are the grand almoners of the nation. In the spirit of beneficence, you made a magnificent donation to a South American province; Charity cast her mantle over the act, and the nation would not rend the veil. Sir, this nation has a heart

to feel, and magnanimity to forgive, when the error is on the side of generosity and humanity. Build upon this acquiescence a right to punish; touch but a vested right in the humblest citizen, and its justice will lead you back to the Constitution, the instrument of your power and their protection.

But, admitting that this House possess the power, the transactions of the Seminole war do not justify its exercise. The advocates of the resolutions, by different routes, arrive at one common conclusion: one contends that the President made war, and usurped the powers of this House; others take post at the thirty-first degree of south latitude, and some few push on to Pensacola, and contend that there the original sin was committed—there the forbidden fruit was eaten that stains the whole Government with the guilt of violating the Constitution and insulting the majesty of the King of Spain. Many, to be sure, Mr. Chairman, drop by the way, and fill up the intermediate chasms. Did the President make war, and usurp the powers of Congress, the just exposition of our Constitution is best seen, and most clearly understood, in the uninterrupted practice of this Government. The Administration of Washington, to which we all look with pride and many with regret, as the good old Constitutional times, presents the first link in that chain of precedent which reaches down to the present transaction. This Government found several of the States engaged in hostilities with the Indians. The President communicated this circumstance to the first Congress, who immediately appropriated money; and a bloody contest ensued, distinguished only by appropriations and defeat. Harmar's army sprung from an appropriation bill; that commanded by the unfortunate St. Clair stood upon the same basis, and when its disastrous defeat roused the Government to the miserable condition of the frontier, the military establishment was considerably increased, and placed under the command of the gallant Wayne, who infused his martial spirit into that army, and achieved the victory which gave peace and tranquillity to the harassed and bleeding frontier. As early as 1792 Congress vested power in the President to call out the militia to suppress insurrections, or repel invasion from any foreign Power or Indian tribe. The power transferred by that act being insufficient to the purpose contemplated, in 1795 another law was enacted, clothing him with further power—authorizing him to take advantage of the indications of hostility—to anticipate the approach of the storm, and to strike before the elements of havoc and desolation were collected together, and poured upon the frontier in fire and indiscriminate massacre.

Those who then filled the Government were fresh from the Revolution, and were animated by the spirit which is embodied in your Constitution. No passion then existed in which could flourish party spirit; it could germinate, but to expire, in the then pure state of our political atmosphere; in the calm light of mild philosophy they examined their duties and transferred this power; these were the men who worshipped Liberty in her favorite temple, in sincerity and in truth; these were the men whose blood and suffering elevated you to the rank of a nation, and whose wisdom gave you a Constitution which breaks upon the view of enslaved and benighted Europe, like the star in the East, happy harbinger of hope, proclaiming there is power sufficient to redeem from thraldom and misery.

Upon examining the documents, it will satisfactorily appear that the Seminole war was conducted upon principles strictly consistent with this practice and the laws of the land. But, Mr. S. said before he went into this inquiry, he would advert to an argument of his colleague, (Mr. MERCER,) who called for information to put his country in the wrong; and the hint, he said, was had from the father of a gallant young midshipman, represented to have fallen a victim to a stratagem employed to provoke Indian hostility at Negro Fort. The appearance of a small detachment of American troops, to procure water, could not have produced an attack, unless the hostile temper pre-existed. Negro Fort, occupied by outlaw Indians and runaway negroes, and infuriated with Woodbine's hatred, needed no incentive to hostility. The moment the detachment made its appearance, murder was determined upon, and slaughter ensued. He fell a sacrifice to English perfidy and Indian ferocity; he regretted that the tears this parent shed had not sprinkled his heart, and extinguished his sectarian acrimony. The gallant young soldier now sleeps upon the bed of honor, mourned by his country. Would you disturb his hallowed ashes to rake from thence evidence to tarnish the character of his companions in arms, whose deeds he emulated when living, and to stain the fame of that country he died to serve? Mr. S. said, with the same object, the Speaker had attributed the war to the treaty of Fort Jackson, and with peculiar emphasis told us, that the word "demand" was employed five times in that paper. He said the conditions of that treaty did not affect the question; if it did contain the germs of dissatisfaction, and hostilities were commenced by the Indians, it is no less a defensive war on the part of this Government; this treaty was negotiated by all the warriors belonging to the tribe within the United States, and was ratified by the Senate, and this House made appropriations to carry it into execution; but, he would ask gentlemen under what circumstances that treaty was negotiatad? When engaged in war with England, her incendiaries penetrated the Indian tribes through the Spanish territory, and, aided by Spanish treachery, excited that unfortunate race to war. The war whoop echoed from your northern to your southern limit, and your frontier was encircled with blood and fire. It was the plan of that campaign to cut the United States in twain, by introducing a large military force to co-operate with the negroes, invited to insurrection, and the Indians. Recollect, sir, the proclamation of Nicholls, and imagine, if you can, the horrors of a war con-

ducted by the passions which strip man of his distinguishing attributes, and convert him into a demon. No heart can conceive, no tongue can adequately describe, the calamities with which that region was threatened. The blackening mass of deadly hostility hung, like a thunder cloud, over your heads. The impatience of Indian hostility, and the rare qualities constituting the character of Jackson, saved you from its destructive explosion.

We were literally between two fires; Cockburn conflagrated and robbed on your Eastern frontier; Weatherford on the Western, connected by Spanish facilities. Jackson conquered the Indians, and cut the chain of hostile operations: he demanded indemnification for the past and guarantees for future security—he demanded a grant of country intervening between the Spaniards and these deluded people, which, when populated, will protect them from the machinations of foreign incendiaries, who stimulated the unhappy race to destruction, as sacrifices made by European hatred to American freedom and prosperity. He said the gentleman's philanthropy seemed disposed to reverse the order of things. The history of man did not furnish an instance of the vanquished imposing conditions upon the conqueror. When the Legitimates, the Christian Powers, from pure love to France, overrun that country with mighty armies and bent her neck to the Bourbon yoke, they rifled Paris of those masterpieces of the arts—those proud trophies that attested the victories of her sons. They planted those myriads of mercenaries who drew from her exhausted bosom their support; they did more; crippled and desolated, she was required to reimburse the money expended on her conquest. Yet songs were sung and eulogies composed for Alexander and the whole choir of deliverers.

This treaty is said to have violated the religion of the Indians by demanding their prophets: and they appeal to modern Europe and ancient Rome to suffuse the American cheek with the blush of guilt. Those prophets were not the ministers of religion—they were political agitators; instigators to war, they were not the messengers of peace and good will towards man, that stilled the tempest of the savage soul, and called the chaos into light and order; they were the fit and supple instruments of Woodbine; they breathed confusion and havoc—humanity to these Indians, and the interest of this country, demanded their surrender. Rome never lost sight of policy; she transplanted the idols of the subdued provinces, and incorporated them with her gods; and by the strong tie of superstition chained the province to the foot of the Capitol. Yet the Druids were extirpated, and the forests of Germany tell a bloody tale. These forests still echo the expiring groans of those priests who smoothed the brow of the rugged warrior in peace and nerved his arm in the hour of battle. England extracts a revenue from the idolatrous worshippers of the bloody Jugernaut whilst the Irish Catholic, who believes in the same God and relies upon the same Redeemer, is torn from the horns of the altar, a victim to ecclesiastical pride, and the jealousy of despotism. The genius of these polished and religious Courts passed from those seats of science and the arts into the wilds of Africa; it dealt in slavery and blood, and sundered every tie that connects man to his species. It spread its wings over the East Indies—fifty millions of human beings have there for years been hunted as lawful prey, in the indiscriminate chase of death. The timid Hindoo has been swept from the plains and is now pursued to the mountain top, where he sought refuge amidst the clouds. This Government need not hang its head upon an appeal to Europe, unless the mere glitter of a diadem shall dazzle and confuse.

Sir, he said, the Western frontier is that portion of the world where civilization is making the most rapid and extensive conquest on the wilderness, carrying in its train the Christian religion, and all the social virtues. It is the point where the race of man is most progressive; establish but the principle, that the God of nature has limited your march in that direction—that the Indian is lord paramount of that wide domain, around which justice and religion have drawn a circle which you dare not pass—the progress of mankind is arrested, and you condemn one of the most beautiful and fertile tracts of the earth to perpetual sterility, as the hunting ground of a few savages. The most celebrated philosophers have spoken a different language, and the ermine of the judiciary has interposed against these theories, and, without a stain, given this country to civilization and christianity.

Having reluctantly been compelled to endeavor (and he flattered himself successfully) to vindicate this Government, and rescue General Jackson from the imputation of cruelty, in the transaction at Fort Jackson, he would ask the Committee to turn from the amusing speculations of gentlemen who are striving to put this nation in the wrong, and look to the facts. As early as the 21st December, General Gaines writes to the Department of War, in these words: "I am now 'convinced that the hostility of these Indians is 'now, and has long been, of so deep a die, as to 'leave no ground of calculation of tranquillity, 'until the towns southwest and east of this shall 'receive a signal proof of your ability to retaliate 'for every outrage. A party of Seminole Indians, 'on the 20th ultimo, formed an ambuscade upon 'the Appalachicola, attacked one of our boats 'ascending near the shore, and killed, wounded, 'and took the greater part of the detachment." The honorable Speaker reposes upon the letter of an Indian chief to establish the opposite position, and he emphasized it with a pathetic tone. The Indian chief, yet red with the blood of these women and children that belonged to the detachment—with eyes still glaring with the ferocity which burned in his countenance when the blaze slowly enveloped and consumed an American sailor, is weighed against this hero without fear and without reproach? From what system of ethics did this savage draw his morality? Whence

did he derive his notions of honor? Had his heart been chastened, his conscience quickened, and chained to the throne of Heaven by the Christian religion? No, his mind had been disciplined, and his morals fashioned in the school of incendiaries. But, in July, 1816, before this Indian's letter was written, at the fort inhabited by Indians and negroes, and commanded by an Englishman, hostilities were waged against the United States. This mass of hostility, this motley group of insurrection and murder, amply supplied with ammunition and arms, depredated your frontier. They had murdered a gallant midshipman; they had stuck a sailor full of splinters and burnt him to death. This outrage against humanity, this cruel deed, had been perpetrated upon a sailor, one who had borne the "star-spangled banner in triumph over the wave." He looked upon the land of his fathers; in the hour of torture, he saw the flag of liberty wave in the air, and the arms of his companions gleam in the sun: his bursting heart invoked the vengeance of his country. Gallant spirit, you called not in vain! This horde of brigands was given to the winds!

Mr. Chairman, it cannot now be denied, that, this being a defensive war, resulting from the necessity of repelling invasion, military movement was the bounden duty of the Executive, not only upon the principle of self-preservation,—a law written by the finger of nature upon all animated creation—but under the practice of the Government and the laws of the country; and it will be found that the rights of war, extended to the management of the war by the international law, were exercised with extraordinary forbearance—never transcended. It would require no prophetic spirit to predict, that, so long as you confined your military operations to chasing the Indian from your territory, the war would rage, and the citizens would continue to fall under the tomahawk and scalping knife. This Government has ever exercised its rights with forbearance: in the love of peace, it has relinquished many. This nation has bent under the weight of insult, and seldom appealed to the exercise of her rights, in full latitude, until compelled to it by principles identified with the paramount duty of all Governments. How long were your citizens torn from their families, scourged by a British captain, and compelled in some instances to point the cannon against their countrymen? The bitter cup of humiliation was emptied to the dregs: In scorn it was said this Government could not be kicked into a war. The nation rose in the majesty of its strength, and hurled destruction upon the foe! Experience at length satisfied the Administration that these vexatious and cruel incursions could only be terminated by pursuing the erratic Indian. At length the ghost of the departed sovereignty of Spain in Florida no longer alarmed. It fled before the demands of Georgia and Alabama for protection; and the extent of the orders given to the troops was communicated to you by the President, in his Message of the 25th March, 1818. He told you that "Orders had been given to the General in command not to enter Florida unless it be in pursuit of the enemy, and in that case to respect the Spanish authority wherever it is maintained; and he will be instructed to withdraw his forces from this province as soon as he shall have reduced that tribe to order, and secured our fellow-citizens in that quarter, by satisfactory arrangements against its unprovoked and savage hostilities in future." How did you proceed upon the receipt of this Message? It was the basis of legislative acts, legitimatizing what had been done; countenancing the doctrine the Message contained; and embracing its views, you directed a brigade of militia to be called into service; you increased the pay of the Georgia militia engaged in the Seminole war. He said he recollected the proposition was made by his friend from that State, (Mr. Cobb.) He felt a repugnance to it, but his objections melted away under the fervid zeal and eloquence of that gentleman; and a large appropriation was made to meet the expenses of the war. Here is a shield broad enough and thick enough to protect the Executive from attack, the work of your own hands.

But, considering the subject unaccompanied with this *quasi* declaration of war and the auxiliary measures, the step was strictly justifiable. If Spain had been a neutral Power and the Indians belligerent, not inhabiting her territory and being within her sovereignty, but merely retreating, then the Americans would have had an indisputable right to pursue them by the usages of nations. We will find this doctrine in Vattel, 515. It is certain that on my enemy's being defeated and too much weakened to escape me, even if my neighbor affords him a retreat, his conduct, so pernicious to my safety and interests, would be incompatible with neutrality. If therefore my enemy on a defeat retires into a neutral country, he is to cause the troops as soon as possible to continue their march, and not permit them to watch an opportunity to attack me, because otherwise he gives me a right to enter his territory in pursuit of my enemy—a misfortune that often attends nations unable to command respect. The enemy not only retreated into the Spanish territory and watched an opportunity to attack our citizens, but were the inhabitants of the country, and kept the Spanish authorities in subjection. It was said by a member from New York, (Mr. Storrs,) that the line should not have been crossed, until application had been made to the Spanish Court. For months had your soil been polluted by the foot of savage invasion; for months had this land, sacred to liberty, to justice, and to humanity, been crimsoned by the blood of its inhabitants; yet there should have been a pause in our movements until a messenger had crossed the Atlantic to call the attention of Ferdinand to the condition of his subjects—to awaken him to a sense of duty, and to ask him to reassume the sovereignty of the Floridas, which he had carelessly lost. Your messenger would have found him tambouring a petticoat for the Virgin, surrounded by lazy monks, dreaming of schemes to establish the Inquisition, under whose

tortures hypocrisy flourishes and religion expires. The Indian is only vulnerable in his town. An Indian war can only be terminated by destroying his means of subsistence, and penetrating his fastnesses, where he flies for shelter, until, like the tiger, in the still darkness of the night, he can spring upon his prey. It was said, the present Secretary of War gave vigor to the operations; that he boldly ordered the commander of our forces to terminate the war. It was the patriotic vigor that meets the exigency. Let that distinguished statesman pursue the course he has commenced, and ere long the hand of gratitude will crown him with the proudest honors of the Republic.

But Spain was not a neutral Power; she did not occupy that relation to the belligerents which constitutes neutrality by the law of nations. She was a party or an associate; it was immaterial which. Spain claims sovereignty over the territory inhabited by the Seminoles. The nature and extent of the jurisdiction depends upon herself; it is only limited by policy, and the power to compel obedience. All the Governments admit the absolute sovereignty of Spain over the Indians within her territorial boundary. They are not recognised as a nation by that implied compact called international law. Upon this principle our Government has extended its criminal jurisdiction into the wilderness, and pushed its commercial arrangements among the savages. The Spaniards exterminated the Mexicans, and stretched Montezuma upon the coals; and now, with funeral procession, drags the Indian to the mines, where he meets a certain but protracted death. It has been complained of as cruel and despotic, but admitted an act of sovereignty, a municipal regulation, with which no Power had a right to interfere. The crusade against tyrants was once preached by a victorious republic. Thrones shook at the sound, and all monarchies trembled before it; but the soundest position is, that every nation has a right to manage its own internal affairs in its own way. Spain, then, refusing you the right of making treaties with the Indians, and considering an invasion of the country these Indians occupy an infraction of her sovereignty, impliedly admits them to be her subjects. She had done more. In her treaty with the United States this stipulation is contained: "Spain will not suffer 'her Indians to atack the citizens of the United 'States, nor the Indians inhabiting their territo-'ry;" expressly recognising these Indians to be her Indians, and assuming all the duties which depend upon the connexion between sovereign and subject, in relation to foreign Governments. If they were not the subjects of Spain, making war upon the United States, the facts furnished the Committee strip the Spanish authorities of all semblance of neutrality, and place them in the plight of associates in the war; giving the army of the United States the same right to operate against the Spanish authorities as the belligerent Indians. In *Vattel*, 97, the doctrine is thus laid down: "Those who assist my enemy, are his 'associates;" and in page 102, "the real associates of my enemy being my enemies, I have 'against them the same rights as against the principal enemy." "To furnish a belligerent with 'money, munitions of war, or provisions, to enable it to prosecute the war, is a forfeiture of 'neutrality, and makes the nation an associate in 'the war; and I make war upon them without a 'declaration." (*Vattel*, 486, and 498.) The Spanish authorities in Florida furnished the Indians with munitions of war, and provisions drawn from the public stores.

Sir, before we advance to St. Marks, permit me to remark that I attribute no hostile act to the Court of Madrid. In the changes of that unfortunate monarchy Florida had become a derelict sovereignty. It was the local authorities that he considered associates. Spain was incompetent to perform the obligatious she had undertaken; she could not restrain either her Indians or Spanish subjects from depredating. He should not say much upon the occupation of St. Marks, because the ablest advocates for censure had here attributed no wrong. St. Marks, considered as a fort, occupied by a neutral or an associate, was equally subject to be captured by the United States army. "Extreme necessity may 'even authorize the temporary seizure of a place, 'and the putting a garrison therein for defending 'itself against the enemy, or preventing him in 'his designs of seizing this place when the sov-'ereign is not able to defend it." (*Vattel*, 511.) Ambrister, at the head of his brigands, commenced his march to occupy this place. The Governor had acknowledged that his garrison was not sufficient to repel an attack from the combined Indian and negro forces. Upon this ground, considering the garrison strictly neutral, General Jackson was justified in taking possession; but, he said, no man, even in the fervor of his zeal, could contend that it was a neutral post. Here it was that Hillis Hajo and other hostile chiefs held their war councils, in the commandant's quarters; here the commandant emboldened the Indians to robbery and murder, by telling them that Spain had declared war against this country. This Governor made contracts for your cattle before they were stolen; this Governor was the jailer of Hambly, whose crime was humanity and attachment to the United States; this Governor sold, as his private property, to your General, the cattle stolen from your citizens; and here was seen a black man and Spanish soldier dressed in American uniform, recognised to be a part of the clothing belonging to the detachment commanded by Lieutenant Scott. Therefore, it was not only necessary, but, the Governor being an associate of the Indians, it was justifiable to take possession of St. Marks. The honorable Speaker, to disprove the necessity, said that Indians did not occupy or attack forts. Bitter experience proves the contrary. Negro Fort was manned by Indians and negroes; the Horse Shoe was protected by military works; and Fort Mimms, that scene of horror and massacre, upon which the cruel and bloody Weatherford turned his back and fled, speaks in a language that must be felt

and understood, that Indians capture forts. Sir, said Mr. S., it has been endeavored to place Pensacola upon a different footing from St. Marks; but facts have connected them, and placed them upon common principles, as regards our belligerent rights and their relations to the Indians. This nation had an absolute right to security from depredation on her frontier; this right was guarantied by the Spanish Government. Having been involved in a cruel and vexatious war, in consequence of the imbecility of that Court, this Government had a right to all the means which were necessary for obtaining this security. See *Vattel*, p. 518. Pensacola was the crater of that volcano of hostility whose eruptions were so calamitous to the frontiers. Its Governor had violated all the duties imposed upon him by the treaty engagements of his master; he had trampled under foot all neutral obligations. In your war with England, the British flag was entwined with the Spanish colors floating upon this fortress; here the Indians were trained by a British officer; and from this place the expedition against Mobile was fitted out; and to this place the British and their red allies returned when covered with defeat and disgrace. It produced the war with the Seminoles. Hambly certifies, that this Governor wrote to Perryman, a Seminole chief, advising him to collect his forces and join his upper brethren, who had determined to shake off the American yoke, and that he would furnish him with arms and ammunition, and that, in less than a month, their father and protector, his master, would have a sufficient army in the field to aid and protect them; that, not long after this, he saw a large party of Indians at Pensacola, where they received a large quantity of arms and ammunition! Nay, he robbed his master's cannon to supply the Indians with lead. And here was vended, in open market, the bloody clothes torn from the backs of your slaughtered citizens. But it is said General Jackson had announced the termination of war, immediately after the occupation of St. Marks, and that the necessity did not exist; that, the war being at an end, the occupation of Pensacola was not necessary to effect the restoration of peace, or furnish permanent protection to the frontiers. The documents show, that at the moment this letter was written General Jackson was mistaken. Immediately after, he received information that seventeen persons had been killed and scalped in the Alabama; and a threatening letter from this Governor, ordering him out of Florida. This Governor was then surrounded by hostile Indians, with whom his officers associated, as friends and companions. On the 5th and 6th of May, 1818, there were about five hundred Indians at Pensacola; and, on the 22d, Holmes, a noted hostile chief, left that place, having been there several preceding days. It is unnecessary to refer to the exhibits to establish these facts—the evidence lies upon every member's table. The war still raged: the occupation of St. Marks had not shielded the frontier from the murderous incursions of the Indians, nor had it brought back the Governor of Pensacola to a sense and observance of his neutral obligations; if then, as Mr. S. contended, the measure was all-important to the accomplishment of the security of our citizens, it was legitimatized by the law of nations, and was clearly within the power which this House contemplated to be exercised by the Executive; for he told you, in his Message, that the General in command had been ordered to enter Florida, in pursuit of the enemy, to respect the Spanish authority wherever maintained, and to withdraw when he had secured our fellow-citizens, by satisfactory arrangements against unprovoked and savage hostilities in future. He did not attribute their foul deed to Ferdinand; his sceptre did not reach across the ocean; his sovereignty was ideal, his authority was not maintained at Pensacola; his high obligations to this country were disregarded there. For fourteen years, this Governor, and his marauding garrison, had received no pay. They had subsisted upon the blood-stained spoil, torn from your unprotected frontier, by their Indian confederates.

This step does not rest solely upon your measures at the last session, and international law, for vindication. The movement is sustained by the high authority of two Presidents, Washington and Madison, and by the several Congresses of these two periods. When Wayne obtained his signal victory he burnt and destroyed Colonel McGee's house and store, he being the British agent, and everything that was combustible, under the guns of the British fort; and would have captured the fort, if his force had been sufficiently strong, upon the principle that the garrison co-operated with the Indians. With a full knowledge of all the circumstances, Congress voted him thanks; and, during the recent contest with England, Pensacola being always the depot of the elements of war, and the rallying point of the enemy, whether Nicholls or Bowlegs, and negro Nero, General Armstrong addressed the following note to General Jackson: "If they, 'the Spaniards, admit, feed, arm, and co-operate 'with the British and hostile Indians, you must 'strike, upon the broad principles of self-preser-'vation." This doctrine was held by that great civilian, Madison. The facts had existed; the blow had been struck; Pensacola had been captured. The transactions are perfectly analogous: human ingenuity cannot draw a distinction between them. Then, sir, there were no Constitutional scruples; no call upon this people to arouse from the slumber of Executive confidence, and guard this sacred instrument from infraction. Then this illustrious man, who can emphatically say, *Veni, vidi, vici!* was hailed as the champion of his country's rights, and the avenger of his country's wrongs. Now, all he asked was a slight boon from the opposite side; the indulgent extension of that exposition of the Constitution and the law of nations which prevailed in the last Presidency. He would not call them to look upon the proceedings of the last session. In Madison's Administration, the occupation of Pensacola was no infringement of Spanish sover-

eignty; no cause of war; no usurpation; no violation of the Constitution. When the present Administration treads in the footsteps of their predecessors, let them have the benefit of your former construction of the Constitution, and your former reading of the law of nations. Do not contract and widen the provisions of that instrument, which should be a light to the feet, and a lamp to the path of public functionaries; steady and uniform; not an *ignis fatuus*, beaming here and there, to entrap and mislead, and serve the purposes of the moment. The capture of Pensacola had been compared to the bombardment of Copenhagen and the seizure of the Danish fleet. He said, the fast-anchored isle had often received eulogies at the expense of this country, even in this House, the sanctuary of her fame and her liberty; but in no instance had a case been made out which sunk her to a level with British Machiavellism and depravity. Denmark was a neutral Power, strictly observing her neutral relations. Pensacola was commanded by a Governor who had committed frequent acts of war, by stirring up the restless spirit of the Indian, and furnishing him with provisions, arms, and munitions of war. In fact, he was a party in a war which could only be terminated by removing him from the command.

The execution of Ambrister and Arbuthnot is said to be unconstitutional; but ingenious gentlemen have not condescended to point out the provision which is invaded, unless, as his colleague (Mr. COLSTON) had contended, the Constitution had repealed the law of nations, making this a transaction *casus omissus*, and carrying back the right of punishment to the old ground of natural law, where authority sufficient would be found for the measure. On the contrary this people, when they assumed a stand amongst the Powers of the earth, became entitled to the benefit of all the law of nations. The Constitution only distributes the exercise of these rights amongst a variety of departments, defining what portion of sovereignty shall be exercised by the one and the other—all the sovereign power that attaches to an independent Government in its foreign relations, and intercourse existing in, and to be performed by one of these departments, or by the co-operation of all. This Government claims all the rights of war and peace permitted to be exercised by the law of nations. This law, and the practice and usage of all Governments, vest the right of punishing incendiaries like those in the commanders of armies. Your Constitution does not interdict the exercise of this power in this ordinary mode, nor is it confined, by that instrument, to any particular department, nor has it been the subject of legislation. The honorable Speaker had given a reference to a law, but having examined, he found a short statute authorizing retaliation upon the citizens of the French Republic, with which this country never was at war. The crime of which these men were guilty is defined, and its punishment provided for by international law. The spirit of your institutions cannot pass into a foreign territory, and give your civil tribunals criminal jurisdiction. In Vattel, p. 52, you find this proposition: "He who is injured by foreign subjects does himself justice, by his own power, when he meets with the offenders in his own country, or in a free place; and, to avoid all misunderstanding, it is agreed, that every private person committing hostilities without a commission from their sovereign, should meet with the same treatment." And again, in Martens, p. 280, "but those who, not being authorized by commission from their sovereign, take upon them to attack the enemy, are treated by him as banditti." It will not be contended that the Prince Regent commissioned these miscreants—yet they both certainly committed hostilities. Ambrister commanded, and Arbuthnot supplied arms and ammunition. He said, the history of our Revolution furnished many illustrations of this doctrine, demonstrating that this power had always been exercised by the commanders of armies. It was unnecessary to particularize each case—they had been remarked upon by those who preceded him.

Mr. S. said, that, although this was ample vindication, he placed the justification of these executions upon different ground. He did not consider these men British subjects. The doctrine of perpetual allegiance—once a subject always a subject—was not to be found in his political creed. The right of expatriation was admitted by this Government—the tide of emigration flowed into this country upon that principle; and its preservation is the shield of a large portion of your population, who have sought refuge here from tyranny and persecution. The evidence of the exercise of this right is, residence or acceptance of office. When an effort was made in this House, by an able and zealous friend to the rights of man, to prescribe a mode for the exercise of this right, it was rejected, for the simple reason that the right then stood upon the surest basis. These men had become members of the Indian tribe—they had incorporated themselves with the savages. Ambrister commanded a detachment, and marched at the head of an army, composed of negroes and Indians, to meet the American troops. Arbuthnot was admitted into the council of the nation, as a chief; he was the minister of foreign relations of the Seminole tribes and their dependencies, St. Marks and Pensacola. Appointed and commissioned to his high office by special power of attorney, he corresponded, officially, with British Governors and Spanish commandants; he communicated with the British Minister near the American Government, until the interesting correspondence was interrupted by the weight of postage. Sir, he said, it would have been an interesting spectacle to have seen the arrival, in this circle of etiquette, of this representative of Hillis Hajo, Bowlegs, Nero, and the Spanish commandants; he would have been a little smoked with monarchy, and great commotion would have resulted from the difficulty of fixing his rank in the scale of fashion. These men having incorporated themselves with the Indians—having voluntarily stepped down from

civilized society and christian warfare, made common cause with the savages, and contributed to their indiscriminate massacre, they were subject to the same treatment that the usages of the country and the laws of war permitted to be inflicted upon the savage. Hillis Hajo was hung; his memory is not embalmed, nor his fame perpetuated, by a single plaintive strain. Yet Hillis Hajo was a king and a prophet; he had swept your frontier with a besom of desolation; no feeling of his heart protected the infant or the timid female; indiscriminate murder marked his operations. Ambrister and Arbuthnot, enlightened by the Christian dispensation, which breathes peace and good will towards man, whetted his appetite for blood; stimulated him, by false and deceptive promises, to tear the scalp from the infant's head, and plunge the tomahawk in the aged matron's breast, and drove him inevitably to the fate he deservedly met. They were apprehended in the fact, and condign punishment inflicted.

This execution, sanctioned by the law of nations, was demanded as well by sound policy as enlightened humanity. All the Indian wars had been traced to English instigation. At the battle of Miami, British troops were seen in the ranks of the Indians. The fate of the gallant Kentuckians, at the river Raisin, and the massacre at Fort Mimms, was fixed by incendiaries. The blood of Allen and Simpson was upon their heads. Why this sympathy, this deep interest in the fate of these incendiaries? They have not higher claims than the unfortunate Americans who, animated with the soul-stirring motive of giving liberty to a nation, mixed in the revolutionary conflict of South America. These are your brothers, sustaining the dignity of man; they now drag their chains in Spanish thraldom, hunting mushrooms, their only food; yet no voice is lifted up, in this House, deploring their unhappy fate, and calling upon the energies of this Government to rescue them from this miserable imprisonment and the melancholy fate that awaits. The magnanimity of Europe is appealed to. Why are we compelled, by the friends of these resolutions in vindicating General Jackson and the country, to violate that courtesy which is due to foreign Powers? Ney, the pride of France, and the ornament of her army, was shot, in defiance of a guarantee of safety. England has realized the extravagant fable of Prometheus. She has chained that highly gifted man, Bonaparte, to a rock, and the vultures are literally devouring his liver. The execution was necessary, to cut off that description of men who fed and nurtured Indian war.

This execution has been compared, by one gentleman, to the death of the Duke d'Enghien. If he had not been a member of the Bourbon family, if his veins had not been enriched with royal blood, his fate would not have excited a sensation strong enough to have reached these shores. Why had he not heard of Emmet, whose mind reached the heavens, and whose soul embraced the universe? He was a revolutionary spirit, thirsting and aspiring to benefit mankind. In Europe, the lordling basks in the sunshine of the Court; drinks in the rays of power; flutters in gay plumage. His circle is the world. Touch but a wing of this butterfly—let one of these idle pageants suffer, no matter whether under one of those great principles that preserve nations, or by the caprices of a monarch, it produces an agitation which vibrates to this country, and excites a warm sympathy. The hardy yeoman, although standing between the handles of his plough, or felling the forest with his nervous arm, is adorned by virtue and by valor, and dignified by the enjoyment of freedom. He looks abroad upon the bounty of nature, and the smiling plenty by which he is surrounded, the work of his own hands, and his heart expands and melts in pious gratitude to Heaven—cheered by hope, animated by ambition, he is cut off in his career, confidently relying upon the protection of his Government, by savage barbarity. No sensation is excited; no sympathy is felt. Is he less gifted with rare and noble qualities than Ambrister and Arbuthnot, or the Duke? He had no Bourbon blood in his veins; he did not owe allegiance to his Britannic Majesty; he was one of the sons of freedom, and one of the sovereigns of this land; the partner of his bosom and the children of his love are butchered before his eyes; he is spared to behold the torturing scene, and is slain. No sympathy moans his fate; no indignation animates the councils of his nation! A whole race of such men, the pioneers who were leading civilization and religion into the wilderness, attended with its train of blessings, have fallen by the machinations of Ambrister and Arbuthnot, and this House is now employed in deliberating upon a proposition to censure the man who revenged their fate. Here charity begins from home, and the justice which should encircle our paths, and protect our citizens when living, and revenge them when dead, is reserved for foreigners.

Sir, we have had an alarming representation of military despotism; we are told that Cæsar, Alexander, and Cromwell, subverted the liberties of their country. Cæsar commanded an army composed of barbarian mercenaries. He found Rome emasculated by corruption; the Government worn out, and the passions and the vices of the people administering the laws. They had no regenerating principle, no fountain of political youth in which the Government could lave itself, and acquire renewed health and vigor—this is the happy invention of the American people. Cæsar died, and Brutus lived; his virtues were wasted upon his degenerate countrymen. Alexander was born to despotic power; he was animated with the hatred that tyrants feel for liberty; gifted with military talents, he conquered the Grecian republics, which he found paralyzed by internal factions. Cromwell was carried into the protectorship upon the bigotry of the nation, not the arms of the soldiery. But admitting that armies have crushed liberty, when did a people overturn tyranny, and establish freedom upon its ruins, without employing arms and force? No instance is recorded where despotism fell before

a philosophical lecture. Talent must be connected with virtue, both in a statesman and general, to contribute to the establishment or preservation of liberty. Factious perfidy and treachery have as frequently deprived the people of their liberty, and involved nations in ruin, as the mad ambition of military men. A Carthagenian Senator, discoloring every measure with green-eyed jealousy, induced the Senate to refuse supplies to the patriotic and invincible Hannibal, saved Rome and destroyed Carthage. America had other traitors than Arnold; and at the commencement of the revolutionary movement in France, which soon swelled into a mighty tempest that made every throne in Europe tremble, Mirabeau boasted that he carried the French revolution upon his shoulders; he was the master spirit that rode in the storm, and directed its lightning. The proud ambition of deserving the confidence, and achieving liberty for his country, sunk under the blandishments of aristocracy; he sold himself to the Court, and expired in the conflict between his ambition and his avarice; his treachery dissolved the elements of association; confidence in professions vanished; suspicion infused itself into the mass of revolutionary material, which was working for the emancipation of man, and produced those throes and convulsions that desolated Europe, and left France exhausted and enslaved.

The Constitution not demanding the adoption of the resolutions, justice and policy both forbid it. You are now engaged in a protracted negotiation with Spain; the tone of whose Minister rises with every denunciation against the Administration. He considers the interest of his master taken into your goodly keeping. Your bankrupt merchant has died, in the vain expectation of indemnification for Spanish spoliation upon your commerce. He has left the distant glimmering hope as a legacy to his impoverished family, who in vain look to this Government for justice. Spanish diplomacy spins out negotiation, and delays still longer retribution. The high destiny of this growing empire demands the acquirement of Florida; the peace and tranquillity of a large extent of population depends upon its possession; and, instead of accelerating her march, you are employed in mooting Constitutional points, invisible to an ordinary mind, and escaping technical inquisition. The Constitution is the palladium of your liberties, so plainly written that he who runs may read—a sacred bequest to be transmitted unimpaired to posterity not an instrument to be perverted to the purposes of oppression. General Jackson is to be stricken into dust by these resolutions. You recollect, sir, when this House was covered with gloom and despondency, that edifice, now rising into splendor from ruins, presented the sad spectacle of national disgrace, inflicted by the vandal spirit of British hatred; your resources exhausted; the nation paralyzed; a powerful party in this House crippling all your efforts; the fall of Orleans had been loudly proclaimed. Awful apprehension and aching solicitude filled every patriotic bosom and the birds of ill omen had began to croak the downfall of this Republic! You recollect the bright morning that succeeded that dark night. You recollect the day when the news of the 8th of January arrived—joy lighted up the countenance, and pride elevated the crest of the friends of liberty. You then acknowledged Jackson your deliverer. Be not tired with hearing his deeds recounted; his glory is the property of the nation, and has surrounded your country with a wall of fire. Give not to America a Bellisarius, nor permit the historian, with his immortal pen, to inscribe the name of another Aristides upon his page.

Sir, upon every view of this subject, I shall vote against the resolutions.

Mr. WALKER, of North Carolina. Mr. Chairman, it is with considerable difficulty I approach this subject, which has been discussed with so much interest and ability by those who have preceded me in this debate, as almost to preclude any further inquiry; like a body completely anatomized, leaves little room for the most skilful artist to improve upon the plan; much less one who does not profess to be very learned in the Constitution or laws of nations, and has no pretensions to literary or legal acquirements. The ground which I shall attempt to take will be founded in plain facts and common sense. I do not calculate on giving any illustration on the subject in a legal point of view, as every point has been brought to the law and to the testimony by gentlemen whose talents and abilities have proved them adequate to the task. But I shall briefly state the principles and reasons that shall govern my vote on this important and interesting question. Important, sir, as it will stamp a character on this nation, that will last for ages, and may be a precedent for future legislators, when we who are about to give this vote will be sleeping in the dust; important, as it respects the feelings of the nation, as we are accountable to them who sent us here, and the people are competent judges of our political opinions, and we must return and submit to the tribunal of public opinion. But, sir, it is materially important, as it will take into view the character and conduct of one of our most illustrious citizens, and one of the greatest captains the world ever saw, whose achievements and military fame have not been surpassed by any who has gone before him. Sir, from the high consideration I have for the honor and dignity of my country, and the esteem and veneration I entertain for the character of that brave and meritorious officer, I approach this vote with a due solemnity.

Sir, the Seminole war, which has made such an earthquake in this House, and on which so much eloquence has been displayed, and against which the Constitution, the laws of our own country, and the laws of nations, have all been arrayed, so inconsiderable in the beginning, has become as magnified as to end in this House. Sir, I have paid a due attention to the debates on both sides of this question, and with much satisfaction have heard it clearly proved that the war

was authorized consistently with the Constitution and laws of our country, and that it was promptly and correctly carried on with energy and decision, and terminated in the event to the honor and interest of the United States; and all the lucid explanations delivered in support of that war have, to my mind, been like so many candles lighted to the sun. Truth may be embellished, but cannot be changed. The necessity and expediency of that expedition always appeared clear as the light, duly authorized by the President, the proper organ of Executive power; and in the prosecution of that war I have seen nothing done but what ought to be done, and nothing else could be done to effect the purpose. The nature and effects of savage warfare have been ably depicted by gentlemen who preceded me; but, as truth may sometimes be twice told, I will proceed to exemplify some of its horrors, which I not only know by the hearing of the ear, but mine eye hath seen it. Savages do not war as civilized nations, by formal declaration. No, sir, they come as a thief in the night; when peace and safety cover our dwellings, then cometh their dreadful, secret and horrible depredations, when least expected; the instruments of death are in their hands, destruction attends their footsteps, no kind messenger to give us the watchword, no intimation of their approach; the blow is struck before it is known, and darkness, the pavilion that covers their deep design, and ambush secures them from the eye of the traveller, where neither age nor sex is spared; the hoary head, the sprightly youth, the suckling infant, and the tender and trembling mother, all indiscriminately fall victims to their savage fury; and those who are so unfortunate as to come within their grasp, and made prisoners, are often reserved for a death more horrible than death itself—for the burning stake or bloody hatchet, the savage yell sounding through the forests, and desolation and destruction on every side. Hear the words of a great man on the subject of savage warfare: "The darkness of midnight shall glitter with the blaze of your dwellings and the war-whoop shall wake the sleep of the cradle." Such a war was commenced by the Seminoles on the frontiers of Georgia, unprovoked and unknown to us. When application was made by the Executive of that State for a defensive force to repel the enemy, did they then request the President to consult the Constitution or the Sibyl books to inquire into his Executive powers, whether he could send an army to their relief? No such reserve in any of their messages; they must have an army, they must have a general; it was then Constitutional, highly approved, and graciously received; but now, Mr. Chairman, when their battles are fought and victory gained, peace concluded and order and tranquillity restored—oh, it is now unconstitutional, and their voice is against the hand that saved them. But reverse the subject; sometimes things appear most true and best proved by their opposite. Suppose the President had hesitated, and adopted the policy gentlemen so strongly urge on this floor, and told the people of Georgia that he doubted his Executive powers, and that the Constitution did not authorize him to send an army over the Spanish line, and so passed by on the one side; and that General Jackson, at the head of his army, advanced to the Spanish line, had also hesitated, and said, hitherto I go, and no farther, and passed by on the other side; what good Samaritan would they have found to come that way and heal the wounds of their bleeding country? I fear they would have found none. What would have been then, and what now, the situation of the people of Georgia? For aught we know, the blood of the defenceless inhabitants might be yet streaming, and the Seminoles encamped in battle array on the banks of the Oconey. But the President chose the better part, and acted as he ought to have done; sent our army under the command of a General whose character and abilities were adapted to the enterprise—ever active, ever fortunate—and whatsoever his hand found to do, did it with his might.

I now come to notice that important part of the inquiry, the execution of Arbuthnot and Ambrister. In attempting to try and decide on the nature of that transaction by general rules of national law, it seems to be forgotten that it does not admit of those applications. A rule, therefore, cannot apply to the subject that is not in existence. These men had abandoned their own Government, and had attached themselves to the tribes of hostile Indians, and become one with them by adoption, and renounced their allegiance to any other Power. On this ground the law of nations cannot reach them, nor embrace their case; they were emissaries and spies in civil dress, giving counsel, supplies, and directions, to an enemy against a people with whom they themselves professed peace; and when taken in arms, and within the limits of the enemy's country, were subject to the rules of Indian warfare, which was to suffer death at discretion; and as they earned their death, so they got their reward, as wages of their iniquity. I trust, Mr. Chairman, I put as high a value on the life of a man as any gentleman who has spoken on this subject, and believe there are but few crimes for which death ought to be inflicted; but, to spare all indiscriminately would be no government, and compassion might then become a crime. We might spare when we ought to punish. Rewards and punishments are founded on both divine and moral precepts. If a man can forfeit his life by any overt act, and place himself beyond the reach of human commiseration, it is by apostatizing from civil government, and uniting with savages against a civilized people, which is evidently the situation in which these men were found. It must be believed that General Jackson had a better and more competent knowledge of their offence, and enormity of their crime, and the mode of trial for their punishment, than any in this House, being both a legal as well as a military character.

Sir, I regret I am necessarily bound to vote on this question; I do it very unwillingly, under a conviction that this House is not the proper tri-

bunal to inquire into these facts, and that we have no legitimate power to legislate on the conduct of General Jackson, and that we are treading on Executive ground; and let us beware that, while we are meditating a blow at the General's heel, it may not recoil on our own heads, by acting on this question in our legislative capacity. If he has transcended his powers, and violated the Constitution, which is so vehemently urged on this floor, he is amenable to the President, and the President responsible to this House for any violation of the Constitution, done under his authority, and to try and punish his officer by court martial. We cannot make the servant greater than his lord, by trying General Jackson, and leaving the President out of the question. This ground has been taken, and ably sustained, by my honorable friend and colleague, (Mr. SAWYER,) and the gentleman from Virginia, (Mr. STROTHER,) who preceded me.

I now proceed to notice some of the remarks of gentlemen in the opposition. The honorable Speaker, in his able and eloquent address to the House the other day, although he spoke on a military subject, so happily combined his style as to lead us through a delightful scenery—through stately groves, flowery fields, dewy lawns, and verdant meads—throughout the regions of France, Italy, Greece, and Rome—and has given us a specific view of the rise and fall of empires and kingdoms, and of all the usurpations both in the old and new world, from the days of Julias Cæsar down to Bonaparte of modern times, and seemed to warn us of the least approach of military power; but, as the sun may sometimes pass under a cloud, for once in his life he may have mistaken his way. He has not been so happy and fortunate in his reference to Cæsar's crossing the Rubicon, in allusion to General Jackson's crossing the Spanish line, so far as I recollect the history of that event. Cæsar was Generalissimo of the Roman army in Cisalpine Gaul, the first citizen and highest military character in the Republic; the Rubicon, a river on the confines of Italy, where, on the side next to Rome, none was permitted to appear in arms. When Cæsar meditated the usurpation of the Empire, he advanced with his army to the banks of that river. He arranged his troops, made a solemn pause, and expressed language to this effect: that, if justice was to be violated, and the rights of man sacrificed, it ought to be for the love of glory, and the sake of reigning, and so passed over the Rubicon, and led his army towards Rome; and did, in the event, effect the downfall of the Republic, usurped the Empire, and could not be restrained by the hand of Brutus. If the honorable Speaker made this allusion to General Jackson's crossing the Spanish line, it will not bear him out. General Jackson crossed the Spanish line, and marched his army into Florida, not to subvert, not to destroy, but to preserve and secure the interests and liberties of his country; he did not enter as a military adventurer for glory and conquest; he did not declare himself Generalissimo of the Spanish provinces, and erect his standard, as a trophy of victory, (as did the conqueror of Italy.) No, sir, he took possession of these posts as a pledge for their good behaviour, and to search into the causes of the war, and to bring peace and tranquillity, as a consequence, to the enfeebled citizens of Georgia and Alabama, which he did in effect, and to teach the world that abandoned characters of any nation should find no asylum among our Indian tribes, and then submitted his military operations to the legitimate authorities of his country.

An honorable gentleman from New York, (Mr. STORRS,) in the conclusion of his speech, gravely washed his hands from the blood of Arbuthnot and Ambrister; but had these men been spared, could he, with the same solemnity, have washed his hands free from the blood of those three hundred innocents that were massacred by the hostile Indians, excited and under the influence of these miscreants; or could he, with those pure hands, restore the scalps, and place them upon the heads of those from whom they were taken? He cannot. Gentlemen, with high feeling, seem to exercise great sympathy and benevolence toward the tribes of the forest, and consider them as children of our care, and that we are morally to treat them, and such foreigners as reside among them, as civilized people, and to respect their prejudices and their religion. This is a theory not practicable. We cannot, with safety, adopt that policy, and extend charity so as to embrace misguided Indians—much less to those who are so abandoned as to come and incorporate themselves in their nation, and reside among them. Sir, charity is the radical virtue of the human character, but must or ought to begin at home. Let us respect ourselves, and provide for our own household; secure and preserve the rights and liberties that belong to us as a nation; and, by a firm and judicious policy, instruct foreign nations to respect us, and then extend our charity to others.

I have always entertained a high sense of the merit of military men who have given their aid to rescue their country from oppression, and to secure the rights and liberties of mankind; their reputation is dearly earned; they have to encounter the extremes of every climate, the inclemency of every season, and all the conflicts of a military life, and deaths and dangers await them at every post; while we, who are here, are gaining the plaudits of our country, on a political eminence, as legislators, with good accommodations, and faring sumptuously every day; they would be cheered by a crumb from our tables while suffering and fighting the battles of our country. Sir, I am not among those who pay an unlimited devotion to any man's rank or character, abstractly, or because he is so; but it is my pride, and I ever feel it a grateful and pleasant duty to pay my tribute of respect to every faithful servant of his country, whether in the cabinet or the field, or in any condition of life. General Jackson to me is personally unknown, but I cannot be mistaken in giving my support

to a man who has rendered such eminent services to his country; who has fought our battles, gained our victories, and restored peace and tranquillity to our Southern frontier. I trust, on this question, we will pay a due regard to public feeling, and do justice to him who has done so much for us, and declare to this nation, and to the world, that General Jackson well deserves the gratitude of his country.

Mr. RHEA, of Tennessee, addressed the House as follows:

The United States of America and Great Britain terminated the war of the Revolution by the definitive Treaty of Peace made at Paris. The nations and tribes of Indians, over whom British influence prevailed, were allies of Great Britain in that war, and perpetrated barbarous cruelties. Desolation, burning, and murder, attended their movements—their paths were stained with blood—the tomahawk and scalping snife spared neither age nor sex—a price was paid for scalps, from the mangled heads of men, women, and children, and triumphed over by the enemies of the people contending for liberty.

The United States of America, in the year one thousand seven hundred and seventy-eight, made articles of agreement and confederation with the Delaware nation of Indians—that treaty provided for perpetual peace and friendship through all generations—the territorial rights of that nation were amply provided for. The Delawares were the first with whom the United States treated, and were pre-eminently honored; and it seems, by the sixth article of the treaty, that, in that year, it was contemplated to institute an Indian State, with the Delawares at its head, with a right to a representation in Congress. The wandering life and habits of the Indians frustrated that benevolent plan. The experience of Indian disposition manifests the impracticability of a confederacy of that nature. It appears, by a separate article of the treaty made with the Wyandot, Delaware, Chippewa, and Ottawa nations, that the Delawares were not able to resist British influence—they fell off. Three chiefs, Kehlamond, Hengue Pashees, and Wycocalind, only, with their families, continued to hold the chain of friendship with the United States.

The war of the Revolution ended; the territorial limits of the United States were defined; the nations of Indians, allies of Great Britain in the war, were not protected or covered by the Treaty of Peace; they were left to the humanity and mercy of the United States. Hence it is inferred, that all right whatever to lands claimed by Indian nations, who were allies of Great Britain in time of the war, and residing within the limits of the United States, were void and ceased to be.

The United States, in the year 1784, by treaty, gave peace and protection to the Senacas, Mohawks, Onandagas, and Cayugas. The Oneidas and Tuscaroras were secured in possession of the lands they lived on, and the boundaries of the Six Nations were fixed.

The United States, by treaties made in the year 1785, gave peace and protection to the Wyandot, Delaware, Chippewa, and Ottawa nations of Indians, and to the Cherokee nation—and these nations acknowledged themselves under the protection of the United States of America, and of no other sovereign whatever. Lands were allotted to them, respectively, to live and hunt on.

The United States, in the year 1786, by treaties, gave peace and protection to the Choctaw, Chickasaw and Shawanee nations of Indians, respectively, and they acknowledged themselves to be under the protection of the United States, and no other sovereign whatever. Lands were allotted to them to live and hunt on.

The United States of America, in the year 1790, made a treaty with the Creek nation of Indians. The first article provides, that there shall be perpetual peace and friendship between all the citizens of the United States of America, and all the individuals, towns, and tribes, of the upper, middle, and lower Creeks, and Seminoles, composing the Creek nation. By the second article, the kings, chiefs, and warriors, for themselves and all parts of the Creek nation within the limits of the United States, acknowledged themselves, and all parts of the Creek nation, to be under the protection of the United States, and of no other sovereign whatever. A boundary line was designated, and the lands allotted were guarantied to them to live and hunt on. The second article of the treaty manifests that the Creek nation had been hostile to the United States. Two other treaties were made with the Creek nation; one in 1802, the other in 1806, whereby ample provision was made for their comfort and to promote their civilization. Great Britain, by the Treaty of Peace, acknowledged the United States to be free, sovereign, and independent; that he treated with them as such, and for himself, his heirs and successors, relinquished all claims to the government, proprietary, and territorial rights of the same, and every part thereof. The United States of America, by that treaty, became the acknowledged sovereign of, and over, all the territories within the boundaries designated by that treaty, agreeably to the principles of the confederation. The nations and tribes of Indians, allies of Great Britain, and enemies to the United States, in the Revolutionary war, not covered and protected by the Treaty of Peace, no longer retained any right or claim to lands within the limits of the United States; all their rights and claim to land therein became void, and ceased to be, the Delaware nation not excepted.

The United States, said Mr. R., proceeding on this principle, made, after the Treaty of Peace with Great Britain, treaties with the several nations and tribes of Indians within their territorial limits; and gave peace to, and received them into their protection, and these nations and tribes acknowledged themselves under the protection of the United States of America, and of no other sovereign whatever. The United States allotted lands to them to live and hunt on.

The treaty of Holston was made with the Cherokee nation of Indians, in the year 1791, and

that nation again acknowledged themselves to be under the protection of the United States, and of no other sovereign whatever.

The Creek nation, soon after the treaty of 1790, began to manifest a disposition hostile to the people of the United States living on the southwestern frontier. That disposition was known to have been excited by foreign emissaries inducing the Indians to believe that the United States had wrongfully taken land from them. In the year 1792, the Creeks began their ravages on the frontier, and murdered several persons. A large body of them, aided by a considerable reinforcement of Cherokees, crossed Tennessee river, marched to the Cumberland settlements, attacked Buchanan's fort there, and, being repulsed with great loss, returned, after having committed depredations and murders, conformably to their usual manner. The Indians continued the war on the frontier of the Southwestern territory, until another treaty was made with the Cherokees, at Philadelphia, in the year 1794. The articles of which were stipulated to be considered as permanent additions to the treaty of Holston.

In the year 1795, a treaty of amity, friendship, limits, and navigation, was made between the United States of America and Spain; and afterwards, in the year 1796, another treaty was made at Colerain, in Georgia, with the Creek nation, and by it, the treaty of 1790 is declared to be obligatory on the contracting parties, except as provided for by the treaty of Colerain. So ended that war with the Creek Indians and Cherokees.

A variety of circumstances manifested that, in the time of the Revolutionary war, frequent communications had been, between the northern and southern nations of Indians; and that their hostilities, by certain excitements, against the people of the United States, operated to the same object, namely: the depression of the people of this nation. That, also, said Mr. R., appears to have operated in the time of the war, I have been speaking of; during that war a powerful confederacy of Indian nations carried on a destructive war against the United States on the Northwestern fronter. The British Government retained the Northwestern posts, and erected and garrisoned another within the limits of the United States. The Indians carried on the war in their usual savage manner; murdering, scalping, and destroying. General Harmar was sent with a body of forces against them, but did not prevail. General St. Clair, with a larger body of troops, was ordered against them; he was defeated with great loss. General Wayne was ultimately sent against them with a more numerous army; and he defeated the Indians. The treaty of amity, commerce, and navigation, between the United States and Great Britain, was made in November, 1794, by which Great Britain stipulated to surrender the Northwestern posts. In August, 1795, a treaty of peace was made at Greenville, between the United States and the Wyandots, Delawares, Shawanees, Ottawas, Chippewas, Patawatimies, Miamis, Eel Rivers, Weas, Kickapoos, Piankeshaws, and Kaskaskias—and so ended that Indian war; but not until a treaty had been made with Great Britain. I take notice of these past events first, said Mr. R. that the connexion of the Indian war operations of the several Indian nations, and the influence of foreign agency, may be observed, that the exciting causes be considered, in order to illustrate the subject under consideration, and that the Indian character may be understood.

The northern and southern nations of Indians engaged in the wars on the northwest and southwest frontiers, which, said Mr. R., I have been speaking of, had, in and by the first treaties made with them, respectively, after the Revolutionary war, acknowledged themselves to be under the protection of the United States of America, and of no other sovereign whatever. In making and carrying on war against the people of the United States, they renounced and abandoned that protection; they violated the treaties they had made with the United States, and put themselves out of their protection; the forfeiture might have been taken against them; but humanity, the consideration of their ignorance of the obligations of social compact and morality, and compassion for their miserable condition, prevailed; and, in pursuance thereof, the several treaties alluded to were made with them, and various other treaties, previous to the year 1811.

The Indian—rude, wild, and savage—ignorant of the principles of morality, of the doctrines of christianity, and of the knowledge of the true God—is prone to superstition, to fanaticism, and to a vain desire of knowing future events, not within the view of man. In the year 1807 an Indian chief of the Shawanee nation, who has been named the Prophet, excited by foreign corruption, is said to have began to propagate his delusions among the northern Indian nations; and, of them, to form a strong confederacy against the United States. The influence of that Indian chief increased in that and succeeding years. Large quantities of goods were delivered to the Indians by British agents; and British emissaries excited them to war, insinuating that they would now be aided by their great father in driving back the Americans and recovering the lands the Americans had taken from them. The United States were paying large annual subsidies to the Indian nations; but the influence of British corrupt agents, the distribution of goods, arms, and ammunition, and the declarations of the Indian fanatical prophets, prevailed against the peace of the Indians. In the year 1811, a confederacy of Indian nations was formed; and, in the month of November of that year, the battle of Tippecanoe was fought, in which the American army defeated the deluded, hostile Indians.

In the month of June, 1812, the Congress of the United States passed an act declaring that war be, and did exist, between the United Kingdoms of Great Britain and Ireland and the United States of America. The promulgation of that act excited more strenuous efforts of British agents and emissaries to instigate the Indians to continue the war.

In the month of August, 1811, the Shawanee chief, Tecumseh, brother to the fanatic prophet, passed down the Wabash river with a party of about six Shawanees, six Kickapoos, and six of some tribe far to the northwest, as they said, the name of which they refused to tell, on his way to the Creek nation. The object of his visit could not be mistaken—to excite the Creek and other southern nations of Indians to war against the United States, was his object. Indian fanatic prophets increased in the northern Indian nations. The Creek Indians had, soon after the visit of Tecumseh, their fanatic prophets also, inciting them to war, of whom Hillis Hajo, or Francis, appears to have been one. Strong suspicion is attached to six of the persons accompanying Tecumseh on his visit to the Creeks; they would not tell to what tribe they belonged. Who they were has not been perfectly ascertained. The effects of the visit of Tecumseh to the Creek nation soon became apparent. An infuriated fanaticism was propagated among them; they were taught to believe themselves invincible. The greatest part of them were hostile: they prepared for war, and soon after began their ravages on the frontier. They attacked Fort Mimms, took it, and massacred almost all the people who were in it. War with the Creek nation was inevitable.

The Executive of the United States had ordered fifteen hundred men from Georgia, and as many from Tennessee, to be called out in defence of the frontier. The fifteen hundred men from Tennessee were not raised previous to the meeting of the General Assembly of that State. That General Assembly convened at Nashville in September, 1813. The destruction at Fort Mimms and other ravages of the savages were known; and it was understood that a large force of them was preparing to attack the frontier settlements. The time was precious, the danger was imminent, and did not admit of delay. The Southern frontier of Tennessee, including Madison county, is about four hundred miles long, without any fort or place of strength, and liable to the incursion of the savage. A partial success of the hostile Indians would have added to their force a large number of warriors from the neighboring nations of Indians. The General Assembly of Tennessee, sanctioned by the Constitution of the United States of America, immediately enacted a law to raise and complete, with the fifteen hundred men previously ordered, an effective force of five thousand men; and also a law to raise and appropriate $300,000, to pay and support the troops while in service. That army was raised with all possible despatch. General Jackson, who was Major General of militia in Tennessee, took the command. To prevent the ravages of the Indians on the frontiers, the troops poured out from Tennessee; and, expecting soon to meet the enemy and finish the war, they crossed Tennessee river, and commenced operations on the frontiers of the Creek nation. The war was carried on with various success—several battles were fought. The General with his intrepid troops approached the strong fortifications of the enemy at the Horse Shoe. He ordered an assault; the fortification was stormed; the battle raged, hand to hand, within the fort; and ceased with the destruction of nearly all the Indian warriors in the fort. General Jackson afterwards marched, with part of his troops, to the Hickory Ground; and there, meeting with a large body of troops from Georgia, he left the country in their possession, and returned with his army to Tennessee. The proceedings of General Jackson with the army under his command, against the hostile Creeks, were approved, and the State of Tennessee was relieved, by the General Government, from payment of the expense. The hostile Creek Indians were beaten, but the war was not finished. In this war the Cherokee Indians aided against the Creeks, and did good service. Soon after his return from the Creek nation, General Jackson was appointed a Brigadier General, with brevet of Major General; that was soon followed by being appointed a Major General in the armies of the United States. The Creek Indians wished for peace; General Jackson was appointed commissioner to treat with them; and, in the month of August, 1814, he concluded a treaty with the Creek nation. Hillis Hajo, or Francis, the fanatic prophet, and some more chiefs of that nation, did not attend the making of that treaty; they, with others of the hostile Creeks, retired towards Florida, from whence to carry on the war against the people of the United States.

The Seminoles, a part of the Creek nation, were party to the treaty of 1790; and David Francis, alias Meemagechee, appears to have signed it. The Seminoles had acknowledged themselves under the protection of the United States, and of no other sovereign whatever. Lands, in common with other tribes of the Creek nation, were allotted to them. Other treaties, as has been observed, were made with the Creek nation; one as late as November, 1805, and ratified in June following. Of the benefits stipulated for in these treaties, the Seminoles participated. In all disputes or wars between the United States and foreign Powers, the Indian nations who had acknowledged themselves under the protection of the United States ought to have continued neutral. They suffered themselves to be made the willing instruments of war against the United States, by the persuasion of emissaries of foreign nations, who trafficked in blood, whose goods were poison, whose friendship was destruction. In a letter from Governor Mitchell to Mr. Monroe, of September, 1812, he informs that the Governor of Augustine has had sufficient influence with the Indians residing in Florida, called the Seminoles, to induce them to fall upon the defenceless settlers on the St. Johns and St. Marys. On the St. Johns they had killed and scalped eight or ten persons; and on the Georgia side of St. Marys, they had killed and scalped one and wounded two more. Colonel Smith, in a letter dated September 22, 1812, informs Governor Mitchell that, on the 12th of that month, the escort with the provision wagons, under com-

mand of Captain Williams, was attacked by a party of Indians and negroes, to the number of fifty or sixty, from St. Augustine. Captain Williams's command consisted of a non-commissioned officer and nineteen privates, besides drivers. The wagons were lost; both the officers and six privates wounded, Captain Williams mortally, the non-commissioned officer killed. Colonel Williams, in December, in that year, marched with a volunteer corps from Tennessee to aid in defending the frontiers of Georgia from the incursions of the Seminole Indians. About that time, the movement of the Creek Indians, incited to war by their fanatics, was extensive. They would have war, and war came upon them; they put themselves out of the protection of the United States, by making war against them; and, by so doing, all the hostile Creeks and Seminoles who refused to agree to the treaty of August, 1814, made themselves outlaws; Hillis Hajo and Hemathlemico, chiefs of the Creek nation, being of that number.

In August, 1814, a British force took possession of Pensacola and the Fort of Barancas. A Colonel Nicholls commanded the land force, part of which was a corps of colonial marines, in which George Woodbine was a Captain and Robert C. Ambrister a Lieutenant. On the 29th of August, in that year, and about twenty days after the date of the treaty made with the Creek nation at Fort Jackson, Colonel Nicholls, who, it is presumed, had a knowledge of that treaty, issued his proclamation from Pensacola, inviting persons of every description to join and aid him to abolish (as he said) American usurpation in the country, and to put the lawful owners in possession; stating that he was at the head of a large body of Indians, well armed, disciplined, and commanded by British officers. On the 31st of that month he addressed a letter to Mr. Lafitte, informing him that he had arrived in the Floridas for the purpose of annoying the only enemy Great Britain had in the world. He continued not long at Pensacola and Barancas. General Jackson, having, on the 9th of that month, concluded the treaty with the Creeks, and approached Pensacola with an American force, compelled the invading British to evacuate Pensacola, and to abandon the Barancas, after having blown up the fortifications. After that, General Jackson retired with the army under his command from Pensacola, and hastened to New Orleans to resist the British at that place. Colonel Nicholls, after having been driven from Pensacola and Barancas, moved to Appalachicola, and erected his fort for the reception of hostile Indians and negroes, from whence he might sally out, with his motley crew of black, white, and red combatants, and annoy the defenceless frontiers of the United States.

Colonel Nicholls retained his post at Appalachicola several months after the ratification of the Treaty of Ghent. His correspondence with Colonel Hawkins, commencing on the 28th of April, 1815, shows that he did not consider that the peace made between the United States and Great Britain had put an end to his operations at his fort, or to his negotiation with the Indians against the United States; that he enclosed a copy of part of the ninth article of the Treaty of Ghent, stating that the Indians had accepted and signed it, and requested Colonel Hawkins to understand their territories to be as they stood in 1811; that they had signed a treaty of offensive and defensive alliance with Great Britain, as also one of commerce and navigation; that he was desired by the Indian chiefs to say to Colonel Hawkins, that they do not find that his citizens were evacuating their lands, according to the 9th article of the Treaty of Peace, but that they were fresh provisioning the forts. By a letter from General Gaines, of the 22d May, 1815, it appears that Colonel Nicholls was then at Appalachicola, with about 900 Indians and 450 negroes, under arms. Hillis Hajo, or Francis, and other chiefs of the Creek nation, with others who did not attend at the Treaty of Fort Jackson, who continued hostile, are presumed to be of that party, and, with Colonel Nicholls, exciting to continue the war.

After having instigated the Indians to continue the war, by inducing them to believe that, by the ninth article of the Treaty of Ghent, they were entitled to repossess the territory, as in 1811; and having furnished them with a large quantity of arms and ammunition to carry on the war, Colonel Nicholls departed for Great Britain, taking with him Hillis Hajo, the fanatic, and an address from hostile chiefs to the King of England. It appears by a letter of Colonel Hawkins, of the 28th of May, 1815, and by the letters of General Gaines, of the month of December, 1817, and of January, 1818, that hostilities were continued by the Indians; in the course of which, it appears that Edward Daniels, taken prisoner, was tarred and burnt alive; that Mrs. Garret and her two children were murdered—she and the eldest scalped; Lieutenant Scott and his party, in a boat, fired on—six men of thirty, and one woman of seven, escaped—four little children taken by the legs and their brains dashed out against the boat, with other murders, and ravages, and barbarities. The time had arrived when it was absolutely necessary for the United States to exert their power to put an end to the war. The *salus populi*, or, in other words, the safety of the people, the supreme, irrevocable law of all nations, demanded that this savage war, carried on by Indians out of the protection of the United States, and negroes, and continued to be excited by foreign emissaries, who had identified themselves with the savages, be terminated.

On the 26th of December, 1817, the Department of War addressed a letter to Major General Andrew Jackson, then at Nashville, Tennessee, ordering him to repair, with as little delay as practicable, to Fort Scott, and assume the immediate command of the forces in that quarter of the southern division; advising him of the strength of the forces there—that General Gaines estimated the strength of the Indians at 2,700; and to call on the Executives of the adjacent States, if,

in his opinion, the troops of the United States were too few in number to beat the enemy; and to adopt the necessary measures to terminate a conflict which it has ever been the desire of the President, from considerations of humanity, to avoid, but which is now made necessary by their settled hostilities. On the 16th of January, 1818, the Secretary at War wrote to General Gaines, informing him that the honor of the United States requires that the war with the Seminoles should be terminated speedily, and with exemplary punishment for hostilities so unprovoked; and that orders were issued, directing the war to be carried on within the limits of Florida, should it be necessary to its speedy and effectual termination. These orders, I presume, have been received. That, as soon as it was known that he had repaired to Amelia Island, in obedience to orders, and it being uncertain how long he might be detained there, the state of things at Fort Scott made it necessary to order General Jackson to take command there. From his known promptitude, it is presumable his arrival may be soon expected. A letter from the Secretary at War, of the 29th January, 1818, to General Jackson, acknowledges the receipt of letters from him of the 12th and 13th of that month; and that the measures he had taken to bring an efficient force into the field were approbated; and expressing a confident hope that a speedy and successful termination of the Indian war will follow his exertions.

On the 20th of January, 1818, General Jackson wrote to the Secretary of War further information respecting the measures by him adopted to carry on the war, and that he would leave Nashville on the 22d of that month for Fort Scott, via Fort Hawkins. On the 6th of February, 1818, the Secretary of War wrote to General Jackson, (Fort Scott, Georgia.) acknowledging the receipt of his letter of the 20th ultimo, and acquainting him of the entire approbation of the President of all the measures he had adopted to terminate the war; that the honor of our army, as well as the interest of the country, requires that it should be terminated as soon as practicable. It appears that General Jackson was at Fort Hawkins on the 10th of February, 1818; at Hartford, in Georgia, on the 14th; at Fort Early on the 26th; and on the 25th of March, 1818, at Fort Gadsden, east bank of Appalachicola, where formerly Negro Fort stood. Having reached Fort Scott on the 9th, with the brigade of Georgia militia, 900 bayonets strong, and some friendly Creeks, when, on the morning of the 10th, he assumed the command —ordered the live stock to be slaughtered, and issued to the troops, with one quart of corn to each man, and the line of march to be taken up at twelve, meridian. Near St. Marks, on the 8th April, 1818, the General writes to the Secretary of War that he had defeated a negro and Indian force—pursued them through the Mickasukian towns; that the towns were consumed, and the greatest abundance of corn, cattle, &c., brought in; that Captain McKever had secured Francis, or Hillis Hajo, the great prophet, and Hemathlemico, an old Red Stick chief, and that Arbuthnot, a Scotchman, and suspected as an instigator of the war, was found in St. Marks; that there were found in the council-house of Kenhagu's town, the King of the Mickasukians, more than fifty fresh scalps, and in the centre of the square the old Red Stick's standard (a red pole) was erected, crowned with scalps, recognised, by the hair, as torn from the heads of the unfortunate companions of Scott; that Indians and negroes combined had demanded the surrender of St. Marks; that the Spanish garrison was too weak to defend it; that he had occupied it with an American garrison, and the commandant and garrison furnished with transportation to Pensacola. On the 9th of April, from camp sixteen miles from St. Marks, on march to Suwanee, the General wrote to the Secretary of War, "there is 'little room to doubt but what one of the chiefs 'found slain on the field in advance of the Mick-'asukian villages, was Kenhajee. Francis, or Hil-'lis Hajo, and Hemathlemico, the prime insti-'gators of this war, have been hung. The latter 'commanded the party who so inhumanly sacri-'ficed Scott and his companions."

On the 20th of April he wrote to the Secretary of War, from Bowlegs town, Suwanee river, that he had marched from St. Marks on the 9th; on the 10th was joined by the rear of the volunteers from Tennessee, also by the Indians under General McIntosh; that the troops under his command (then composed of the regular, the Tennessee, and Kentucky volunteers, and Georgia militia) had defeated several parties of the enemy; that Ambrister had been taken; that he had ordered the Georgia troops to Hartford, to be paid and discharged. On the 26th April General Jackson wrote to the Secretary of War, from St. Marks, that he had arrived at that place, having performed a march of 107 miles in less than five days; that he would leave that place in two or three days for Fort Gadsden; that the Indian forces were divided and scattered; that his presence in the country can be no longer necessary; that, after having made all necessary arrangements for the security of the positions occupied, and detaching a force to scour the country west of the Appalachicola, he would proceed directly to Nashville. In his letter of the 5th of May, dated at Fort Gadsden, he gives a detailed account of his operations in the war, and also informs of the execution of Arbuthnot and Ambrister; refers to his correspondence with the Governor of Pensacola, and certain matters which had been stated, to wit: that the Indians at war with the United States have free access into Pensacola; that they are kept advised from that quarter of the movements of the American army; that they are supplied from thence with ammunition and munitions of war; that a large body of them were there collecting; that inroads from thence had lately been made on the Alabama, in one of which eighteen settlers fell by the tomahawk; that these statements compelled him to make a movement to the west of the Appalachicola, and, should they prove correct, that Pensacola must be occu-

pied by an American force; that the army would move from Fort Gadsden on the 7th, crossing the Appalachicola river at Ochegee Bluff, about forty miles above Fort Gadsden.

In his letter of the 2d of June, 1818, dated at Fort Montgomery, he writes to the Secretary of War. After stating that he had left strong garrisons of regulars in Forts Scott and Gadsden; that he had resumed his march with a small detachment of the 4th regiment of infantry, one company of artillery, and the effectives of the Tennessee volunteers, the whole not exceeding 1,200 men; that he approached Pensacola, and occupied it and the fortress of Barancas; that it was deemed most advisable to retain the government the people were accustomed to, but that it was advisable to establish the revenue laws of the United States, to check smuggling, and to admit the American merchant to a participation of the trade; states the reasons of his movements, and bottoms all his operations in that country on the immutable principle of self-defence, authorized by the laws of nature and of nations. In this letter the General refers to several documents accompanying it—all of which, together with the articles made between him and the Governor of Pensacola, relative to the surrender of that place and the Fort of Barancas, in which provision is made for the restoration thereof to Spain, and various other documents relative to the Seminole war, have been communicated to the House of Representatives by the President of the United States, and are now before the American people for their consideration.

Spain, by the 5th article of the Treaty of 1795, was obliged expressly to restrain, by force, all hostilities on the part of the Indian nations living within her boundaries, (that is, of Florida,) so that Spain will not suffer her Indians to attack the citizens of the United States, nor the Indians inhabiting their territory. Spain did not perform that stipulation of that treaty. The Indian tribes within her territory had visited the frontier people of the United States with all the horrors of savage war. Negro brigands were establishing themselves when and where they pleased. Foreign agents were openly and knowingly practising their intrigues in that neutral territory. The Indians hostile to the United States were uncontrolled by the Spanish authorities. That territory, by the neutral character of Spain, had become a place of safety to hostile Creeks, Seminoles, negroes, and foreign emissaries, from whence they issued when they pleased, to murder and destroy the people of the United States. Indians, who had murdered citizens, were demanded, and refused. Defensive operations had, by the United States, for several years, been carried on without effect. The hostile Indians began to believe they were invincible; they threatened to take possession of St. Marks. It was then time to put an end to such a state of things. For that purpose General Jackson was ordered to Fort Scott, to assume the command, and to terminate the war. He, therefore, with the army under his command, passed, in pursuit of the enemy, the Florida line, attacked, and defeated the Indians and negroes; destroyed their towns; erected and garrisoned Fort Gadsden, on the place where Nicholls's negro fort had been; took and garrisoned St. Marks; ordered the prophet Hillis Hajo and Hemathlemico, who had been foreign instigators in the war, to be hanged; ordered Arbuthnot and Ambrister, found guilty of certain charges, to be executed. Afterwards, proceeded with his troops and took possession of Pensacola and Barancas, and established a government there; and, by doing these things, the Constitution of the United States is said to have been violated.

The Congress of the United States by the Constitution has the power of declaring war. It is urged that the Seminole war is a violation of the Constitution because Congress did not declare it. In answer to this it is observed, that Congress did not heretofore declare war against any Indian nation. War was not declared against the hostile Indians northwest of the river Ohio when General Harmar with an army was sent to reduce them; war was not declared against them when General St. Clair with an army was sent against them; war was not declared against them when General Wayne with an army was sent against them and defeated them. The carrying on of that war without a formal declaration of war against them by Congress, was not, in those times, considered a violation of the Constitution. No more can the carrying on the war named the Seminole war, be a violation of the Constitution. Foreign agents and emissaries, and Indian fanatics, in the years 1812 and 1813, instigated the Creek nation, of which the Seminoles are a part, to war against the United States; the United States being then at war with Great Britain. The State of Tennessee, in self-defence, sanctioned by the Constitution, commenced defensive operations against the Creek Indians; the war was carried into the Creek country, and the Creeks were subdued, and afterwards a treaty of peace was made. The war named the Seminole war is a continuation of the Creek war, and is also a continuation of the war which the Seminoles and other Creek Indians carried on against the frontiers of Georgia in the year 1812, and afterwards. Declare war by a solemn act of Congress against an Indian nation! An Indian cares not for a declaration of war, he knows not what the words signify. The Indian declares war by a stroke of his tomakawk, by matter of fact in blood and murder does he declare war, not by words. Great Britain did not declare war against Indian nations during the time these United States were colonies of Great Britain. It does not appear that Great Britain declared war against any of the powerful potentates of Asia, who have been overthrown and put down by Great Britain. Hence, it is evident that that objection to the Seminole war is not of any force. It is urged that the treaty made in August 1814, with the Creek nation, is the cause of the Seminole war. How that can be, is not easy to illustrate. Colonel Nicholls induced the hostile Indians to believe that, by the 9th article of the Treaty of Ghent,

they were entitled to be placed, in respect to territory, in the same state they were in in the year 1811. The 9th article of the Treaty of Ghent has not any bearing on the treaty made with the Creek Indians in August, 1814; that treaty was concluded more than four months before the Treaty of Ghent was signed. Colonel Nicholls, without doubt, had his own reasons for so telling the ignorant Indians. The Senate of the Congress of the United States constitutionally performed their duty when they consented to and revised the ratification of that treaty. The majority of the Creek nation had put themselves out of the protection of the United States by warring against them, and thereby forfeited what right soever they had to lands allotted to them by the United States to live and hunt on; it was therefore just to take a large part of the country and to sell it, to defray the expense of that war. That extensive country is now covered by a dense population of citizens, in numbers sufficient to be a State of this Union.

General Jackson was authorized by the supreme law of nature and nations, the law of self-defence, corresponding with the great national maxim, namely, the safety of the people is the supreme law, to enter the Spanish territory of Florida in pursuit of, and to destroy, hostile, murdering savages, not bound by any obligation, who were without the practice of any moral principle reciprocally obligatory on nations.

Spain was unable to, or did not, restrain, by force, the hostile Indians from issuing forth from Florida and destroying the people of the United States. It, therefore, became necessary that the United States, by General Jackson and his army, should do what Spain could not do, that is, by main force, to subject the hostile Indians to order, and due respect to the safety of the people of the United States. The hostile Indians had become superior in the Spanish territory of Florida. It, therefore, was necessary that the United States, in amity with Spain, should, not only in their own defence, but, in respect to Spain, put down that superiority. The hostile Indians and negroes had been understood to have been about to have occupied the Spanish fortress of St. Marks, which the Spanish garrison was unable to defend against them. It, therefore, was necessary to occupy that fortress with an American garrison to prevent it from falling into the hands of the Indians and negroes, enemies of the United States, who, uncontrolled by Spain, might from there issue at any time and murder the people of the United States. Arbuthnot and Ambrister had withdrawn themselves from the customs and laws of civil life, and associated and identified themselves with savages at war with the United States. Subjects of Great Britain, at peace with the United States by the solemn sanction of a treaty, Arbuthnot and Ambrister, by identifying themselves with Indians at war with the United States, and by aiding and abetting the Indians in that war, deprived themselves of their neutral character, violated the treaty of peace existing between the United States of America and Great Britain, and by doing so, put themselves out of the protection of the Government to which they had belonged; and, if, said Mr. R., I may use the word, denationalized themselves. They were apprehended in the fact of aiding and abetting, of their own free will and accord, without the consent or order of the Government to which they belonged, the enemies of the United States, in levying and carrying on a war, an Indian, savage, barbarous war, against them.

The town of Pensacola and Fort of Barancas had been places of asylum, refuge, and resort for Nicholls, for Indians, for negroes, for Woodbine, and for the dregs of mankind, collected together to perpetrate violence in the extreme. Hostile Indians and negroes were there supplied; the Spanish Governor did not, or dared not, refuse. The Governor of Pensacola did not prevent Nicholls, with his troops, to occupy it and Barancas; he refrained not to admit Indians, at war with the United States, to enter Pensacola and Barancas, and to furnish them with munitions of war; but when he was informed by General Jackson, that American vessels, loaded with provisions to supply the American army, were about to pass up the Escambia river, he refused to let them pass, without paying large duties. General Jackson notified the Governor of Pensacola of his approach to that place, the Governor ordered the General to retire from Florida, and, if he did not, that he would use force to repel him. The Governor of Pensacola did not apply force to prevent Nicholls from occupying Pensacola; he did not use force to prevent Indians and negroes, hostile to the United States, from entering Pensacola.

The United States of America, in good faith, made with Spain the Treaty of 1795. The first article of that treaty provides and declares that there shall be a firm and inviolable peace and friendship between His Catholic Majesty, his successors, and subjects, and the United States and their citizens, without exception of persons or places. By the fifth article of that treaty, Spain did expressly oblige herself to restrain, by force, all hostilities on the part of the Indian nations living within her boundary; so that Spain will not suffer her Indians to attack the citizens of the United States, nor the Indians inhabiting their territories. That article is reciprocal. The faithful execution of a treaty depends, in the first instance, on the officers of the Governments parties thereto. The articles of that treaty were obligatory on the Governor of St. Marks, and on the Governor of Pensacola. Their allegiance to their Sovereign compelled them to hold sacred that treaty, at the hazard of their lives. The Governors of St. Marks and Pensacola did not perform their obligations to their Government, pursuant to that treaty. Hillis Hajo, Hemattheemico, Arbuthnot, Ambrister, and other enemies of the United States, they admitted into their respective fortresses. They associated themselves with Indians and other enemies of the United States, and by so doing became enemies of the United States. Knowing that the United States and Spain were at peace, they violated the Treaty

of Peace between the United States and Spain, and thereby put themselves out of the protection of their own Government. The Indians living within the territory of Spain were under the protection of Spain, being included within the provision of the fifth article of the treaty. They, by their hostilities against the United States, put themselves out of the protection of Spain. Hillis Hajo, the fanatic, Hemattlemico, and other chiefs and warriors of the hostile Creek Red Sticks, who did not abide by and perform the stipulations of the Treaty of 1790, and of subsequent treaties made by the United States with the Creek nation, were out of the protection of the United States of America. Arbuthnot, the Scotchman, Ambrister, an officer of colonial marines, under the instigator Nicholls, did know that a Treaty of Peace was in full force between the United States of America and Great Britain, and that that treaty was obligatory on them as British subjects. They in defiance of that treaty did of their own free will and accord associate and identify themselves with the Indians and negroes, enemies of the United States, and aided, abetted, and comforted the said Indians and negroes in their hostilities; and by so doing, violated the said Treaty of Peace, and put themselves out of the protection of the Government to which they had belonged.

There then was in the Spanish territory of Florida, a motley band of white, red, and black, composed of Hillis Hajo, the fanatic, Hemattlemico, the chief of the savages, (who massacred Scott and his party, who spared not women, who spared not tender infants.) and other chiefs and warriors of the hostile Red Sticks, Seminoles, vagabonds, runaway negroes, Arbuthnot and Ambrister, all out of the protection of the Governments to which they had belonged, and within whose limits they had resided; a collection of outlaws, out of the protection of all laws and institutions of civilized man, engaged in levying and carrying on war against the people of the United States, and aided and abetted by the Governors of St. Marks and Pensacola, and endangering the existence of the peace between the United States and Spain. These were the enemies General Jackson and the army under his command had to contend with. He was authorized by the laws of nature, and by the supreme, irrevocable law of self-defence, to free our country from the present and future hostilities of such enemies. His obligations to the United States compelled him to do so. Spain was expressly obliged to restrain by force the Indians within her territory from committing hostilities against the United States. The Spanish officers commanding in Florida did not restrain the Indians from war, but aided and abetted them in it. It then became the duty of Spain to have displaced and superseded the said officers, and to have confided to other officers the command of Florida, who would have preserved the neutral character of that territory. Spain did not displace or supersede them. In order then to prevent the perpetration of future hostile atrocities by the Indians and negroes and foreign emissaries and impostors, it was necessary to occupy St. Marks and Pensacola and Barancas with garrisons of troops of the United States, who would defend the said fortresses, not from the lawful authority of Spain, but from being possessed and occupied by hostile Indians, negroes, and foreign emissaries—enemies—from whence they might, as from places of safety, annoy and murder the people of the United States.

The proceedings of General Jackson in the Seminole war are approved. The President of the United States has demanded of Spain the punishment of those officers for their misconduct; and he has further demanded of Spain a just and reasonable indemnity to the United States for the heavy and necessary expenses which they have been compelled to incur by the failure of Spain to perform her engagements to restrain the Indians. These demands, which the President of the United States has made of Spain, I, said Mr. R., believe to be just, and such as he, on behalf of the United States, had and has a right to make, consistently with the honor and safety of the nation.

Mr. R. then observed that he would vote against the adoption of each of the proposed resolutions; and, after expressing his gratitude for the attention given to him, said he would forbear to speak further on this subject, on which he had delivered his opinions, bottomed on the supreme paramount law of nature and the treaties made by and between the United States and the other parties thereto.

THURSDAY, January 28.

Mr. HERBERT, from the select committee, to whom was referred the Code of Jurisprudence for the District of Columbia, prepared and transmitted to Congress, by William Cranch, Chief Justice of the said District, made a report thereon; which was read, and the resolution therein contained, was concurred in by the House, as follows:

Resolved, That the Code of Jurisprudence for the District of Columbia, prepared and transmitted to this House, by William Cranch, Chief Justice of the said District, be referred to the consideration of the Judges of the Circuit Court, and the Attorney for the said District, who are authorized and requested to examine the said Code and report to Congress, at their next session, such amendments thereto, as to them may seem necessary.

Mr. HERBERT, from the same committee, also reported a bill for the benefit of William Cranch, Chief Justice of the District of Columbia; which was read twice and committed to a Committee of the Whole.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill extending the allowance of pensions to cadets; which was read twice and ordered to be engrossed and read a third time to-morrow.

A message from the Senate informed the House that the Senate accord to this House, permission

to the honorable David Daggett and the honorable William Hunter, to attend the committee appointed by this House, to inquire into the conduct of William P. Van Ness and Matthias B. Tallmadge and to be examined touching the subject of said inquiry. They have passed bills of this House, of the following titles, to wit: "An act to establish a judicial district in Virginia, west of the Alleghany mountain;" and "An act to authorize the payment, in certain cases, on account of Treasury notes, which have been lost or destroyed;" with amendments to each, in which they ask the concurrence of this House.

The House took up for consideration the amendments of the Senate to the bill to establish a separate judicial district in the western part of Virginia. [The principal amendments were, to direct the holding of six sessions in each year, instead of four, (two at Clarksburg, two at Lewisburg, and two at Wythe Court House;) and authorizing but one clerk for the district, instead of two.]

Mr. McCOY moved that the bill and amendments be indefinitely postponed, which was negatived; and

The amendments were then concurred in by the House; as were also those of the Senate to the bill providing for the payment of lost Treasury notes in certain cases.

SEMINOLE WAR.

The House again took up, in Committee of the Whole, (Mr. HERBERT in the Chair,) the report of the Military Committee on the Seminole war, and the amendments proposed thereto by Mr. COBB.

Mr. RHEA concluded the remarks which he commenced yesterday in opposition to the report, &c., as given entire in the preceding pages.

The Committee, then, on motion of Mr. HOPKINSON, rose and reported progress; and the House adjourned.

FRIDAY, January 29.

Mr. HOPKINSON, from the Committee on the Judiciary, to which was referred the bill from the Senate, entitled "An act to extend the jurisdiction of circuit courts of the United States to cases arising under the law relating to patents," reported the same without amendment, and it was ordered to be read a third time to-morrow.

Mr. McCOY, from the Committee of Claims, to which was referred the amendment, proposed by the Senate, to the bill, entitled "An act for the relief of Daniel Renner and Nathaniel H. Heath," reported their agreement thereto, and the amendment was then concurred in by the House.

Mr. ROBERTSON, from the Committee on Private Land Claims, made a report on the petition of William Scott and others, heirs of William Scott, deceased; which was read; when Mr. R. reported a bill for the relief of William Scott, Gabriel Scott, Thomas Scott, and Elizabeth Bowles, of the State of Mississippi, heirs of William Scott, deceased; which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON, of Kentucky, submitted the following resolutions; which were read, and ordered to lie on the table:

1. *Resolved*, That it is expedient to establish a Military Academy, on the western waters, upon the principles of the Academy at West Point.

2. *Resolved*, That it is expedient to establish a school of practice for the artillery, in the vicinity of the City of Washington.

Mr. JOHNSON also submitted to the House a communication made to him as chairman of the Committee on Military Affairs, by the Secretary of War, in relation to the subjects embraced in the above resolutions; which was ordered to lie on the table.

On motion of Mr. BALDWIN, the Committee on the Judiciary were instructed to inquire into the expediency of making provision for the more convenient execution of the laws within the Territory of Michigan.

Mr. LOWNDES submitted the following proposition or amendment to the rules and orders of the House; which was read, and ordered to lie on the table, viz:

"It shall be the duty of the Committee of Ways and Means, in preparing bills of appropriation, not to include appropriations for carrying into effect treaties made by the United States, in a bill containing appropriations intended for other objects; and where an appropriation bill shall be referred to that committee for their consideration, containing appropriations for carrying a treaty into effect, and, also, appropriations for other objects, it shall be the duty of the committee to propose such amendments as shall prevent appropriations for carrying a treaty into effect, from being included in the same bill which contains appropriations for other objects."

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to whom were committed the amendments of the Senate to the bill making appropriations for the support of the Navy for the current year, reported their agreement thereto; and the said amendments subsequently passed through a Committee of the Whole, and were concurred in by the House.

An engrossed bill, entitled "An act extending the allowance of pensions to cadets," was read the third time; and on the question, Shall the said bill pass? it was determined in the negative.

SEMINOLE WAR.

The House resumed, in Committee of the Whole, (Mr. BASSETT in the Chair,) the consideration of the report of the Military Committee, on the transactions of the Seminole war.

Mr. HOPKINSON, of Pennsylvania, addressed the House as follows:

Mr. Chairman, if, after the discussion this subject has undergone, I were to promise the Committee to present it with entire novelty, I should promise that which it is not in my power to perform, and which would betray a presumption, of which, I trust, I am incapable. I have the hope, however, that I may be able to offer some principles in relation to it which have not yet been presented, and are entitled to some influence on

the decision of the Committee, and to make some new applications of principles already established.

The matters in controversy seem to me to obtain infinite importance, from the connexion they have with the character of our country. We stand in a most peculiar and responsible situation in this respect. The nations of Europe, from their contiguity, may be said to form a family or an association of nations, controlled by, and accountable to each other. They have alliances which all respect, ties which all must feel, balances and checks which all are interested to preserve, and rules of conduct in their mutual intercourse which all are made to obey. The American people, removed far from the rest of the civilized world, and placed beyond the control of the policy or force of Europe, have none of those means to keep them to the path of justice. They acknowledge no guide authorized to direct them but their own consciences; and feel no responsibility but to their God. This, sir, is a trying and a tempting situation, placing us on the highest ground of virtue, if we do not abuse it; but exposing us to infinite danger from the suggestions of pride, interest, and self-love. But, sir, let us not forget that we belong to the family of civilized nations, and be most forward to prove our devotion to those rules of conduct which the experience and wisdom of ages have established, as necessary for the peace and usefulness of all. Let us cherish those laws which increase the blessings of peace, and mitigate the calamities of war.

The dangers which our country may apprehend from the encouragement of a military spirit in our people, have been eloquently portrayed on this occasion. It is undoubtedly true that a strong disposition of this sort has been manifested, and was rapidly rising, in the people of the United States; and a greater evil could hardly befall us than the consummation of its ascendency. There is something so infatuating in the pomp and triumphs of war, that a young and brave people who have known but little of its destructive miseries may require to be guarded against falling into the snare, and led to direct their energies to other and better objects. It is worthy of remark that, in the various ways in which the genius and powers of men display themselves, the military course is the only one eminently dangerous to his species. Genius in every other department, however dazzling and powerful, is never hurtful, is generally a blessing to the world. The stupendous genius of Newton elevated the dignity of man, and brought him nearer to his God; it gave him a path to walk in the firmament, and knowledge to hold converse with the stars. The erratic comet cannot elude his vigilance, nor the powerful sun disappoint his calculations. Yet, this genius, so mighty in the production of good, was harmless of the evil as a child. It never inflicted injury or pain on anything that lives or feels. Shakspeare prepared an inexhaustible feast of instruction and delight for his own age and the ages to come; but he brought no tears into the world but those of fictitious woe, which the other end of his wand was always ready to cure. It is military genius alone that must be nourished with blood, and can find employment only in inflicting misery and death upon man.

The character and services of General Jackson have called forth eloquent eulogiums from various parts of the House. I have no disposition to depreciate them, although I think some of the praise bestowed upon them has been somewhat extravagant. I cannot think him the greatest commander this country has produced; much less is he the greatest general of the age; an age so productive of military wonders. He is unquestionably a man of undaunted courage, of indefatigable perseverance, of striking decision and celerity, and of great resources. If his private virtues, of which I know nothing, are equal to his public services, he is, assuredly, a man worthy of all estimation. These things will not influence my opinion or my vote, in the discussion and decision of questions of national law and public importance, which have no other connexion with the character or services of General Jackson, than that they have arisen out of transactions in which he has been engaged.

We have seen, in this debate, a very laborious examination of books, for principles applicable to the questions in discussion; and authorities have been quoted, without end, on the several points. In truth, however, this is not the difficulty of the case; the principles of the laws of nations, which have relation to it, are very clear and unquestionable; and the inquiry should be into the facts and circumstances of this campaign. These being distinctly ascertained, the decision of the law upon them will be found at once. Indeed, it is the excellence of that system which is called the laws of nations, that there is little in it that is technical or arbitrary; the rule is, generally, that which the sound understanding and common sense of every man would suggest to him, if he had never read a line on the subject. My object will be to draw the attention of the Committee to the prominent points of inquiry; to fix with precision the facts in relation to each, and show the principles of national law which ought to govern us in deciding upon them. General Jackson has been arraigned; first, for crossing the line separating the United States from Florida; second, for taking the fortress of St. Marks from the Spanish authorities; third, for taking Pensacola and Barancas; fourth, for the execution of Ambrister and Arbuthnot. I beg leave to premise that, in discussing a transaction in which so many distinct questions arise, it will necessarily happen that different gentlemen of the Committee will agree upon some, and disagree upon others; and even when they come to the same result of approbation or disapprobation, it may be for reasons wholly different. This renders a particular explanation of the ground of opinion more necessary than in ordinary cases. In crossing the Florida line and entering upon the Spanish territory, General Jackson certainly

violated the neutral and national rights of Spain, unless he can show it was done for reasons, and under circumstances, which, by the agreement of nations, or, in other words, by the laws of nations, justify it, and remove its offensive character. Several grounds of defence have been taken for this act, both by General Jackson and on this floor. And here I may remark, in relation to this part of the case, as well as some of the others, that it is unfortunate for a man, when he has done that which is really right and defensible, to stumble upon a bad reason for it. His reason will be successfully attacked, and he will appear to stand condemned, when, in truth, his injudicious defence only has been overthrown. So it has happened to the General. It has been said for him, that he was justified in crossing the Spanish line to attack the Indians, because Spain had, by her treaty, stipulated that she would restrain the Indians within her territory from hostilities against the United States; and that, not having done this, we had a right to pass into the territory to do that for her and ourselves which she was bound, but had failed to do. It is obvious, on the least reflection, that this defence can avail nothing. If Spain had failed to perform her treaties with the United States, it was a matter to be adjusted by the two Governments, and not by a Commander-in-chief, at the head of his army. Spain might give reasons for the failure satisfactory to this Government, and had a right to an opportunity to do so. But the conclusive view of this point is this: If the territory of Spain was violated or attacked, to compel her to perform her treaty stipulation, or to punish her for not doing so, or because she had not done so, the act connected with the object was undoubtedly an act of war, it placed us in a state of war, and changed our relations with Spain.

Now, it is necessary only to look at our Constitution, to learn that neither General Jackson, nor those under whose orders he acted, possess the right to make war, under any pretence, or for any cause whatever. To change the relations of this country, from those of peace to those of war, is a change so infinitely interesting to the people, nay, to every individual of the country, and to be determined by so many considerations of policy, as well as right, that it must be the combined act of all the powers of the Government, representing all the people of the United States. It has not been intrusted to the rashness or caprice of a military commander, nor to the will of the Executive Magistrates. Congress alone may declare war. At the foundation, then, of all the argument I shall submit to the Committee, and which, I beg may be kept in mind through the whole, I place this principle: that General Jackson must be defended in what he has done, consistently with our neutral relations with Spain, or he cannot be defended at all. Everything beyond this is *war with Spain;* and the power of making war is not with General Jackson. My inquiry then will be, what circumstances will justify a belligerent in invading or entering the territory of a neutral, consistently with neutral relations; so that the neutral will not be justified in considering and repelling it as an act of hostility. The right to enter neutral territory stands upon the same principle as the right of passage through it. I shall so consider the case before us; and cannot admit it to be the case of a fresh pursuit after a defeated enemy, who, flying from the field of battle, cross an imaginary line, and are, on the instant, pursued over it. This is not the state of the fact; the Spanish line was passed for the purposes of relieving our army from a critical situation; of terminating a war which otherwise might be endless; and of breaking up and destroying the enemy in their own villages. There is nothing of the nature of fresh pursuit in any of this. The right of passage over a neutral soil is justified by the law of nations, when taken, 1st, by consent; 2d, when unquestionably innocent, and unjustly denied; 3d, in case of urgent and real necessity. I agree, that in every case the permission of the neutral should first be asked, if practicable; because, it is only by asking you can obtain consent; it is only by asking and hearing the objections, it can be decided whether the passage is innocent, and the refusal unjust; and, in the third case, it is only in this way you can judge whether your necessity for passing, or the necessity of the neutral for refusing, is the stronger; for it is abundantly clear, that, if a superior or equal necessity obliges the proprietor of the soil to deny you passage, he may justly do so, and his right must prevail over yours. But, where your necessity is such, as to render it impossible to ask the permission of the neutral to enter his territory, that the very delay of such a proceeding would bring upon you all the calamity apprehended, I hold it to be right of the belligerent to proceed without permission asked, leaving his justification to future explanation and adjustment. The necessity which justifies the *act*, must also justify the *manner*, if equally within the urgency of the necessity.

As to an innocent passage—so unquestionably innocent, that a refusal would be deemed unjust, and, of itself, authorize an entry—I agree it can rarely happen; because the passage of troops through a country can rarely be had without some injury, more or less immediate or consequential to the neutral. But, such an instance does occur in the very case before us, which may serve to exemplify the doctrine. At the commencement of these Indian hostilities, the troops of the United States in Fort Scott became exceedingly straitened for provisions, and the enemy, unable to attack the place with direct force, conceived the plan of reducing them by famine and cutting off all supplies. These supplies could only be furnished by passing up the Appalachicola river, through the Spanish territory. In like manner, to supply the garrison of Fort Crawford, it was necessary to use the Escambia river. Now, it is obvious, that while it was all-important to the United States to use these passages for these purposes, it is equally obvious, that such passage was entirely and un-

questionably innocent in relation to Spain, and no possible injury or inconvenience could accrue to her in consequence of it. A refusal, in such case, would, by the law of nations, be deemed unjust; and if force were resorted to under such circumstances, the refusing nation would be considered as having indiscreetly drawn the violence on itself. I mean not to say, that any such refusal was made in the case mentioned. A demand of duties was made, which, if reasonable customary, cannot be complained of; otherwise, if used as a mere pretext for embarrassment and delay. In considering this right of passage, or of crossing into the neutral territory, it is always necessary to make a full and just estimate of the reasons on the one side and the other, to make comparison of the necessity which presses upon the belligerent to insist with the reasons the neutral may urge for refusing. I cannot, therefore, agree with the honorable gentleman from Virginia, (Mr. MERCER,) that there are no degrees of necessity; that it is a point precise and absolute. On the contrary, it is, in these cases, always a question of degree; and the necessity which will justify the invasion of neutral territory, will be, more or less, according to the weight of the counter necessity opposed by the neutral to prevent it. A degree of necessity will authorize a mere passage, which will not authorize the occupation of a fort; in which case, what is called *extreme* necessity is required. From these principles it follows, that, in order to decide upon the propriety of General Jackson's crossing into Florida, we must examine, with some minuteness, his actual situation at the time; the nature and urgency of the circumstances that determined him to the measure; and fairly compare them with the reasons which may be urged against it on the part of Spain. We must compare his necessities with the inconveniences or injuries that might result to the neutral nation, by his relieving himself in this way.

The United States are at war with certain tribes of Indians inhabiting the Spanish territory. I do not inquire, as some gentlemen have done, into the origin of this war, or decide who was the immediate aggressor. The commanding General, whose conduct we are now investigating, has nothing to do with this question. It is his duty to fight the battles of his country, and carry on the war according to the laws of his country. Those who send him into the field must answer for the war. I may say, however, that I presume the origin of this war is the same with all our Indian wars. It lies deep beyond the power of eradication, in the mighty wrongs we have heaped upon the miserable nations of these lands. I cannot refuse them my heart-felt sympathy. Reflect upon what they were; and look at them as they are. Great nations dwindled down into wandering tribes; and powerful kings degraded to beggarly chiefs. Once the sole possessors of immeasurable wilds, it could not have entered into their imagination that there was a force on earth to disturb their possessions, and overthrow their power. It entered not into their imagination, that from beyond that great water, which to them was an impassable limit, there would come a race of beings to despoil them of their inheritance, and sweep them from the earth. Three hundred years have rolled into the bosom of eternity since the white man put his foot on these silent shores; and every day, every hour, and every moment, has been marked with some act of cruelty and oppression. Imposing on the credulity or the ignorance of the aborigines, and overawing their fears by the use of instruments of death of inconceivable terror. The strangers gradually established themselves, increasing the work of destruction with the increase of their strength. The tide of civilization, for so we call it, fed from its inexhaustible sources in Europe, as well as by its own means of augmentation, swells rapidly and presses on the savage. He retreats from forest to forest, from mountain to mountain, hoping, at every remove, he has left enough for his invaders, and may enjoy in peace his new abode. But in vain; it is only in the grave, the last retreat of man, that he will find repose. He recedes before the swelling waters; the cry of his complaint becomes more distant and feeble, and soon will be heard no more. I hear, sir, of beneficent plans for civilizing the Indians, and securing their possessions to them. The great men who make these efforts will have the approbation of God and their own conscience; but this will be all their success. I consider the fate of the Indian as inevitably fixed. He must perish. The decree of extermination has long since gone forth; and the execution of it is in rapid progress. Avarice, sir, has counted their acres, and power their force; and avarice and power march on together to their destruction. You talk of the scalping knife; what is it to the liquid poison you pour down the throats of these wretched beings? You declaim against the murderous tomahawk; what is it, in comparison with your arms, your discipline, your numbers? The contest is in vain; and equally vain are the efforts of a handful of benevolent men against such a combination of force, stimulated by avarice and the temptations of wealth. When, in the documents on your table, I see that, in this triumphant march of General Jackson, he meets, from time to time, (the only enemy he saw,) groups of old men and women, and children, gathering on the edge of a morass, their villages destroyed, their corn and provisions carried off, houseless in the depth of winter, looking for death alternately to famine and the sword, my heart sickens at a scene so charged with wretchedness. To rouse us from a sympathy so deep, so irresistible, we are told of the scalping knife and the tomahawk; of our slaughtered women and children. We speak of these things, as if women and children were unknown to the Indians—as if they have no such beings amongst them; no such near and dear relations; as if they belong only to us. It is not so. The poor Indian mother, crouching in her miserable wigwam, or resting under the broad canopy of heaven, presses her naked infant to

her bosom with as true and fond emotion as the fairest in our land; and her heart is torn with as keen anguish if it perish in her sight. A few nights since a lecture was delivered in this House upon the power of knowledge. Among other extraordinary productions of human genius, the mariner's compass was mentioned as one of the most useful. My mind, dwelling perhaps on this debate, immediately asked, Is it so? What says the Indian to that? Go to the Southern part of this continent, from the Pacific to the Atlantic, once inhabited by great and powerful nations, enjoying all the happiness life could give; because it was all they could know or enjoy. How do you find it now? Sadness, and misery, and despair, in man; waste and desolation over the plains. What has made this change, and sunk millions of happy beings into hordes of degraded slaves? The mariner's compass. Turn your eyes to Northern America, the scene is not more cheering, and the cause the same. Lift your prospect to the regions of India, once the unrivalled seat of costly magnificence and earthly power, but now groaning, expiring under the exactions of commercial avarice and the oppressions of military despotism. What did all this? The mariner's compass.

I pray the pardon of the Committee for this digression; it was truly my intention to hold myself closely to the subject of discussion, and to treat that only as a question of national law, although I was conscious that this dull course of argument would want those attractions of eloquence which have enriched the addresses of other gentlemen.

In the Fall of 1817, hostilities had broken out between the United States and the Seminole Indians, residing in Florida, and assumed appearances of danger and ferocity, requiring immediate and effectual suppression. On the 30th of November of that year, a boat, commanded by Lieutenant Scott, containing forty men, some women, and I believe some children, when ascending the Appalachicola river, was fired upon by a party of ambuscaded Indians, and the whole party killed, wounded, or taken prisoners. Previous to this occurrence, other murders and robberies had been perpetrated. It is said by General Gaines, in one of his talks, that the murderers and robbers had been demanded of the Indians, and refused; and that a council had been held by them at Mickasuky, at which war with the United States was determined upon. On the 15th December, 1817, our transports, passing up the river to reach our forts, were attacked from both shores, and placed in imminent danger. On the 9th of January, 1818, bodies of Indians, in the whole from eight to twelve hundred, were collecting on the Appalachicola, for the purpose of cutting off our supplies. From these facts it is obvious that war existed with as much formality and more activity than is usual with Indian hostilities. Such was the state of things in December, 1817, and the beginning of '18. In order to show that our Government was truly desirous to respect, even to an imaginary line, the sovereignty and neutrality of Spain, and ceased to do so only when circumstances made it necessary, and of course justifiable, it may be proper to look to the orders issued by the War Department on the 30th of October, 1817. In a letter of that date to General Gaines, he is told that the President approves of the march of the troops from Fort Montgomery to Fort Scott; that he flatters himself the appearance of this force will restrain the Indians, and induce them to make reparation for the murders they had committed. Should they, however, refuse to make reparation, "it is the wish of the President," says the Secretary, "that you should not, on that account, pass the 'line, and make an attack upon them within the 'limits of Florida, until you shall have received 'further instructions from this department." We see in these orders a scrupulous attention to the neutral rights of Spain, and a very discriminating observance of the laws of nations. The two objects to be attained, were the restraint of the hostilities and depredations of the Indians, and to induce them to make reparation for those committed. For the attainment of them the President relies on the appearance of the force of our troops; but, should he be disappointed in this hope, he directs that the line shall not be passed, because reparation is refused, without further orders from the department. Now, whether we might pass the line for the purpose of restraining hostilities, would depend upon the nature and necessity of the case; but it is most clear that we have no such right merely to obtain reparation for past injuries, or to chastise the enemy for refusing it. The line is, therefore, accurately drawn by the President, according to the rules of national law. He forbids the passage peremptorily for a cause not justified by that law; and, as to the other object, directs that he shall be consulted before so important a step is taken. On the 26th December, when the order issued to General Jackson, to take command of the army, our situation was no longer so secure as in October preceding. The enemy had greatly increased in number; they had taken positions fatal to our garrisons, by cutting off all supplies from them; they had destroyed a considerable party of men going to those forts; they had attacked our transports, and manifested a determination to press the war with all their power and all their cruelty. The change of circumstances required a corresponding change in the measures of defence. On the 9th of December, a letter is addressed from the Executive to General Gaines, for his government. Fowltown had now been attacked and destroyed by General Gaines. The President again expresses the hope that this correction will induce the Indians to abstain from further depredations, and sue for peace. He refers the General to the letters of 30th October and 2d December, as manifesting his views, and directs that he should conform to them. At the same time he says, "should the Indians assemble in force 'on the Spanish side of the line, and persevere 'in committing hostilities within the limits of 'the United States, you will, in that event, ex-

'ercise a sound discretion as to the propriety of 'crossing the line, for the purpose of attacking 'them and breaking up their towns." This order, if carefully attended to, will evince the same desire in our Executive, not to tread on Spanish ground, but under circumstances justified by law. It is not to be done because the Indians assemble in force on the Spanish side, unless, in addition to this, they persevere in committing hostilities within the limits of the United States. That is, if the Spanish side of the line is used as a position from which they make their attacks, and a refuge in which they shelter themselves from our attacks, from pursuit and defeat, then you, exercising a sound discretion, may pass the line. Under such circumstances, it, in fact, becomes a necessary measure of preservation, and may, indeed, be considered rather as a defensive than an offensive operation. So far it is clear, to my understanding, that all the orders issued from the War Department are strictly warranted by national law, and exhibit a proper and scrupulous regard for the rights of Spain. I find, however, in a letter to General Gaines, of the 16th December, that which, in my opinion, cannot be thus justified; and I am at loss to discover why the department abandoned the sure ground on which it stood, for that which seems to me to be absolutely indefensible. In this letter the General is instructed, "should the Seminole Indians still 'refuse to make reparation for their outrages and 'depredations on the citizens of the United States, 'it is the wish of the President that you consider 'yourself at liberty to march across the Florida 'line, and to attack them within its limits, should 'it be found necessary, unless they should shelter 'themselves under a Spanish fort. In the last 'event you will immediately notify this depart-'ment." I have already shown, and it is unquestionable, that the necessity which justifies the violent invasion of a neutral country, must be to prevent, to avoid, to be relieved from, an injury or danger of high moment, and not to revenge a wrong, however atrocious, or obtain redress for depredations, however destructive. This distinction, so obvious and so just, has been carefully marked by the President in all his previous orders. Why it was disregarded in this letter, I cannot say. On or about the 11th of March, 1818, General Jackson crossed the river, passed down on the east side, and arrived on the 16th at Fort Gadsden, which is within the Spanish line of Florida. Let us then shortly sum up the circumstances by which he must defend this measure, and compare them with the reasons Spain may justly urge against it; and, by a fair comparison between them, we shall be able to decide whether, by the law of nations, we stand justified or condemned for this intrusion upon neutral territory. We defend on these uncontradicted facts: that our enemy, in very considerable force, had assembled on or near the line separating the two countries, part of which line was a navigable river, the free passage of which was essential to our safety, as, without it, neither supplies, or provisions, or munitions of war, nor reinforcements of men, could be transported to our garrisons within our own territory, beset by the Indians, and in danger of falling into their hands, if deprived of this assistance. We defend on the obvious facility with which the enemy might make his destructive incursions into our country, and the impossibility of restraining him, if he is to find a shelter from pursuit and punishment the moment he repasses the line. We defend, in the third place, on the interminable nature of a war thus carried on with such an enemy; the enormous expense to the United States in this protracted hostility; the daily loss of valuable lives by disease and the sword; and the infinite loss and inconvenience of keeping our militia in the field, from their homes and business, when the means of terminating the conflict were so directly in their view, and so entirely in their power. Such is the necessity under which we claim the right to enter the Spanish territory, without thereby changing our pacific relations with that Power. What can Spain oppose to this to warrant her in refusing this passage to our troops, or in complaining of it as an hostile invasion of her rights? Positively nothing. No injury, no inconvenience did result, or could have resulted, to her from the act. Look at the situation of the country we entered; it was not a populous city, whose peace might be endangered and disturbed by the presence of an army; it was not through flourishing villages and cultivated farms we passed, where the property of the inhabitants might be pillaged or destroyed by the disorders of a large military force; but a mere waste and wilderness, on which the foot of civilized man had scarcely trod, in which the interest of the Spanish monarchy is but nominal, and of the existence of which the greater part of the Spanish people are utterly ignorant. Above all, and which perhaps is the first consideration in these cases, the permission of this passage, nor the taking of it, would not expose Spain to any danger from our enemy, or expose her to the danger of being brought into the war on account of it. I leave the crossing of the Spanish line on this justification, being well satisfied it is entirely consistent with the most rigid observance of neutral rights, as recognised and guarded by the laws of nations. I agree that permission should have been asked, if circumstances would have allowed; but the same necessity which justifies the measure, in this instance justifies the adoption of it without such request.

The occupation of St. Marks by the American troops followed the entrance into Florida, and is the next proceeding to be considered. It is admitted by our Government that stronger reasons must be found for taking possession of this fortress than for the mere entrance upon Spanish territory; that is, the necessity must be more urgent and powerful; still, however, it is but a stronger case under the same principle. The seizure of a post or fortress belonging to a neutral Power is so high and hazardous an interference with the rights of property as well as sovereignty, that it calls for a corresponding justification.

This is found in what Vattel calls *extreme necessity;* it must be indispensable for preservation from immediate destruction; this again is but the dictate of the common sense of mankind. The right of an individual in his house, is as perfect and inviolable as that of a nation in its forts; a man's house is emphatically called his castle, and as such protected by the law. But assuredly it would be no illegal violation of this sanctuary, if, pursued by an assassin, I should take refuge in my neighbor's dwelling; and forcibly too, if, under such circumstances he would refuse or prevent me. The necessity here required must be immediate and extreme. It is not enough that the position taken will be a convenient means of annoyance to the enemy; a prevention of future danger; or an effective instrument for offensive or defensive operations in the war. No prospective advantage or danger will satisfy the law. Self preservation; a deliverance from immediate, direct, and extreme peril, must be the end to be obtained by means so extreme. This is the principle; how does it apply to the occupation of St. Marks? Before I examine the facts in relation to this transaction, I beg leave to dispose of a justification set up for General Jackson, which I hold to be altogether untenable. It is said that Spain had by her treaty stipulated to restrain the Indians within her territory from hostile incursions into the United States; and that, not having done this, whether from inability or design, the right devolves upon us to enter the Spanish territory and do that for ourselves which she was bound, but has failed to do for us; and to take her forts in execution of this design. To this, I answer briefly, that, whatever cause of complaint this omission may have given to the United States against Spain; and whatever cause of war it might have afforded, if the complaint was not attended to and a satisfactory explanation given, yet it can give no authority to a military commander to commit an act of hostility, and involve his country in a war without its concurrence. It is for a higher and a safer power in our Government to judge when treaties have been broken, and what measures of redress should be resorted to against the delinquent. To invade the country of another, because a treaty has not been observed, is to punish for the delinquency; and, among nations, punishment can be inflicted only by war. Such an attempt cannot be made consistent with neutral relations; and we must always keep in mind, that, whatever the General has done, which is not consistent with these relations, which he had no right to change, he has done without authority. I may however use this failure on their part in support of the plea of necessity. It may be considered, in a degree, as both the cause and the evidence of the necessity. It is the cause, inasmuch as if Spain had performed her treaty stipulation and restrained her Indians, we should have no desire or necessity of entering her territory to prevent their hostile attacks upon us. It is the evidence, inasmuch as if the Indian force was really so formidable as to overpower the force of Spain, so that she was unable to restrain it on performance of her stipulation, it is not for her to say that the danger to us from this force was so inconsiderable and trifling as not to justify any strong measures on our part to guard against it. I come now to turn your attention to the facts and allegations relied upon for the capture of St. Marks. In General Jackson's letter of the 8th April, 1818, he tells us he left Fort Gadsden on the 26th March; that on the 1st April he was joined by McIntosh; and on the same day discovered a small party of Indians, which he dispersed; he continued the pursuit of them through the Mickasukey village, where he burnt three hundred houses. He then says, "as I had reason to believe a portion of the hostile Indians had fled to St Marks, I directed my march to that fortress." He afterwards found the Indians and negroes had demanded the surrender of that fort; and that the Spanish garrison was too weak to defend it; and adds, that there were circumstances reported, producing a strong conviction on his mind, that, if not instigated by the Spanish authority, the Indians had received the means of carrying on the war from that quarter; and that St. Marks was necessary as a depot to insure success to his operations. These considerations determined General Jackson to occupy the fort. We here see several reasons urged in justification of this measure, some of which are good and some bad. While, therefore, I admit the justification, I desire to state the ground on which I rest it, lest I might be supposed to adopt all the reasons given for it. In this case the principle on which we approve or disapprove is everything; as it is the principle, assumed and sanctioned by the House, which will govern future cases.

Three grounds are taken by the General; 1st, that the Spanish authorities in this quarter had instigated and supplied the enemy. If this fact were made out even stronger than it is by the evidence, I should not hold it to be a justification for the measure taken by the army, and, for the reason so often mentioned, that a capture on account would be a hostile capture; an act of war against Spain; would be inconsistent with our neutral relations with that Power. It was, doubtless, a just cause of the most serious and determined complaint by our Government against Spain; it would be a just cause of war if Spain refused all reasonable satisfaction for the outrage: but both the cause and the expediency of such a war was to be decided, not by a military commander of our army, but by the Representatives of the people, with whom alone this high and vital power is intrusted. Still less, if possible, is the General justified by the second consideration suggested by him in his defence; that St. Marks was a necessary depot to insure success in his operations against our enemy. I will not abuse the patience of the Committee by showing them that by no known law of nations, by no principle of common justice or common sense, can I take forcible possession of the property of another; can I violate his most sacred and essential rights, merely for my convenience, or to insure success

in a contest to which he is not a party, and in which he has no concern. Such a doctrine is monstrous, and subversive of the very foundations of public and private rights. What, then, remains for his justification? It is this—that a surrender of this fortress had been demanded by our enemy; that the neutral Power was confessedly too weak to resist the demand or prevent the execution of the menace with which it was accompanied, of taking forcible possession if refused. For the proof of this fact, I look not to dubious circumstances, or witnesses of doubtful credit. We have it in the unequivocal declarations of the Governor of Pensacola and the commandant of St. Marks. We have these declarations proved, not only by unexceptionable witnesses, but under the hand of the commandant in his letter of the 7th of April. When these officers of the Spanish authority were charged with giving aid and countenance and protection to our enemy, in violation both of the general and the treaty duties of Spain, they defend or excuse themselves by displaying the force and ferocity of the Indians; by their menaces to take possession of the fort, and the inability to prevent it. If these assertions are to make the apology, they must be taken to be true, and, if true, they may be used by both parties, they may serve to justify such proceedings on our part, as are fairly justified by them. This, then, being the case, what is the principle of national law that should govern it? I hold it to be entirely clear, that, when a fort, or any other means of warfare, will, with reasonable certainty, fall into the hands of one of the belligerents, and be by him used against the other, the party thus endangered may prevent the evil, on the rights of self-defence, by taking even forcibly, the instrument from the neutral; and that this is, in point of law, no hostile attack upon the neutral, nor right to be considered by him as an act of war, or a breach of his neutral relation. If arms, artillery, munitions of war, belonging to a neutral, were about to be taken by our enemy, can anybody doubt we might prevent this evil (if the neutral could not) by seizing them ourselves; making afterwards proper satisfaction to the neutral. I know, sir, that I here come directly upon a transaction which made much clamor in the world, particularly in this part of it, when it occurred—I mean the seizure of the Danish fleet, lying at Copenhagen, by the British. Taking the state of the fact to be as I have represented, I cannot doubt of the justification of the act. It is the common sense of mankind. Let me put a familiar case. Two men are engaged in one of these avenues in mutual strife; it is the contest of death. One of them perceives a stranger passing by who has no concern whatever in the quarrel; who is a neutral. But, this stranger has in his hand a drawn sword, which the combatant certainly knows will be taken and used against him by his antagonist, unless he prevents it by seizing the sword himself. He knows the neutral cannot prevent it, if he will. Will any man say, that, in this situation, he would not be justified in disregarding, for a moment, and in a point comparatively insignificant, the rights of the stranger and taking from him the weapon which he cannot retain and which in the hands of his adversary might be fatal to him? I agree, sir, that the belligerent using this violence takes a high responsibility upon himself, and is bound to make out his justification in the manner I have stated, with great certainty and by unequivocal evidence. On what principle but this can our Government justify itself for taking and still holding Amelia Island? It had fallen into the possession, not, indeed, of a regular force, and civilized enemy, but of a gang of brigands, pirates, and fugitives from justice. From its local situation our country was exceedingly exposed to the lawless depredations of these robbers. Spain, the rightful owner of the soil, was unable to break up the nest and expel the murderers from it, or prevent the injuries which they were able to inflict upon us by the use of the Spanish territory. Assuredly, then, the most obvious principles of self-defence authorized us to deprive the enemy of this means of annoying us; to take from them, not from Spain, a position of which she has been unjustly deprived, and which was so dangerous to us. It was no violation of the neutral rights of Spain; there was nothing in it of which she could reasonably complain. The occupation of St. Marks by General Jackson stands on the same principles; the admission and declarations of the Spanish authorities commanding in the fort. One part of this transaction I confess, is not sufficiently explained. It appears that the commandant and garrison were transported to Pensacola; but it does not clearly appear whether this was done by the orders of the General, or in compliance with their own wishes. It needs not a word to satisfy the Committee, that, when a belligerent does find himself under a necessity to appropriate to himself the rights and property of another, he must do it with all possible respect to those rights, and with as little inconvenience and injury as practicable to the neutral. He may not, therefore, in a case like the present, expel the neutral from his possession; he should hold out a joint occupation of the place, and hold it as inoffensively as the nature of his situation will allow. Upon this point, I do not find sufficient light in the testimony to justify or condemn the General. I shall trouble the Committee no longer with the seizure of St. Marks, having explained the grounds on which alone it appears to me it can be defended consistently with our neutral relations with Spain.

I propose next to consider the case of Pensacola. The capture of this place, with the fort of Barancas, must be tried and tested by the principles I have already submitted to the Committee. It must be defended either by showing it was necessary to preserve our army from some immediate, unjust, and extreme peril, or that there was such reasonable certainty as existed in the case of St. Marks, that, if not occupied by our troops, it would fall into the hands of our enemy, and by them be used as a means of annoyance against us. This brings us to a question of fact

to be decided by the evidence. On the 7th of April General Jackson took possession of St. Marks. On the 20th of April he writes that the destruction of Bowlegstown, with the possession of St. Marks, will end the Indian war for the present; and, should it be renewed, the position taken will enable a small party to put it down. He states he is informed a few Red Sticks at Pensacola point were fed and supplied by the Governor of Pensacola; that he will reconnoitre there, and then return home for his health. On the 26th of April, he writes that he will proceed directly to Nashville. "My presence in this country can be no longer necessary." He expressly declares, that the Indians are scattered; cut off; and that "they no longer have the power, if they had the will, of again annoying our frontier." In another letter, written on the 5th of May, he says, the resistance of the enemy had been feeble; that it had been a war of movements and partial rencontres; that the Red Sticks had been severely convinced; and the Seminoles were too weak in numbers to believe they could maintain a war against the United States. In this same letter of the 5th of May, he gives the first intimation of an intention to occupy Pensacola. It has been stated, he says, the Indians have free access into Pensacola; are kept advised of our movements; supplied with munitions of war, and are collecting in that city to the amount of four or five hundred; that inroads from thence are made into Alabama, and eighteen settlers had been killed. If this is correct, says the General, Pensacola must be occupied by the American troops; the Governor treated according to his deserts, or as policy may dictate. The General then gives his "confirmed opinion" that, as long as Spain has not the power or the will to enforce the treaties by which she is bound to restrain the Indians, our frontier can have no security without occupying a cordon of posts along the seashore. Such are the facts and reasons by which the General defends the violent and hostile seizure of Pensacola and Barancas, and his subsequent proceedings respecting them. In these facts and reasons we must find that necessity which alone, by the law of nations, can justify measures so extraordinary. It would be a waste of time to make a particular analysis of the evidence to show how utterly insufficient it is to the purpose.

The war at an end; the enemy dispersed, exterminated, and broken down; having no longer the power, if he should have the will, to annoy us; the commanding General returning home, because his presence can no longer be necessary; the position taken being fully adequate to put down the war, should the foe have the temerity to renew it; and yet, with all this mass of facts testified by the General himself, and this confidence of opinion expressed by himself, we are to be told of necessities; of dangers; of inroads and murders, which shall justify us in one of the most highhanded measures that one nation can take against another. No, sir, these were not the motives; it was not because a few miserable, defeated, starving Red Sticks were fed by the Governor of Pensacola; it could not be because the enemy was kept advised from them of the movements of our army, after the war was over and all movement but towards their homes had ceased; it was not because the Indians had, as they always had, a free access into Pensacola, that our General chose to wrest by military force this place from the hands of its owner, in violation of the laws of civilized nations; and, being an act of war, in violation of the Constitution of his country. It is not because Spain is not in a condition to insist upon her rights, or resent the violation of them, that the act is the more justified. The General did that which, in other circumstances, would have, rightfully on the part of the offended nation, involved us in a war; and it will hardly be said such a power, under our Constitution, is vested in any military commander. But, sir, the true motive of this bold step is exposed. The General has a confirmed opinion that, unless Spain performs her treaty with the United States, a cordon of posts along the seashore will be necessary; and he accordingly proceeds, without further consultation with his own Government, to occupy these posts. Here, then, we have a military officer undertaking to judge whether a treaty with a foreign Power has been broken, and without inquiring what reason or excuse that Power may have in explanation; without inquiring whether his own Government has been reasonably satisfied on the subject; without examining what course the policy and interests of his own country may dictate in such a case, he proceeds to apply, of his own will and authority, the remedy he deems most proper; that is, to wage immediate war on the other party; he takes into his hands the highest power the people can exercise themselves or grant to others—the power of putting the nation in jeopardy; of expending its blood and treasure, and involving it in the countless calamities of war. The people of the United States have intrusted this power only to their immediate representatives, and General Jackson has walked over our heads and the heads of the people in assuming it to himself. This must not be.

I ought not to pass by another circumstance that has been vehemently urged in defence of the General. I mean the letter, or protest, of the Governor of Pensacola, on the approach of the General to that place. It has been called insolent, and menacing, and hostile; fully justifying any violence that might be resorted to, to resent it. Upon the receipt of this, the General says he hesitated no longer; as if he would really have us understand he had not ceased to hesitate long before, and firmly determined on his course. This protest, which the General introduces as determining him to take Pensacola, is dated on the 23d of May; and we must not forget that, on the 5th of May, the General had explicitly declared, that "Pensacola must be occupied by an American force, and the Governor treated according to his deserts, or as policy may dictate," and that he had actually marched for Pensacola to execute this purpose. But, what is this offensive, men-

acing, hostile protest, which excited so much indignation, and produced a resolution of such extreme delicacy, both in relation to the Spanish authority and our own? General Jackson had, with his troops, passed the frontier of Florida, then under the government of this Governor of Pensacola, who had been placed there by his Sovereign to guard and protect it; a trust for which he was responsible to his master. The Governor protests against the procedure, as an offence towards his Sovereign. He exhorts and requires the General to return, and says, if he does not, and continues his aggressions, he will repel force by force. The continuance of aggressions alluded to, was doubtless the seizure of the posts under the command of the Governor, which the General had resolved to take, and did take on the next day. What is there in this protest but that etiquette which every soldier is bound to follow before he surrenders a military post intrusted to him? It is a formula perfectly understood by everybody. It is the mere saving the honor of a soldier. If fifty thousand men were to sit down before a redoubt, defended by a sergeant's guard, the same thing would probably be done. If a schooner, with ten guns, were to meet an enemy's frigate, the commander would feel bound to fire his gun before he struck his flag. Did General Jackson not understand this protest exactly in this way? Did he really believe the Governor of Pensacola was about to attack him, and repel force by force, and drive him out of Florida? Not one word of it. How is this pretended apprehension consistent with another part of his narrative? He takes St. Marks because the whole Spanish authority in Florida cannot keep it from a few naked savages; and yet he affects to take Pensacola from a dread of the Spanish force, of being driven by it out of Florida.

The weakness of Spain is the pretext for the seizure of one of her fortresses, and her menaces for the other. Indeed, the General expressly declares that he entered Pensacola with only the "show of resistance;" alluding certainly to this protest, as we hear of no other show of resistance. The victorious General is now in full possession of Pensacola and the Fort of Barancas; and puts it beyond the power of cavil or doubt to question the motives or views which led him to the act. They are no longer equivocal; and to call it any longer anything but a hostile capture—a decided and violent act of war against the Spanish authority—or pretend that it can consist with neutral relations, or was resorted to as a means of self-defence only, would be an abuse of language, and a disregard of the most unequivocal evidence. We have all the circumstance and parade of conquest; terms of capitulation are in full form proposed, modified, and acceded to; a suspension of hostilities allowed, until the articles of surrender could be agreed on; the Spanish prisoners marched out and transported to Havana; the rights of religion guarantied to the inhabitants; and, in short, a more complete and formal surrender of an enemy's fort never had been, and never can be, made in any case. If any man can yet be disposed to believe that General Jackson took possession of these places merely on the principles of self-defence and temporary security, let him account, on these principles, for the regular organization of a government; for suggesting and setting on foot plans for the defence of the country; additions and improvements for those already existing; and exercising every act of ownership and right that the President of the United States could in our acknowledged territory. Or let him look at the General's letter to the Secretary of War, dated on the 2d June, 1818; he there speaks of the terms he has given the garrison as "more favorable than a conquered enemy would have merited." He says that "the articles, with but 'one condition, amount to a complete cession to 'the United States, of the portion of Florida hith-'erto under the government of Don Jose Mazot." In another part of his letter he recommends the erection of certain works, as necessary "to give permanent security to this important territorial acquisition to our Republic." We hear no more of a mere cordon of posts along the seashore, for the purposes of defence and protection against the savages; but the presumption of power, and the schemes of ambition develope themselves at large. The question, then, of the General's justification for the capture of these posts, resolves itself into the question of his right to make war of his own power and authority, which never can be a question here, while we regard our Constitution as the rule of conduct for ourselves and for General Jackson. It is not like the case of a fort actually firing upon an army in time of battle; it is not like the case of a neutral ship mingled with the fleet of our enemy, and combatting with them against us; no one would require that, in this situation, she should be distinguished from the enemy. The conduct and situation of these fortresses have no analogy to such instances. They are more like the case of capturing a neutral armed ship a month or two after an engagement, on information that she had, some time before, held some intercourse with, or given some sort of aid to the enemy.

The cases of Arbuthnot and Ambrister only remain for consideration. Although these men suffered one common fate, they were under very different circumstances, and must be considered separately. Ambrister was taken in the field, associated with the enemy in a manner to preclude all possibility of distinguishing him from the enemy, either during the battle, such as it was, or in his claim upon humanity after he became a prisoner. He plead guilty to the second charge preferred against him, which is, "Leading and commanding the Lower Creeks in carrying on war against the United States." If, therefore, General Jackson might have exercised the severity of death upon an Indian in the like situation, and if the same right extends to every man found in the Indian ranks, it is clear Ambrister had forfeited his life, and had no claim but upon the humanity of the General. As to Arbuthnot, he was not taken with the Indians, and

was not charged with having joined them in battle. He was taken in the fortress of St. Marks, then commanded by a Spanish officer, and under a Spanish flag. The first inquiry that presents itself is, whether this flag ought to have been any protection to him. I incline to think not. The privilege of the flag is the privilege of the nation to which it belongs; and, if it be violated in any way, the right of complaint belongs to that nation. It does not necessarily attach any rights or privileges to any person who may place himself under it, perhaps of his own motion, without the promise of protection. If Spain, therefore, did not, and has not considered herself offended, by executing a man not of her country, taken under her flag, it is not for a party she chooses to abandon, and who had no claim upon her to do otherwise, to set her rights up in his defence. He acquired no personal rights—none belonging to himself—by retreating to the Spanish fort; and if Spain refuses, as she might rightfully do, to afford the use and protection of her rights, he cannot complain. The charges against Arbuthnot were, generally, stirring up and exciting the Indians to war against the United States. Before I examine the proceedings and issue upon these charges, I would premise, as a governing principle under which I shall judge them, that General Jackson has a right to the full benefit of his own conclusions from the testimony; and we may not condemn him because we should have drawn different conclusions. If he would be justified in what he has done, provided the evidence prove the charges, or, in other words, provided his inferences from the evidence were sound and rational, then is he, at least judicially, justified, although we should not think so of the evidence. We do not sit to pass on the correctness of his reasoning, but on the extent of his rights. A judge in a civil court cannot be impeached for an erroneous judgment on the evidence adduced to him, but he may if he has transcended his powers, in violation of the Constitution and the law, granting his conclusions from the evidence of the case to have been just.

Much has been said, in the course of this debate, about the nature of the court convened for the trial of these men. It has been called a court of inquiry, to ascertain facts, and denied to be a court martial. I pretend to no knowledge myself of these military tribunals, but I presume I may safely rely on the knowledge of General Jackson on this subject. It seems to be clear—beyond question—that it was a court martial, and was so considered by the General who ordered it, and the officers who sat upon it. It is called a court martial again and again; the powers it possessed and exercised, and the whole course of proceeding, distinctly show it to be such. The general order by which it is convened, declares it to be for the purpose of investigating the charges exhibited. "The court is directed to record the 'documents and testimony in the several cases, 'and their opinion as to the guilt or innocence of 'the prisoner, and what punishment, if any, should 'be inflicted." Here are the full powers of a court to try, acquit, or condemn, and punish. What is a court martial if this is not? How can it be called a mere board to collect and report evidence to the commanding General, that he might decide whether these white men had identified themselves with the savage enemy; that the General might thereupon treat them as savages? No such discretion is given to the court; no such limitation put to their powers. Further, the General approves of the sentence of the court in the case of Arbuthnot, and of the finding and first sentence in the case of Ambrister, and disapproves of the reconsideration of the sentence of the court in this case. Now, whoever heard of a sentence, and a sentence of death, too, by a court of inquiry, not authorized to try the prisoner, but merely to report the evidence of his case? If such was the understanding of the General, why did he thus formally disapprove of an invalid sentence? Why did he not at once say to the court, gentlemen, you have mistaken your powers altogether; I did not appoint you to try this man, or prescribe his sentence, but merely to collect testimony for my consideration and decision? It is idle to treat this as anything but a court martial, with all the powers and forms of proceeding of such a court. If it were not so, under what sentence did Arbuthnot suffer; for, to this hour, no sentence but that of this court has ever been passed upon? Before I leave this court martial I must be permitted to say, that its whole course of proceeding was the most solemn mockery of all the principles of justice; the most daring outrage upon all the guards of liberty and life, that have ever come to my knowledge. Two lives have been sacrificed, on evidence that would not have been listened to in the most petty court of our country, trying the veriest wretch in our community, on the most petty accusation; and yet we are told the rules of evidence are the same in courts martial as in other courts. God deliver us from the learning and justice of military judges!

Assuming, for the argument, that the charges against Arbuthnot were clearly proved, as those against Ambrister were unequivocally confessed, the question arises, on what principle of recognised law did General Jackson take upon himself to put them to death? I believe it to be an undoubted principle of national law, that when we war with a people who disregard the rules and restrictions of civilized warfare, we are not bound to extend to them the benefits of these restrictions. I am not altogether satisfied that this stands on the principles of retaliation. This is more confined in its operation, and would justify only a pretty precise balance of cruelties, to be retaliated in kind and degree. "An eye for an eye, and a tooth for a tooth," says the law of retaliation. I am rather inclined to consider it thus: If men, in a state of nature, should war with each other, I presume there would be no other restriction upon the violence and suffering they might inflict upon each other, than the will and pleasure of the most powerful.

When man became civilized, and nations began

to hold intercourse with each other, it became beneficial to all; it became at once necessary to enter into certain compacts, both for their friendly and their hostile relations. Hence the rules of war, binding upon all alike, and which no nation, valuing its character or its safety, will dare to disregard. But they are, of course, binding only on those who are parties to the compact, and submit to be bound by these restraints. A savage people, therefore, who refuse to submit themselves to such restrictions, who are not, and will not be parties to this compact, can have no right to claim its benefits and immunities; but must consent to stand at the mercy of the conqueror, while they continue to hold the vanquished enemy at theirs. On this principle, I consider that General Jackson, as the commander of our army, in whose discretion the exercise of this right of war must necessarily be vested, had the lawful power to deal such severity to our Indian enemy as he should deem expedient. It is equally clear that any person found with the enemy, and in their service against us, cannot, in this respect, be distinguished from his associates, but, embarking in their fortunes, must submit to share their fate. He cannot be an Indian in the enemy's camp, and a civilized man in ours; a savage in the battle, and not so when a prisoner. Has Arbuthnot any defence on the ground that he never was in battle; that he never did take arms against the United States? I think not. He has forfeited his civilized rights by associating with the barbarous enemy; by his identifying himself with them, and becoming a part of them. The manner in which he connects himself with their hostile operations must be immaterial; whether by taking the tomahawk himself, or exciting others to do it—whether by counsel in the cabinet or arms in the field—he is equally a party, an efficient party, in the war. Suppose an Indian were to say, I have not been in battle, although it is true, I have urged and excited my countrymen to the war, could he then claim to be distinguished from his countrymen? Assuredly not. With these views and opinions, I am bound to say, with no pleasure in the result, that I consider General Jackson, as commander of our armies, had the right to put these prisoners to death. Am I, however, asked, whether I approve of the exercise of this right under all the circumstances of the case? I say no, no. It was unnecessary. It has left a stain on the humanity of General Jackson, which "all the waters of the sweet Heaven cannot wash out." It was unnecessary; it was sanguinary; it was vindictive. When, sir, the fever of resentment shall have subsided in the breast of the General, and the exultation of conquest passed away, as in a short time it will, and he shall look back upon this transaction with the feelings of a man, stripped of the pride of a conqueror, this deed of bloody justice will weigh heavy on his heart, and embitter his days. I would not endure the remorse that is in store for him for all his laurels and all his eulogiums.

I should not pass over two objections that have given us much difficulty on this part of the case. The honorable Speaker has urged with great force that, whatever may be the rule found in books on national law, respecting the severity with which you may treat a barbarous enemy yet that, in relation to our wars with our Indians, a long custom and usage has established a law for ourselves, from which General Jackson had no right to depart; that we have never executed this law of retaliation upon them, or considered our commanders at liberty to put their prisoners to death. There is much strength in the argument, and it produced a pause in my mind. I gave it much consideration, and relieved myself from it in this way: In the first place, I am not sure the honorable Speaker is correct in the fact. It rather seems to me that a recurrence to the early contests between our countrymen and the Indians will show that much cruelty was exercised on both sides, and with pretty equal ferocity. Villages were sacked and burnt; the inhabitants, of whatever age or sex, sometimes massacred, and no attention paid on either side to the restraints of civilized war. The settlers in New England had no small share of this sort of conflict, and the first colonists in the South made their way by fire and the sword. Again, if there has been a suspension of their cruelties, and an endeavor by milder means to induce this untamed foe to subdue his ferocity, it does not seem to me that we have thereby relinquished the right to meet him in his own way, when we shall find it necessary. The other difficulty alluded to is this: Supposing the General to have had the right, by his authority as commander of our army, actually engaged in war, to put these prisoners to death; did he not, by the appointment of this court to try them and prescribe their punishment, part with his paramount authority, and transfer it irrevocably to the court? Upon the best reflection I have been able to give this serious question, I think he did not. I do not see that he could divest himself of this authority, or transfer it to another; he could not bind himself not to resume and exercise it. Especially, if it be true, that this court, really, as a court martial, had no jurisdiction over the offences charged against the prisoners. It is, therefore, of course, that as this tribunal could not receive this power from the General, it could not deprive him of it. I will not, however, conceal the opinion that this parade of a court, whose opinion he did not mean to regard, unless it coincided with his own, is a high aggravation of the cruel spirit which seems to have governed him throughout the whole proceedings. I have now, Mr. Chairman, laid before the Committee my views of this complicated and interesting affair. I beg to call their attention, for a few minutes, to the resolutions offered to the House in relation to it, and will then trouble them no further.

We must not, it is said, pass any resolution which may imply a censure on the conduct of this campaign, because it will be throwing our weight on the side of Spain in the negotiation now pending with her, which has arisen out of it. Why, sir, I know of no such negotiation;

I presume there is none such. It is true we have seen a letter from the Spanish Minister, Pizarro, in which he complains loudly of our invasions of the rights of his master, and declares that all negotiations between us must be suspended until proper reparation is made. But, as I have good reasons to believe, and gentlemen who doubt may easily satisfy themselves, that our negotiations with the Spanish Minister are resumed, I conclude that the orders and explanation given by our Executive in relation to the captured posts have been received as satisfactory, and, of course, we need not be apprehensive of throwing this preponderating weight into the scale of our opponent. Permit me, sir, to express my regret and decided disapprobation of the terms of reproach and contempt in which this nation has been spoken of on this floor; "poor, degraded Spain" has resounded from various parts of the House. Is it becoming, sir, the dignity of a representative of the American people to utter from his high station invectives against a nation with whom we cultivate and maintain the most friendly relations? Is it discreet, sir, in any individual, however enlightened, to venture upon a denunciation of a whole people? In this poor, degraded Spain, it must be remembered, there is a vast mass of learning, and genius, and virtue too; and a gentleman who passes it all under his condemnation and contempt, hardly considers what a task he has undertaken. No people has suffered more than ourselves by these exterminating, sweeping judgments. Let us not be guilty of the same injustice to others. When I see one of these scribbling travellers, an insignificant atom, gravely take upon himself to put down the character of my own country, I turn from him with disgust and derision. Let us be equally just to others. This, at least, is not the place for the indulgence of national prejudices or resentments. A regard for ourselves forbids it. May I add, sir, that, in reference to the weakness of Spain, we should characterize her, perhaps more justly, certainly more liberally, by saying *exhausted*, rather than *degraded*, Spain. Yes, sir, exhausted in a contest for existence, with a tremendous Power, under which every other nation of Europe, save one, sunk and fell. She bore herself through with inflexible perseverance; and, if she come out of the conflict enfeebled and exhausted, it is no cause of reproach or contempt. We talk of a war with Spain as a matter of amusement. I do not desire to partake of it. It will not be found a very comfortable war, not from her power to do us much harm, but from the impossibility of gaining anything by it, or of wearing out her patience or subduing her fortitude. The history of every Spanish war is a history of immoveable obstinacy, that seems to be confirmed and hardened by misfortune and trial. In her frequent contests with England, the latter, after all her victories, has been the first to desire peace. Let gentlemen not deceive themselves about the pleasantry of a Spanish war. May they not, sir, have some respect for the past character of this nation? The time has been when a Spanish knight was the type of everything that was chivalrous in valor, generous in honor, and pure in patriotism. A century has hardly gone by since the Spanish infantry was the terror of Europe and the pride of soldiers. But those days of her glory are past. Where, now, is that invincible courage; that noble devotion to honor; that exalted love of country? Let me tell you, in a voice of warning. They are buried in the mines of Mexico, and the mountains of Peru. Beware, my countrymen! look not with so eager an eye to these fatal possessions, which will also be the grave of your strength and virtue, should you be so unfortunate as to obtain them.

To return to the resolutions. We have been told, in the most impassioned manner, of the dreadful effect they will have upon the fame, the feelings, and the life of General Jackson. We are asked, with all the vehemence of despair, will you cover this hero, the pride and glory of his country, with infamy, and bring his gray hairs down to the grave. For myself, I answer, I have no such intention or desire; nor can I imagine how such consequences can be found in a set of resolutions which do not mention the name of General Jackson. Let the laurel with which his country has crowned him, flourish in immortal youth; I would not wither a leaf of it; but if I should see a serpent entwined in its branches, I would pluck it out and cast it in the fire. The first resolution proposes that a bill shall be reported prohibiting, in time of peace or war with the Indians, the execution of any captive without the approbation of the President of the United States. Does any gentleman doubt that this ought to be the law of the land? Why should this point, so important to the character and humanity of the country, be left unsettled any longer? This debate has shown a diversity of opinion upon it. For the future let it not exist; but let the rule be certain and authoritative, that future commanders may have some better guide for their conduct than their own discretion, caprice, or passions. If General Jackson had had such a guide, he would not have erred; if the will of his country had been declared by an act of its Legislature, he would not have disobeyed it. The second resolution disapproves of the seizure of St. Marks, Pensacola, and Barancas. I have expressed my opinion upon these points; and if St. Marks is expunged shall, of course, vote for the resolution. I have also declared my approbation of the principle contained in the third resolution, prohibiting the march of an army into a foreign territory, without the authorization of Congress, unless in the case excepted. As to the resolution reported by the Military Committee, if it related merely to the trial of Arbuthnot and Ambrister, I should heartily concur with it, but, as it condemns their execution also, I cannot give it my vote while it goes thus far.

I owe the Committee my sincere thanks for their patience and attention, through this long, and often tedious, discussion. My desire has

been only to contribute my mite to elucidate the important inquiries submitted to us; and I hope the endeavor has not been altogether in vain.

Mr. ANDERSON, of Kentucky, said that he concurred with those gentlemen who considered the questions involved in the resolutions as intrinsically of the first magnitude, and fully meriting the free discussion which they had received; but, he said, it was true that the House of Representatives could give importance to any question. Such was the character and station which this House, under the Constitution, must always hold before the people, that every subject which excites interest and feeling here, will command the attention of the nation. In giving his opinions on the questions, he should only be anxious to give expression to those sentiments which he held, without stopping a moment to inquire whether they were consistent with those of gentlemen who voted with him. In examining the military transactions which gave rise to the debate, he acknowledged that he had felt an anxiety to find that the American officer was in the right; but the first consideration with him was, that in giving his opinions and his vote, he himself should be exactly right. On great political questions, it has been sometimes thought admissible to act from partisan feelings,—to express only those opinions which were sanctioned by party, and would conduce to success in the great end desired —but, in a case where the character of a high officer was involved, where our conduct should partake of judicial sacredness, it would disgrace a statesman to withhold any opinion because it differed from that of those with whom he voted.

Mr. A. said that he should discard from his consideration two questions which had been introduced and discussed with great feeling—the justice and the constitutionality of the war. He would not unqualifiedly say that no circumstances should ever induce him to discuss in this House the justice of a war in which his country was once engaged, but he would distinctly say that nothing in this case should impel him to do it. That question was not presented by the resolutions; nor was the Constitutional right of the President to order the American army to pass into Florida now before us. This last was certainly a fair subject of debate in Congress, but the resolutions do not present the point; they presuppose the existence of the war, and select for consideration transactions which occurred in the course of its prosecution. The gentleman who introduced them either assented to the proposition that the war was constitutionally made, or intentionally avoided presenting that point. The careful manner in which some prominent points are selected for crimination, authorize the inference that a debate was not solicited on the other subjects.

Mr. A. said he should now proceed to the examination of the resolutions, and condense his observations, as far as it was consistent with a clear statement of his opinion. The order which he should pursue was not the strict order of chronology, but was the one in which the subject had first struck his attention, and the one in which gentlemen who preceded him had considered it. The execution of the two Indian chiefs, by order of the American officer, should be first considered, as it was the simplest case. In its examination, he would only apply those doctrines of the laws of nations which were acknowledged by all, and not drag to his aid any principle of law which should of itself require any argument to support it. He justified their execution on the ground of *retaliation*. The principle of the public law which is here applicable declares that "we may refuse to spare the life of an enemy 'who has surrendered, when the enemy has been 'guilty of some enormous breach of the laws of 'nations, and particularly when he has violated 'the laws of war." This, too, is a rule of national law necessary for self-defence. The most flagrant breach of the laws of civilized warfare, and the one which comes the most completely within the scope of this principle, is the refusal of life to a prisoner. And if the Seminole Indians, in the course of the war, have disregarded humanity so far as to refuse quarter to the captured, this fact, connected with the undisputed law on the subject, seems to settle the question. He wished it distinctly understood, that he did not consider the usual massacre of prisoners by the savages, or North American Indians generally, as affording ground for the justification, not even if committed by the Seminoles themselves in former wars. He admitted, that, to furnish a foundation for the application of this principle, this disregard of the rights of humanity must be shown by the present enemy in the present war. This precision was necessary to dissipate some of the confusion which had been thrown over the subject by the indefiniteness of terms, and to show distinctly the true ground. The only fact then necessary to bring this case within the operation of the law was the existence of these massacres or refusals to give quarter on the part of the enemy. This fact is unfortunately too plain; no gentleman has denied it. He would not read the proofs—not even mention the cases by name—as the documents were in the hands of all. They show that the ferocious cruelties of the enemy were not restricted to men; that women and children were also the victims of their savage natures. So far then as it regards the Indian chiefs who were hanged, the case on the law and the facts is plain, unless there exist reasons for considering the American savages as released from the operation of those laws of war which embrace all other nations. This position has been laid down and eloquently urged by my colleague, (the Speaker;) and if he has succeeded, then indeed my ground of justification falls. He says that we, by uniformly abstaining since the first settlement of the colonies from exercising the right of retaliation on the aborigines of the country, have created a law for our own government which we cannot now annul; that by our own conduct we have created an usage which is now our law of war with Indian

enemies. A gentleman from Pennsylvania (Mr. Hopkinson) has endeavored to evade the force of this doctrine by a denial of the facts, and has gone into a consideration of the occurrences of former wars, to show that we had not so invariably abstained as to have formed an obligatory usage. Mr. A. said he would not consider the facts; they were perfectly immaterial. He hoped they did not exist, as he utterly denied the position of the Speaker, and believed that it was wholly wrong. The mistake has resulted from the idea that the right of one nation to retaliate on the prisoners of its enemy, for a refusal by that enemy to spare the lives of those captured by them, arises from the law of nations. Although the laws of nations recognise it, still this right existed prior to all those laws or compacts which bear that name. It is a right which every nation has to coerce its enemy to humanity—a right partaking strongly of the right of self-defence. It existed in the first war which was ever waged. It surely requires no compact among nations to give to one the right to enforce an observance of the claims of humanity upon its enemy by retaliation. The laws of civilized warfare declare that you shall not deprive a prisoner of life, when a corresponding humanity is shown by your adversaries. Then the Seminoles in this war not having regarded this law, they present a case in which the law of nations does not interpose—they claim no shelter from it—and of course its injunction in this respect does not operate on us. But the fallacy of the position contended for may be shown by apt illustrations. If from humanity or negligence you have failed to inflict on a robber the punishment which the law awards for any succession of times, is your right lost to inflict the punishment for a new offence? If death is awarded for an offence where our feelings tell us that it is too severe, and the offender is acquitted by the jury of his country, or is pardoned by the Supreme Executive, have we then lost the power, when forbearance has failed of its design, in a new case to execute the law? But under the doctrine which has been urged we would by our own acquiescence have deprived ourselves of all power to punish such offenders; we would have abrogated the law which secured us against robbery and plunder, because our negligence or fine feelings had induced us to abstain from its execution. The municipal laws of most countries declare that the power of legal punishment in an individual case is lost after a limited number of years; but it never was contended, until in this debate, that the refusal of our ancestors and ourselves to retaliate for Indian barbarities for any number of years annulled the right in the case of a new injury. It cannot be that when humanity has failed of its effect—when civilization and Christianity can disarm the enemy of none of his ferocity—that we have lost the right, which we might in every case have exercised, of coercing him to spare the life of his captive, by showing to him the perils of his own. In our wars with the Indians, every mode of infusing into them a regard for human life has been tried in vain. He acknowledged that retaliation was terrible, but it was this only which made it availing: it would avail against an Indian only because it was terrible.

But a farther examination of the consequences of this doctrine shows that it is too mischievous to be true. If it be true, then, in every future war with these enemies, we enter into it, under the certainty that they will exercise the practice of destroying their prisoners, and with the distressing knowledge that we have no longer the power of preventing it; that the only mode of prevention, which could strike the senses or the fears of an Indian, is lost. Is it possible that any nation can live, surrounded by others, with whom this inequality exists? An inequality produced by the practice of humanity on our side, and ferocity on theirs; an inequality which declares that, in the field of battle only, can you deprive your foe of life, while the enemy can wage extermination on the captive, on women and children. But, if we have created by usage this law for ourselves, then, the result must be, that our acquiescence has made law for them; that these massacres, once thought so lawless, are now sanctioned by usage and impunity. But it is indifferent to the savage, what character you give these acts, if you have deprived yourself of all power of compelling him to abstain from them. To this part of the subject he should not have given so much attention, if the opinion which he had here combatted had not been urged by the Speaker, with a confidence which demanded an answer.

An uncontested and well-known rule of the laws of nations, Mr. A. said, placed Ambrister in the same situation with the Indians. The words admit of no ambiguity. "It is true, that 'every associate of my enemy, is himself my enemy. It is of little consequence whether any 'one makes war on me directly, and in his own 'name, or under the auspices of another; whatever rights war gives me against my principal 'enemy, it gives me against all his associates." This man, having been found in the ranks of the enemy, and having, indeed, fully admitted his association, comes completely within the rule, and partakes of all the liabilities of his principals. No reasoning could make this case plainer, and he would not detain the Committee, but leave it where the law, combined with the fact, so clearly placed it.

The situation of Arbuthnot is different in one point; he was not found in the ranks of the enemy, but in a neutral fort. Most of the gentlemen who have supported the resolutions, admit that he had been previously an associate in the war, but contend that, as at the time of his capture he was a non-combatant, the analogy between his case and that of the Englishman is destroyed. The reason of the case certainly will not bear them out, and they have not produced any authority on the subject. It cannot be contended that if the General of the enemy was taken in a farm-house, either on his route from one wing of the army to the other, or on a journey to his family, that he

would not be a prisoner of war, although he might be entirely alone, and even destitute of arms. If Tecumseh, in the latter part of the war, had been captured in Canada, engaged in the work of a country laborer, would that fact alone have deprived him of his war character, and released him from its penalties? The true distinction is this: when an officer has resigned, or a soldier has been discharged, or either has in so effectual a way seceded, as to be no longer a member of the enemy's armament, then the military character ceases, and not before. No temporary absence will produce the end contended for; it must be an absence attended with circumstances clearly showing a permanent secession. Frequently the most effectual aid is given, by a partisan, who is absent, and who is physically a non-combatant, by advice and other modes of co-operation. In this case, where the previous association must be conceded, there are no circumstances which indicate a separation from the enemy. As far as any evidence arises from his situation in the fort, to which the enemy had constant access, it is altogether against him. There is a fact connected with this subject, which deserves consideration. Among civilized nations, only a small portion of the community is attached to the army, and of course the rules of war apply only to those who constitute it; the peasantry of the country is not subject to any of the penalties of the soldier; but among the Indians, there is no such distinction; among them none exists, except that which is produced by age and sex. Every man is a warrior. Every one, whom you take, is a prisoner, whether he be in arms or at rest. There is no military enrolment among them; if he belongs to the nation, he belongs to the army. This is certainly true, and is founded on habits invariably preserved by the Indians. Among us, and all European nations, that portion of the community engaged in husbandry, or in raising food for the army, is secured from the rules of war; but among the Indians, all the men fight, and the food is raised by the women, and, of course, this security from war is confined to them. If an Indian chief, found in the situation of Arbuthnot, would have been a prisoner of war, surely he was.

It has been contended that, if the execution of these men was justifiable, on the principles of retaliation, as General Jackson had not assigned that as the ground of his conduct, it could not avail him; but, surely, if any reason exists, he is entitled to the benefit of it. We form the tribunal which are about to pass sentence on his official conduct, and would it not partake of extreme harshness, if, while we justified the act, we still denied to him the benefit of those reasons which we admit are amply sufficient? The sole question is, not whether we concur with the officer in his reasons, but whether he had authority for his act. If we concede the authority, he is beyond our reach. If he possessed it, he might fail or refuse to exercise it, but he could neither destroy or impair it by any reasons, however false or frivolous. It would be extraordinary, indeed, if hose who justify the act should pass a vote of censure on the officer, because they differed with him in the reasons, by which they arrived at the same conclusion. This would, indeed, make form supersede substance.

If a reference to judicial proceedings, in civil cases, was admissible, it would be recollected that the correct decision of an inferior court is always affirmed; the appellate tribunal leaves a legal judgment untouched, however improper or illegal may have been the reasons on which it was founded. Would you, Mr. Chairman, refuse the thanks of this nation to an officer who had won a brilliant victory, by a right movement on unmilitary reasons? Would you reverse the vote which passed at a former session, giving the thanks of Congress to the victors at New Orleans, if it were now ascertained that the battle was won upon grounds which would be wholly disapproved by Steuben or Marshal Saxe? Can you, then, in this case, censure General Jackson for doing that, for which he had authority and law, but for finding his reasons on the left instead of the right hand page of Vattel?

It has been farther urged by the Speaker, that retaliation is not justifiable where the end cannot be gained; that it is unavailing towards an Indian, because captivity so far degrades him in his own estimation, that death has ceased to have its terrors. But this opinion was entirely speculative, and experience does not support it. Life may not have equal attractions for all; and it is probable that all prisoners, whether white or savage, have, from their forlorn and friendless situation, fewer inducements to adhere to life, than when they were cheered by freedom and their friends: but it cannot be true that an Indian captive has lost all inclination for life. Does he not make every exertion to release himself from captivity, which the civilized man does? Will he not, unremittingly, seek his safety, by craft or by flight? It is believed that he would not only value his life in the same way, and fly from captivity, but, with all his former courage, fight again the battles of his country. Weatherford, the Creek chief, gives an illustrious evidence that a captured Indian is not so degraded as to lose all love for life. He was once the prisoner of Jackson: he was voluntarily released by Jackson; he is now the prince of his nation, possessed of all the influence which his high talents ever gave him, and all the feelings and ferocity which belong to an Indian chief. Imprisonment did not so abase him as to deprive retaliation of its end, if policy had declared the leader of the massacre of Fort Mimms a fit victim. He is in full possession of all the qualities for which he has ever been distinguished; and, if report be true, he has acquired some others, which have been thought peculiar to civilized man; it is said that he thirsts for lucre, as well as for blood and fame. A resolution is now before us, which will probably grow into a law, for the purchase of his land in Alabama, at a sum not less than fifty thousand dollars.

There is still one part of this subject which requires consideration. It is that which involves the power of the General to carry retaliation into

effect without referring the case to the President or to Congress. No question arising out of the perplexing series of transactions which have occurred in this war, has been less susceptible of a solution perfectly satisfactory than this. Mr. A. said that the conclusion, to which his mind had come, was rather the result of the preponderance of reasons and conveniences, than a clear conviction of the truth. In Europe this power is exercised universally by the commanders of every army; there, the present difficulty could not arise. Mr. A. said he frankly admitted that the spirit of our institutions was so different, the subjection of the military to the civil authority was so fondly cherished, that European practice could not constitute law here. An examination of the journals of the Old Congress, however, clearly show, that they considered this power as vested in the commanding officer. On the 8th of November, 1782, Congress came to this resolution:

"To prevent any misconstruction which may arise from the resolution directing Captain Huddy to be set at liberty, it is hereby declared, that the commander-in-chief, or the commander of a separate army, is, in virtue of the powers vested in him, fully authorized and empowered, whenever the enemy shall commit any act of cruelty or violence contrary to the laws of war, to demand adequate satisfaction for the same; and, in case such satisfaction shall not be given in a reasonable or limited time, or shall be refused, or evaded under any pretence whatever, to cause suitable retaliation to be forthwith made."

In a war with the Indians, who receive no heralds, and respect no flags, and with whom the massacre of prisoners is not an exception from their usual conduct, but the general practice itself, it cannot be required of General Jackson that he should have been guilty of the folly of sending to the Indians any individual of his army to demand satisfaction for that which was the common custom of the nation. The idea expressed in this resolution is contained in one passed in relation to the execution of Colonel Hayne, an American officer, although it is not conveyed in language so distinct: *Resolved*, That 'the conduct of Major General Greene, in taking 'necessary measures of retaliation, be, and hereby 'is, approved." These resolutions clearly convey the opinion of the Old Congress, that the commanding officers of separate armies possessed this contested power by virtue of their commissions. Circumstances may be easily supposed, in which the utility of retaliation would be entirely lost, if this power must in every case be granted by the Legislature; in every war, which is to be concluded in a single campaign, (and this may be the character of many of the Indian wars,) if the officer did not possess it until he could refer the case to Congress, and procure the authority, the time would have passed at which it could avail him; the effect he would desire to produce, on the conduct of the enemy, would be lost, and the reference useless. This would always be the case where the seat of war was at a great distance from headquarters. This view of the subject is strongly supported by the situation of an officer in a besieged town. Here all communication with his superiors is cut off, and if we deny to him this power of coercing his enemy to humanity, his situation is miserable indeed; his countrymen have failed to give him authority, and his enemies have deprived him of the means of acquiring it. If this power was lodged in the President, then there can be no difficulty, as General Jackson has received the subsequent sanction of his superior. But there is a letter of instruction, under which General Jackson might, if he were disposed, cover almost anything, certainly everything which he did. In the letter of the 16th January, from the War Department, there are these remarkable and extraordinary words: "The honor of the United States re-'quires that the war with the Seminoles should 'be terminated speedily, and with exemplary 'punishment for hostilities so unprovoked." It is very difficult to ascertain the precise instructions which the Secretary meant that these words should convey. They cannot mean that the American officer should march rapidly, fight gallantly, and slay all who resisted in battle; all this required no order. It is certain that no authority has been exercised, which these words are not broad enough to convey. Mr. A. said, he did not contend that the Secretary thought of such a case as had occurred, or that General Jackson wished to deduce his justification from it, but he would most confidently assert, that, if the officer were in the course of a trial driven to extremity, these words give him an ample patent.

Mr. A. said, that it was now manifest to the Committee that he derived no part of General Jackson's authority from the sentence of the court martial; his power was possessed without their interference, and might be exercised in direct opposition to it. It may then be demanded, why was it convened? This still produces no difficulty. It might be convenient to the General to have its opinion and advice; or to have its aid in ascertaining the facts. But you might go still farther, Mr. Chairman, and admit, that to convene the court was useless, and that General Jackson's conduct to it was indecorous and insulting, and still the question before us is not affected; his lawful authority was still the same. Any individual in private life may ask, and then reject, the advice of his friends; this indeed is very rude, but his right is undisputed. The commander of an army frequently convenes his officers to hear their opinions on the propriety of fighting or retreating, but no one ever doubted his authority to reject their advice. The order for convening the officers in this case, and the circumstances of their having proceeded under all the forms of a court, cannot change their character. If the General possesses the power without them, their sentence can be no more than advice.

Mr. A. said, that he would make but one other remark on this part of the subject. It must never be forgotten, that the question here is not that which has been so often and so emphatically propounded—would you have executed these

men? It is not a question of superior humanity between General Jackson and ourselves. We may think that we should have done otherwise; may wish that he had, but, if he possessed the authority, he may set us at defiance.

Before he proceeded to an examination of the case of St. Marks, he would state to the Committee that the orders which had been issued to General Gaines to respect a neutral fort, would not in his mind at all enter into the consideration of the question. If the President has subsequently sanctioned the proceeding, it placed the case, so far as it regards Jackson, on the ground on which it would be if a discretionary order had been previously given him. To a military officer it is perfectly immaterial whether he had his orders in his pocket at the commission of the act, or subsequently receives the approbation of his commander. This House cannot proceed against the individual who does the act, but the superior who recognises it. The fair question, then, for consideration is, on the power of the President, through his officers, to capture the fort; although he had not previously given orders for it, he has approved the conduct of the officer, and still retains the post. The reasoning, he said, on which he justified the occupation of St. Marks, was somewhat of the same character with that by which he would authorize an army to go into a neutral territory in pursuit of a flying enemy; it would be useless to exercise this right if its advantages could be cut off by the enemy's retiring into a neutral fort. But, to state his opinion with precision, he laid down this position as the one on which he should bottom the justification: that the Indians had both the inclination and the ability to take the fort, and to make use of its advantages; that we had a right to anticipate them, and to turn its advantages to our own use. He admitted that both facts of ability and inclination in the enemy must exist to give to us the right of seizing neutral property; the evidence on that point should be presently attended to. If, in the course of a general action in Florida, a design was manifested by the enemy to seize a vacant hillock or eminence, and use the advantages of its situation, it will not be contended that we could not have anticipated them; and if, in the course of a battle, it became manifest to the American officer that a Spanish fort, which ought to be held sacred by both the contending parties, was about to be seized by the enemy, that it could not resist, that all the advantages of the fortified place would be turned against him, his right is certainly the same. As soon as the fort has lost its power to resist, it is within the reason of the rule which applies to a vacant place. The neutral place is bound to oppose all attempts from either party to convert it to a hostile purpose, but so soon as by its physical incapacities it has become within the power of the enemy, its neutral character is lost, and it must be considered as his post. If these laws and rights exist in the state of actual battle, there can be no reason for not applying them to the situation of two hostile armies in a neutral country. Then, as soon as it was made known to the American General that St. Marks no longer possessed the capacity of making adequate resistance, and would become a fortress of his enemy, the protection of its neutrality ceased to exist. The consequence of a different doctrine would be destructive to the army; it would suppose a case in which the power and intention of seizing a place might exist in the enemy, while we had the power, but no right, to prevent it: it supposes that a place may be in a country which one party would capture and the other could not. Spain has no ground of complaint against us who seized the town. Her cause of complaint is against those who imposed on us the necessity. As his position rested entirely on the fact that the Indians had the ability and the design of taking the garrison, he would now turn to the evidence before the House, which was very full on this point. The opinion of the Governor of Pensacola is plain. He informed Captain Call that "the Indians had demanded arms, ammunition, and provisions, or the possession of the garrison of St. Marks, and that he presumed possession would be given from inability to defend it." The letters of General Jackson show his conviction on the subject. The one written to the Secretary of War states, that "he found that the Indians and negroes combined had demanded the surrender of that work. The Spanish garrison was too weak to defend it." In his letter to the commandant himself, after its capture, he says, that "they are now concentrating with the intention of taking possession of St. Marks the moment my army moves from its vicinity." Mr. A. said that he would not read all these letters, as it may be urged that Jackson ought not to be introduced as a witness in this case, although he thought that his opinions and statements deserved very high credit. General Jackson did not voluntarily place himself at the head of the army—a situation which incurred such high responsibility, and imposed on him the obligation of judging from the facts before him. His statements are not gratuitous; they are the result of his official situation. But, Mr. A. said, that he would read an extract of the letter of Luengo of the same date with the one last mentioned. In this letter the Spaniard, referring to the partial dispersion of the Indians by our army, says: "This being re-
'alized, and there being now no motive to fear
'any insult to the fort from these barbarians and
'negroes, I beg permission of your excellency to
'call your attention to the difficulty I should in-
'volve myself in, with my Government, if I
'were presently to assent to what your excel-
'lency proposes to me, to garrison this fort with
'the troops of the United States without first
'receiving its orders. Such I will solicit imme-
'diately, when an opportunity offers; and I do not
'for a moment doubt that they will be given to me,
'so zealous is my Government to comply with
'the stipulations between her and the United
'States. In the interim I hope your excellency
'will desist from your intention, and be firmly

'persuaded of the good faith and harmony which 'will reign between this garrison and whatever 'troops you may think fit to leave in this vicinity, 'who may assist me in the defence of this fort 'on any unforeseen event." In the latter part of this extract, the true state of the fort is seen. He first declares that there is now no danger of insult, but then expresses a certain expectation that he will receive orders to surrender it, and refers to troops which the General may think fit to leave to assist him in the defence. In the letter of this same officer to Mazot, Governor of Pensacola, he says: "I shall not deny that I have 'observed towards these barbarians a policy 'which had the appearance of a warm friend-'ship, and by which I have incurred considera-'ble expenses. If, however, all the circumstances 'attendant on my situation be duly weighed, it 'will be seen that all this was necessary to re-'strain them from doing what they had at one 'time premeditated." But, the true situation of this fortress, at the very time at which its state is interesting for the present question, appears from the evidence of Captain Gadsden. His words are: "In conversation with the command-'ant of Fort St. Marks, on the subject of having 'that work occupied by an American garrison, I 'had occasion to notice the aid and comfort that 'the hostile party had received, as reported, from 'him, &c. In reply, he stated, that his conduct 'had been governed by policy; the defenceless 'state of his work, and the weakness of the gar-'rison, compelled him to conciliate the friendship 'of the Indians; to supply their wants; to grant 'what he had not power to deny, and to throw 'open, with apparent willingness, the gates of 'his fortress, lest they should be forced by vio-'lence." From the evidence contained in these letters and declarations, it was obvious that St. Marks was not capable of resisting an attack from the enemy, and that the Indians had the intention of seizing it: it was, then, completely within the operation of the principle which he had laid down. If, indeed, the fortress had the capacity of making resistance, then the conduct of the Spaniards is presented in another point of view, their participation with the enemy was voluntary; they became so far associated in the war as to have abandoned their neutral character, and to have made themselves subject to the treatment of enemies.

Mr. A. said that, from the same course of reasoning by which he justified the occupation of the place, he was opposed to an unconstitutional surrender. It was taken because Spain could not keep it from the possession of the enemy, and it should be retained until she placed there the necessary force.

It is evident, said Mr. A., from the reasons which I have assigned, that my ground of justification does not cover Pensacola. As the occupation of both posts is presented in the resolution for censure, he could not, in any event, vote for the general resolution; but he would not rest his vote on that ground; he would as promptly oppose the one as the other. Before he could give his assent to this proposition, it must be established that every difference of opinion authorized a vote of disapprobation. Before he proceeded to examine the case, he would make a reply to an observation which had been repeatedly made in the debate. It had been said that the passage of these resolutions would convey no censure directly on the officer; that his name is not mentioned. Gentlemen say that the first and third resolutions are merely preambles, or recitals of the mischief, which show the necessity of adopting the others, and founding a law on them. But, Mr. Chairman, every vote which passes this House receives a part of its character from the debate which precedes it; and, after the manner of this debate, and the spirit which has marked it, it is in vain to say that the passage of these resolutions would not convey the highest censure.

Why have the former transactions of General Jackson's life been referred to? Why was the origin of the war mentioned? These things were not necessary for the question before us. But the face of the resolutions themselves declares their character. The prominent points of a military campaign are carefully selected and presented to us for condemnation. Every act of importance sufficient to strike the public attention, is seized for crimination; no part is approved; silence or disapprobation covers the whole, and still we are told no censure is intended. An avowal which came from a gentleman from Virginia, (Mr. Mercer,) marks the true spirit, and shows the effect which these resolutions are expected to have on the public sentiment. He says that, such are his feelings and opinions, he would vote to reduce the army to the command of one major general; if he failed in effecting his object, then to destroy the other; if he still failed, then to put down the army. When this language is held, it is useless to declare that no censure is intended. But the principle here avowed, and the spirit, are alike unjustifiable. If an American officer has so far forgotten the duties of his commission as to render it proper for the public interests that he should be discharged from the service, it is the duty of the President to order a court martial for his trial, or to strike him from the rolls; and, if he should refuse, there is a plain, Constitutional mode of operating on him by impeachment. I never, said Mr. A., would shelter the President from his responsibility, by reducing the army, to exclude a man whom he had not independence enough to dismiss. So strong was his disapprobation of such a course, that, even if he held every opinion of General Jackson's conduct which that gentleman had expressed, and also knew that the President wished it, he would consider it dishonorable in the House to pursue it. It has been said that this is a case not sufficiently important to impeach the President, even under a refusal to dismiss the officer. Then mark the inconsistency of a vote to reduce the army, to effect the same end. To abandon the plain course on such an occasion, and to vote down an army of ten thousand men, which the public interests require, merely to

reach one obnoxious officer, would cover us with contempt.

The evidence relating to the situation of Pensacola does not make it a case so strong as that of St. Marks. To express accurately his idea of the difference, he would borrow a distinction, well known to professional gentlemen, which exists between the facts that justify, and those that extenuate. The facts are such, that, if presented in the course of a judicial prosecution, in the form of a plea, the judge would declare they did not constitute a justification; but, if they could be brought out in evidence, the jury of his country would acquit the prisoner. In the debate, this House has been called the Grand Inquest of the Nation. I seize the idea, said Mr. A., and let us then examine what is the evidence which might be adduced in vindication of the officer before this national jury. Before any tribunal which can mingle liberality with the coldest law, the result is known. The first fact, then, which is presented, is that which, alone, before the tribunal above, insures an unqualified acquittal—the absence of all bad or corrupt intentions; this is conceded by every gentleman in the debate. In ordinary cases, here the accused might rest, strong in the universal concession that his motives were good; but the breach of the Constitution is charged upon him, and it is demanded of him to continue his defence. Then zeal, and fidelity, and patriotism, offer themselves to extenuate the offence, and declare that they alone governed the mind and guided the hand which has offended. If zeal in a good cause can even so far direct itself to our feelings and judgment as to deprive error of its harshness, it must be here, where the officer was in the midst of a hostile country, surrounded by enemies to whom submission is no safety, and against whom power is the only shield. This situation was rendered more embarrassing and perilous by the doubtful character of the Spaniards; reliance on them was destruction; their imbecility gave license to the fury of the Indians, if, indeed, their perfidy did not invite aggression. But there are other facts which give a character to his situation. Spain was not only under the obligation of those ties which bind all civilized nations to restrain their savage subjects from attacking friendly neighbors, but was bound by solemn treaty to restrain the Indians within her territory. This obligation has never been denied nor fulfilled. This was known to our officer, and every event around him impressed the conviction that the Spanish supineness partook as much of unwillingness as of weakness; that no exertion was made, and but little inclination was felt, to fulfil it. All the acts of the Spanish authorities seem to accumulate evidences in his vindication; each act seems as if fated to urge him to his course. A haughty protest is sent to him by the Governor of Pensacola, demanding his retirement from the territories of West Florida, and menacing his repulse by force; and every difficulty presented to the transportation of his provisions necessary for the existence of his army. They have urged him by their perfidy, goaded him by their menaces, tortured him by an apprehension of famine among his troops, and now, they demand that he be punished for capturing that garrison, which, if used according to the stipulation of the treaty, had prevented all occasion for war. If all these facts were still insufficient, a skilful advocate would urge what would essentially change the nature of the defence, and place General Jackson on the high ground of justification. If he could succeed in showing that these circumstances combined gave evidence that the Spaniards so far acted in concert with the enemy as to become associates in the war, the question would be closed; but, Mr. A. said, that was not his own opinion, nor was it necessary for the present vote. If the Committee can think that the ambiguous conduct of the Spaniards was such as to create a reasonable doubt of their character—as to produce a case in which it was very difficult for the officer to decide whether their equivocal attitude resulted from imbecility or actual concert—this House certainly will not censure him for differing with it in opinion. An admission made by a gentleman from Pennsylvania amply supports him. He says, if laws such as these resolutions propose to pass had been in force, that Jackson would have acted differently; his course would have been plainly pointed out to him. This concession, surely, declares that we cannot censure him, and that his error has been in some degree owing to our negligence. But if this officer shall be censured by this House, then a most extraordinary spectacle will be presented. Here is a case in which the wisest men of the country differ; which has been debated in the House of Representatives for two weeks; in which half the books in the library have been used to tell us the right from the wrong way; and, at last, we censure the officer for not knowing that, in the wilderness of Florida, about which the nation differs, and Congress cannot yet make up an opinion. But the speeches of the different gentlemen who support the resolutions show that their reasons are inconsistent with each other. Their conclusion is the same, but, in many cases, the existence of one reason destroys the other. Some gentlemen, too, think the execution of the two foreigners as of no importance in the question; some even approve them, while they declare that the capture of Pensacola is the only occurrence worthy of our notice; and others, as totally differing with them as with us, consider the death of the Englishmen as the heinous part of the offence. This state of sentiment certainly goes to the extenuation of the officer's conduct; it shows that, while many approve, those who do not, differ in their reasons, and disapprove different parts of his conduct.

SATURDAY, January 30.

Mr. SMITH, of Maryland, presented a petition of James Wilkinson, late a Major General in the service of the United States, praying to be indemnified against the effects of a judgment for two thousand five hundred dollars, recovered

against him by General John Adair, in consequence of his having arrested the said Adair, in the city of New Orleans, in the year 1806, on a charge of his being concerned in the alleged conspiracy of Aaron Burr.—Referred to the Committee on Military Affairs.

Mr. SCOTT presented a petition of sundry inhabitants of the Arkansas country, praying that a separate territorial government may be established for the said country, and that Commissioners may be appointed to fix a site for the seat thereof.—Referred.

Mr. NEWTON, from the Committee of Commerce and Manufactures, reported a bill to increase the duties on certain manufactured articles [shovels, spades, plain flint glass, copperas, shot, and oil cloths,] imported into the United States; which was twice read, and committed.

The House took up and proceeded to consider the proposition, submitted yesterday by Mr. LOWNDES, to amend the rules and orders of the House; and the same being again read, was agreed to.

The bill from the Senate, entitled "An act to extend the jurisdiction of the circuit courts of the United States to cases arising under the law relating to patents;" was read the third time, and passed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives of the 18th instant, requesting me to cause any information, not already communicated, to be laid before the House, whether Amelia Island, St. Marks, and Pensacola, yet remain in the possession of the United States; and, if so, by what laws the inhabitants are governed; whether articles imported therein, from foreign countries, are subject to any, and what duties, and by what laws, and whether the said duties are collected, and how; whether vessels arriving in the United States, from Pensacola and Amelia Island, and in Pensacola and Amelia Island, from the United States respectively, are considered and treated as vessels arriving from foreign countries; I transmit a report from the Secretary of the Treasury, and likewise one from the Secretary of War, which will afford all the information requested by the House of Representatives.

JAMES MONROE.

JANUARY 30, 1819.

The Message and documents were read, and referred to the Committee on Foreign Relations.

Another Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the House of Representatives of the United States:

I transmit to the House of Representatives, in compliance with their resolution of the 4th of this month, a report from the Secretary of State, concerning the applications which have been made by any of the independent Governments of South America, to have a Minister or Consul General accredited by the Government of the United States, with the answers of this Government to the applications addressed to it.

JAMES MONROE.

JANUARY 29, 1819.

The Message was read, and, with the accompanying documents, ordered to lie on the table.

MILITARY PUNISHMENTS.

Mr. HARRISON offered the following resolution:

Resolved, That the Judiciary Committee inquire into the expediency of providing by law for the punishment of crimes committed by persons employed in the armies of the United States, without the limits thereof, and which are not provided for by existing laws.

Mr. H. observed, in explanation of his motion, that, during the discussion which had for some days occupied the House, the question had occurred to him, whether there was any provision in our laws for the punishment of crimes committed by men in the Army beyond the limits of the United States, and which were not provided for by the military code. In other words, whether the jurisdiction of our civil courts extended to crimes committed in that situation. He had himself no doubt of the right of jurisdiction being in the nation over its own citizens, employed in the Army, in any country where, by the laws of nations, our army had a right to go; but he had understood that the courts of the United States had declined taking cognizance of offences committed anywhere, unless jurisdiction had been expressly given by a statute. If this was correct, crimes of the highest class might be committed by individuals of our army in Florida for which there was no legal punishment. The articles of war, Mr. H. observed, provided for the punishment of no crimes, but those of a military character. They did not provide for the case of murder. An inferior killing his superior might indeed be punished, and punished with death, under the article which prohibits the striking superiors; but there was no adequate punishment for an officer who should murder a soldier, or an officer his inferior. Within the limits of the United States all offences of this description were punished by the civil courts of the States. If the view he had taken of the subject was correct, Mr. H. said the propriety of passing a law as speedily as possible must be apparent. He, therefore, moved the resolution which he had submitted.

The resolution was agreed to.

SEMINOLE WAR.

The House then proceeded to the order of the day, and again took up, in Committee of the Whole, the report of the Military Committee, on the subject of the Seminole war.

Mr. ANDERSON, of Kentucky, concluded the speech which he yesterday commenced, against the report and resolutions of censure, as given entire in preceding pages.

Mr. LOWNDES, of South Carolina, said, that before he entered into the consideration of the arguments on which he supposed that the determination of the resolutions before the Committee should principally depend, he would advert, for a moment, to some observations made by the

Speaker, in relation to the treaty of Fort Jackson. His absence from this country at the period of the treaty, and for some time after it, sufficiently accounted for his information being incorrect upon this topic. He had said, that it would have been worthy the generosity of the Government to have given some consideration to the Indians, for the cessions of land which it obtained. The records of the country would show that this was the course actually pursued. After the ratification of the treaty of Fort Jackson, the journal of the commissioners who made it was laid before the House of Representatives. It contained a declaration of the chiefs who signed the treaty, that they were not satisfied with its terms, although they would not withhold the signature which was insisted on. The same paper furnished the proof that the cessions in the treaty were not made with the free consent of the chiefs, and an exposition of the terms on which that consent would have been given. The House of Representatives, he believed, by an unanimous vote, passed a bill, which gave to the Indians the terms, with which, at the conferences at Fort Jackson, they had declared that they would be fully satisfied. This bill had become a law, and, if the conditions of the treaty had been such as it was harsh to exact, the Government, which gave a sum exceeding one hundred thousand dollars, as an equivalent for a cession which, by treaty, was to have been made without any equivalent, had pursued precisely the conduct which the Speaker had declared he could have wished.

Mr. L. would not say that the act was liberal and magnanimous. Such praise should be reserved for greater occasions. But it was just. Nor had he ever heard, nor did he believe, that the conduct of the United States, after the treaty of Fort Jackson, had given ground of complaint to the Creek nation, inhabiting within their boundaries. Fugitives, indeed, from the nation, unwilling or afraid to trust themselves among their countrymen, had sought refuge in Florida, but their flight did not divest the nation of the rights of negotiation and government. Nor did they pretend it. They sought only for personal safety, and, at the date of the Treaty of Ghent, there was no war between the United States and any part of the Creek nation.

Mr. L. said, that he considered himself fortunate in having an opportunity of addressing the Chair, immediately after the gentleman from Kentucky (Mr. ANDERSON) who had just taken his seat. He did not concur, in general, in the conclusions which that gentleman had formed, but he should gladly follow his example, in abstaining from the discusions of questions which were not necessary to the decision of the resolutions before the Committee. And upon questions of this sort more than half of the debate appeared to him to have turned.

There was no resolution before the Committee declaring that the President was not authorized to direct the march of our troops into those parts of the Seminole country which lay beyond the boundary of the United States. He should not discuss the question. He unequivocally admitted the right.

There was no resolution before the Committee declaring that the Government of the United States was not authorized, by the unfriendly conduct of Spain, to occupy Florida, or to resort to general hostilities. He would not discuss this question. He agreed with every member who had spoken, that Congress had the right to declare war against Spain, if it thought it expedient so to do.

But had General Jackson the right to take possession of St. Marks and Pensacola? Had the President of the United States the right? The rights of his subordinate officer were not greater than his own.

Gentlemen must recollect the deliberations upon this subject during the last session; the notice of a proposal by a member from Georgia for the seizure of Florida—the decision of the Committee of Foreign Relations against the expediency of seizing it—the acquiescence of the House in the opinion of their committee. If any man had suggested, during the last session, that Congress, by avoiding the determination of the question of occupying Florida, would have left it open to the decision of the President, or the General, the suggestion would have been heard with utter incredulity. If Congress could have believed that by their omission to act, the power of changing the pacific relations of the country would have been devolved upon any executive officer, he did not doubt that they would have directed, explicitly, what those relations should be. But who could have foreseen that the very circumstances which in March last were insufficient to give the sanction, even of political expediency, to the occupation of Florida, were soon after to be the principal constituents of a military necessity, which would justify a General in taking what the Congress of the United States had determined not to take?

The power of declaring war is given only to Congress. To employ the army of the nation for the purpose of taking possession by force of the territory, the towns, and even the forts, of a foreign State, seems to fulfil every condition which can be necessary to constitute an act of war. If such an act be done by an officer who has authority to do it, it is war. It was war, then, if General Jackson was authorized by his office, or by the legal orders of the President, to take possession of Pensacola; and to say that he was authorized by neither, is at once to admit the truth of the position taken in the resolution. A necessity, indeed, which would make the act involuntary, would change its character of hostility; but he must reserve this topic of necessity for another part of his argument. It was not alone, however, the power of declaring war which was given to Congress; the power of employing force against the property or possessions of a foreign nation, under circumstances which do not amount to war, is also confided to the same authority.

The framers of the Constitution did not repose

that happy confidence in Executive or military officers which might have induced them to give to Congress only the right of proclaiming a solemn and general war, and to leave to the Executive or the military the right of engaging in partial hostilities. If the people of Pensacola, encouraged by the local government, had employed their ships in directly plundering our property, the principles of national law would justify the United States in giving to their citizens the indemnity which the capture of Spanish ships would afford. But by whom must this capture be authorized; by whom must letters of marque be issued—in other words, by whom must the employment of force against the property of a foreign nation, under circumstances which do not amount to war, be directed? By the Congress of the United States. And is there, then, plausibility in the argument which supposes that the President or the General may take, by force, the acknowledged territory of a foreign Power, or even besiege and assault his forts, and this, under a Constitution which, by the plainest words, reserves to the legislature the exclusive power of authorizing the capture even of a schooner on the high seas?

Mr. L. considered it clear that the President had no right to authorize the capture of St. Marks and Pensacola. And the documents upon the table sufficiently proved that such was the view he had taken of his own powers. To have retained Pensacola, even until the meeting of Congress, would have been, he says, to have changed the relations between the two countries. To such a change (he adds) the power of the Executive is incompetent. To have retained Pensacola for a month or two, against the will of Spain, would have been war; the order for its restoration was therefore given, promptly and without the slightest intimation of any change in the condition of the Indian enemy, or of our own army, which would make its retention less necessary or less justifiable than its original capture. Are we, then, to believe that, to have retained possession of Pensacola for a few months, against the will of Spain, would have been war, and that to have taken it by force, to have entered it by military capitulation, was not an act of war; that it did not even imply any change in the state of our foreign relations, to which the power of the Executive was incompetent?

Mr. L. had referred to the President's conviction of a want of authority on his part, to retain or to take Pensacola, with no view of substituting authority for argument: but, by an ingenious construction of vague and general phrases, an attempt had been made to show that powers sufficiently large had been given to General Jackson to authorize the occupation of Pensacola. He did not wish to engage in this verbal criticism. A sufficient proof that the President did not design to give any power for occupying Pensacola, was found in this, that he did not consider himself authorized to give any. Argument, however, upon this subject, was as unnecessary as criticism. The gentleman from New York (Mr. STORRS) had proved, by the extracts which he had read from the President's message and from Mr. Adams's letter, that the occupation of St. Marks and Pensacola was without the authority of the Government, and on the responsibility of the commanding General.

The President, then, had no right to give an order for the occupation of the places in question, and he had given none. But he had given orders, the fair and obvious import of which forbade the occupation of St. Marks and Pensacola. If the Indians took shelter under a Spanish fort, the General was not to attack them, but to notify the Department of the fact. Now, he would ask the Committee for a moment to suppose that the Indians, beaten and pursued through their swamps, had actually taken refuge under the guns of Pensacola. What would have been the situation of General Jackson? What his powers and duties? The very exigency foreseen, and provided for by the instructions of the War Department, would have occurred. He could not have attacked the Indians or the fort, because it sheltered them; could he have attacked both for other reasons? What would have been his letter of justification to the Secretary of War if he had done so? Sir, the very contingency has occurred which your letter has anticipated. The Indians have taken shelter under a Spanish fort. Not authorized on this account to have attacked them, I should have merely notified the Department of the fact. But other circumstances justified a different conduct. I found not merely that the Indians had taken shelter under a Spanish fort, but that when there the Spaniards gave them aid and comfort, and access and information, and ammunition and provision. On these grounds they became associates in the war. Must not the answer of the Executive Government to a letter of this sort have been that, in ordering no attack to be made upon Indians sheltered under a Spanish fort, the President had ordered that upon no evidence of association or connexion between Indians and Spaniards should the General undertake to attack the fort of a nation with which we were at peace; that the President well understood that Indians do not move with magazines and provisions, and all the equipage of war; that when he anticipated the event of their taking shelter under a Spanish fort, all those acts of communication, aid, and supply, were supplied, without which their shelter would have been decoy and destruction? If all the circumstances on which General Jackson rests his defence for occupying Pensacola had been enforced by the much stronger circumstance of an imbodied Indian force lying at the time under its walls, he would have disobeyed his instructions in attacking either the Indians or the fort. Does it come to this, that General Jackson was authorized to attack the fort because the Indians had not taken shelter under it?

Can it appear to the Committee of trifling importance, that military officers should feel the restraining hand of the civil government, even under circumstances of great difficulty and strong

provocation? Does it seem favorable to the peace of the country, or even compatible with it, that a General, on a distant frontier, with his eye intently fixed upon a valuable province, which his arms can overrun, shall decide for himself and his Government what acts shall be sufficient to make a foreign Power an associate in a war against us?

These acts may furnish a strong reason for visiting with war the nation, professing neutrality, which is guilty of them. But how far even this association will induce you to engage in war, is a question for the war-making power. Unless it take the shape of invasion, actual or imminent, even the sovereignty of a State, under our Constitution, cannot punish it. Who does not know that considerable and continued aids, both in men and money, have often been given by Powers who have been allowed to continue at peace to the end of the contest? The Government of the injured nation has, in these instances, chosen the policy of peace, not the right of war, and their Generals have followed the orders of their Government.

But the violation of the orders of the Executive Government by General Jackson would not, in his opinion, Mr. L. said, form a case which would require the interposition of the House, if it had not been combined with the assumption of powers belonging neither to the President nor the General. It seemed, indeed, to be thought by the opposers of the resolutions, that, independently of the orders or powers of the President, the commanding General, as an attribute of his station, had the right to attack the Spanish fort under the circumstances in which he acted. The argument would not avail, unless he had a right not only to do it without orders but against them. Let this objection be waived, and those which had been used to show that the President had no power to authorize, proved equally that General Jackson had none to make the capture. The right of a General to occupy the territory of a nation at peace, must be such as is calculated to prevent injury, not to punish it—must be exercised, not in resentment of the conduct which had been pursued, but with a view to security against that which the offending party was at the time pursuing. General Jackson could derive no right to the occupation of the Spanish forts, because they had been converted into instruments of hostility, unless they were so employed at the time of his occupation, or with the strongest evidence that they would be so employed. He had rested his justification upon the principle of self-defence, and if by this he meant that the occupation of the Spanish forts was necessary to the safety of his army, it was equally impossible to deny the principle or to admit the fact. He agreed with the gentleman from Virginia, (Mr. BARBOUR,) that it might be necessary to the safety of an army that a position should be occupied in a neutral State, and that the General would, in this case, be justified in seizing it, nor would the act be war, That gentleman had himself admitted that there was no such necessity for the occupation of Pensacola. If we must allow, upon his authority, that necessity has degrees, at least the range of the scale must be a small one; and a slight convenience can hardly be construed into any necessity. The quotation which his friend from Virginia had made from Vattel, sufficiently explained the character of that necessity which would justify an army in taking the territory, as it would individuals in taking the property which did not belong to them, "lest they perish." But, in the recital of the different motives which induced General Jackson to occupy the Spanish forts, we find them all of two classes —past injuries and future convenience. Gentlemen might say that it was difficult precisely to determine how strong must be the urgency of the occasion which would justify the seizure of a neutral fort. The capture of Copenhagen by England had been frequently adverted to in the debate. He was sure that we should not adopt a system of morality more loose than that which was avowed by the ministry who planned that expedition. Necessity was their alleged justification, but, to constitute this necessity, they admitted three conditions to be essential—that the enemy meant to attack, that the neutral could not or would defend his territory, and that its occupation would be (not injurious to the prosperity, but) dangerous to the very existence of the country. The war-making power belonged in England to that branch of the Government which had directed the expedition. The civil jurisdiction of the town, after it was taken, was left with the officers of the Danish Government. He did not mean to extenuate the act. Wise men condemned, and good men reprobated it. Infinitely better would it have been for England, before whose naval power that of Spain, France, and Holland, had been dissipated, to have taken the Danish fleet from an enemy rather than a friend. But the grounds on which the act was defended, contain the admission of a ministry as little scrupulous as any which England has ever had, as to the principles which ought to have regulated their conduct, whether they did so or not. It cannot be a false and fastidious delicacy which exacts that the necessity must be as strong to justify the occupation of neutral territory by an American General as by the British Crown. Would the Committee inquire whether the three conditions combined to justify the capture of Pensacola? Did General Jackson know that the Indians intended to take it? Beaten, dispersed, desperate, they had no plan beyond that of personal escape. Did he know that the Spaniards could not or would not defend it? There was no proof of this, even in the case of St. Marks, at the time of its capture, except it were the letter of the Governor, who speaks of an attack by Indians "as an unforeseen event," an improbable, therefore, if a possible one. There was no probability that the Indians would have taken these forts if we had not; but if they had, will the Committee say that the safety of the army or the nation would have been endangered by it? If they had been the Gibraltars of the new world,

would they have been impregnable when defended by Indian engineers? These Indians might have been formidable in their fastnesses and woods; to have crowded them into a fort, would have been to have prepared the way to their certain and easy destruction. They would not have been so entrapped. But the gentleman from Kentucky (Mr. ANDERSON) supposes it is reason enough to take a neutral territory, (a hillock or a town,) that the enemy will do it if you do not. Mr. L. heard such opinions with much regret. Our natural attitude was that of a neutral Power —our consistent and persevering policy had hitherto been to support the rights of neutral Powers. How strong have been the denunciations against the Governments of Europe who have affected to consider themselves as justified in invading the rights of neutrals, because they had been invaded by their enemy? But the present doctrine is that, not of retaliating an invasion of neutral right, but of anticipating it; it subjects to capture a ship or a fort, not because an enemy had taken it, but because perhaps he may take it. There was a reason assigned for the occupation of Pensacola, of which he should have said nothing, if it had appeared only in the communications of the General. But the threat of the Spanish Governor had been considered by the opposers of the resolution, and particularly by a gentleman from Virginia, (Mr. SMYTH,) as rendering the attack which followed absolutely unavoidable. He could not believe that General Jackson himself, in the moment of irritation, would have represented this threat as affording a justification for the attack of Pensacola, if he had not supposed that he had other and better reasons for the act. But there was some ground for alarm to those who loved peace, and wished the Government to be the master of its own policy, in the deliberate expression of an opinion by a national representative, that an insulting letter from a foreign to an American officer must be resented by invasion and war. It was with the resources of the country that this game of chivalry was to be played. They were not placed at the disposition of the Government with such a view. On the whole, Mr. L. said, he considered it very clear that there was no military necessity for the occupation of St. Marks or Pensacola. Reasons of political expediency and military convenience there certainly were, and the correspondence of General Jackson showed that he had been attentive to both of these. They were reasons which, by the Constitution, could produce their proper effect only upon the Legislature of the Union. But, if the attack upon Pensacola was the assumption of an unconstitutional power, ought the House to declare its disapprobation of the act? Some gentlemen even doubted its right to do so, as if the right to a free expression of its opinion on matters connected with its powers and duties, were not necessary in every department of a free Government. This conservatory power could not be denied to the Executive or the judges, and it was equally necessary to the Legislature.

But what occasion, it has been said, is there to do anything on the subject? None; if General Jackson did not exceed the powers with which he was intrusted; but if he exerted one of the highest prerogatives of Government which is confined to no less authority than the entire Legislature of the country, are we willing to employ our own powers when we think it right, and when we do not to let anybody else assume them? The character of General Jackson is said to be implicated in the vote which is proposed. The opinion of the world and of posterity will not be affected by that vote. There is nothing in the fact or the resolution to impeach his military glory or his patriotism. But the character of the country does not depend alone upon its military exploits. Its civil institutions, its liberty and laws, are elements of the national reputation quite as valuable. To suppress our disapprobation, if it were merited, would not raise the character of General Jackson, but would impair our own.

He could, indeed, suppose cases where power not given by the Constitution might be assumed by an Executive officer rightly and necessarily; but he could suppose none in which this assumption should be passed over in silent acquiescence. Indemnity might be extended to the officer and justification to the act, but the absolute necessity, which could alone furnish that justification, should be recorded by the vigilant guardians of the Constitution.

He should therefore vote without hesitation for the resolution disapproving the occupation of St. Marks and Pensacola. But, upon the subjects of the other resolutions, his views differed from those of the gentlemen with whom he fully concurred in that of which he had been speaking hitherto.

As to the condemnation of Ambrister, he believed, that the power of military execution was inseparably connected with that of directing the military force of the State against an enemy. That enemy must be attacked. Who has the power of receiving their capitulation or surrender? of admitting them into the peace of the country? Not only the usages of war, but the principles of humanity and virtue, require that the unresisting enemy should be spared in general; but this obligation of mercy is not universal. It is not held to extend to those who have broken their parole; nor, by a much stronger reason, to those who make of war an indiscriminate massacre. The right of military execution was, indeed, at least as easily to be deduced from first principles, as that of execution for civil crimes. In neither case was wanton severity to be justified. The Executive Magistrate must decide whether mercy can be safely extended to the obdurate offender against municipal law, and the commanding General, whether quarter can be prudently given to the savage, who himself does not give it. He did not mean, however, to engage in the argument upon this topic, which had been very fully discussed, but merely to state the opinion that, in ordering the execution of Ambrister, against the advice of a council which he

had summoned, General Jackson had not exceeded his military authority, although he had indeed assumed a high responsibility.

The case of Arbuthnot appeared to him different in its principles. He did not see how the right of military execution could be applied to any man, who was found under the protection of a nation with which we were at peace. He supposed it restricted to enemies taken in war, and limited both in time and place. Whether our occupation of St. Marks were friendly or hostile, he did not understand how its inhabitants, whether combatants or not, had become subject to military execution. Nor, though it were true, that an atrocious crime would otherwise have gone unpunished, did he admit that a military tribunal should be called in whenever it may be feared that justice would otherwise be disappointed of its victim. Mr. L. said, that he had been struck with the indifference which had been displayed throughout the argument to what he deemed most important principles of national law; that the jurisdiction of crimes shall be confined to the nation in which they are committed, and that the Government which is injured must obtain its redress from the nation which permits them to pass unpunished. He knew no State more interested in the maintenance of these principles than the United States. They were, indeed, necessary to the independence of all nations.

He had intended to have given to this subject the fullest examination which he was able. He considered the assumption of jurisdiction in the case of Arbuthnot as erroneous and dangerous; but, while he believed that the court had no jurisdiction to try the crime, nor the General authority to punish without a trial, his reflections had led him to the conclusion, that the mistake of the court and General, as to their powers, ought not to be mixed with the more important subject of complaint, which was afforded by the assumption of one of the highest powers of the Congress of the United States—with the right of making war. He had therefore determined to confine his argument to the resolution respecting Pensacola and St. Marks, and he should be glad if the vote of the House could be limited to the same object.

Mr. L. said that he should not vote for either of the bills which it was proposed to bring in. For the bill, which required the sanction of the President, in time of Indian war, to the execution of a captive, he objected, because, if this power should be lodged in an Executive officer at all, in what officer it should be lodged must depend upon considerations only of expediency; and it was necessary to its prompt and useful exercise, that the decision of the General should not wait upon that of the President.

Where the troops of the United States cannot be marched beyond our boundary without committing an act of war against a nation with which we are at peace, he believed that the Constitution now prohibits their march, unless by the authority of Congress. Mr. L. had no faith in the benefits of the supplementary law which was proposed. But there might be many cases in which troops might be properly marched beyond the United States without commencing war; either where war had been made against us by another nation, or where a territory, in our neighborhood, was abandoned by its Government. He could not willingly add to the evils of an act which he deeply regretted, by making it the occasion of an improvident law.

Mr. H. NELSON, of Virginia, followed in opposition to the report and resolutions; and had spoke but a short time, when, having given way for a motion to that effect, the Committee rose, reported progress, and obtained leave to sit again.

MONDAY, February 1.

On motion of Mr. MARR, a committee was appointed to inquire into the expediency of amending an act passed the 4th day of April, 1818, entitled "An act supplementary to the act, entitled 'An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same,'" passed the 18th of April, 1806, with leave to report by bill or otherwise; and Messrs. MARR, WILLIAMS of North Carolina, JONES, SETTLE, and TAYLOR, were appointed the said committee.

The SPEAKER laid before the House a letter from the Secretary of the Navy, transmitting sundry papers having relation to the subject of the resolution adopted by this House on the 26th ultimo, respecting the destruction of the Negro Fort in East Florida, in the month of July, 1816; which was ordered to lie on the table.

Mr. RHEA, in pursuance of instructions from the House, reported, from the Committee of Pensions and Revolutionary Claims, a bill for the relief of Benjamin Simmons, (a case which the committee heretofore reported against, but which was reversed by the House, and is a claim under an alleged contract, for services rendered as wagon master in the Revolutionary war.)

The bill having been read, Mr. RHEA moved that the bill be rejected, on the ground that the claim was in itself unjust, and, if just, the amount allowed was more than the claim justified.

This motion was opposed by Mr. HUBBARD; and, after some discussion on the merits of the claim, the motion to reject it was negatived, and the bill was again read and committed.

Mr. P. P. BARBOUR then made an attempt to have the claim of —— Porter committed to the same committee, as being an analogous case; but that claim having been already definitively decided by the House, in concurring with the committee who reported against it, the motion of Mr. B. was decided to be not in order.

BANK OF THE UNITED STATES.

Mr. SPENCER submitted the following resolution:

Resolved by the Senate and House of Representatives of the United States of America, in Congress assem-

bled, That the Secretary of the Treasury shall cause all the public deposites in the Bank of the United States, and its several offices of discount and deposite, to be withdrawn on the first day of July next; that after the said day, the bills or notes of the said corporation shall no longer be receivable in any payments to the United States; and the Attorney General of the United States shall, on that day, or as soon thereafter as may be, cause a *scire facias* to be sued out in conformity to the provisions of the "Act to incorporate the subscribers to the Bank of the United States," calling upon the said corporation to show cause why its charter should not be declared forfeited; unless the said corporation shall, by a legal act to be delivered to and approved by the Attorney General, and to be by him transmitted to Congress, at the next session thereof, declare its assent to the following propositions, on or before the said first day of July next, viz:

1st. That Congress may by law provide such means as may be necessary to enforce the first fundamental article of the said charter, respecting the right of voting for directors, and particularly to provide that transfers of stock, shall always be made to the real owners thereof, or to some person or persons in trust for the owners, who shall always be named in such transfer; that stock shall always be deemed to belong to the person or persons in whose name it may stand, or for whose use it may be declared in the certificate to be held, and that no evidence whatever shall be received in any court to contradict or explain the certificates of ownership.

2d. That Congress may provide for the reduction of the capital stock of the bank, in a just and equal proportion by the stockholders thereof, when convened in a general meeting.

3d. That the power of removing any director for misconduct, may be vested in the President of the United States.

4th. That the bank may purchase not exceeding five millions of dollars of the funded debt of the United States, and may hold the same without being subject to redemption, unless consented to by it, until the time or times specified in the certificates thereof.

5th. That no by-law of the corporation shall exclude the directors appointed by the Government from a full knowledge of all the concerns of the bank, and of the accounts of every person dealing with it, and that the assent of at least one public director shall be necessary to allow any discount, and to render valid every act of the board of directors.

6th. That the provision in the second fundamental article, prohibiting any director from holding his office more than three years, out of four in succession, may be modified or repealed by Congress.

7th. No discount shall in any case be made by the bank at Philadelphia, or by any office, without the consent of at least four directors of the bank or of the office, as the case may be.

8th. Congress may authorize the bank to deal and trade in other things than those enumerated in the ninth fundamental article, so far as to receive pledges of its own stock and of the funded debt of the United States in security for loans, and to sell such pledges on a forfeiture thereof.

9th. That persons holding stock upon which any instalment shall have been paid by the proceeds of notes discounted, shall be compelled gradually, and as soon as circumstances will admit, to pay the full amount of such instalment in coin, or in coin and funded debt, according to the provisions of the charter, and no dividend of profits shall be allowed to such stock, until the said payment is completed.

10th. That the Secretary of the Treasury shall be permitted at any time, either in person or by an agent, to be appointed by him, to inspect all the books, papers, correspondence, minutes, and proceedings of the board of directors of the bank, and of all its offices and of all their officers.

11th. That Congress may extend the time for the payment of the whole, or any part of the sum of $1,500,000, required to be paid by the 20th section of the charter.

12th. That a *scire facias* may be issued out of any circuit court in the United States in the cases stated in the charter; and whenever it shall be issued out of any court than the circuit court of Pennsylvania, sworn copies of the books and papers of the bank shall be received as evidence instead of the originals.

The foregoing provisions, or any of them, may, at any time, be enacted into a law or laws by Congress, and shall thereupon become a part of the charter of the bank.

The resolution having been read, and the question stated whether the House would now consider it—

Mr. SPENCER, with the view of removing any objection which might be felt to the consideration of the motion, stated that it was not now his wish to go into a discussion of it, but only to be enabled to have it referred to the Committee of the Whole House, to which had been committed the report concerning the management of the bank.

Mr. TYLER asked leave to make one remark. He hoped the House would agree to consider the resolution, that it might take the course suggested by the mover, and have a full and fair discussion. He wished that every member might have an opportunity of exhibiting his views, and that the House might make its final decision with all the lights to be derived from deliberate discussion and mature reflection; but he would here say, that, whenever the question on the adoption of this motion should be presented to him, he should be obliged to vote for its rejection, under the hope that the House would, in preference, direct a *scire facias* to be forthwith issued.

The House having agreed to consider the resolution—

Mr. SPENCER moved that it be committed to the Committee of the Whole House on the state of the Union, to which was referred the report of the committee appointed to investigate the management of the Bank of the United States.

Mr. JOHNSON, of Virginia, hoped the resolution would not be committed, but that it would be laid on the table. He hoped the question would be fully met; and it had been his intention, if no other member should do so, to move to instruct the Committee on the Judiciary to report a bill to repeal the charter of the bank. The patient, Mr. J. said, was too far gone to be recovered; expedients were useless, as dissolution was inevitable, and it was better to meet the question at once. He, therefore, moved to lay this resolution on the table.

Mr. SPENCER was as willing as any one to meet the question fully, and to give the subject a fair and ample discussion; and he thought the course he proposed to give the resolution was the best way to afford it a full consideration, because the report was already committed, and, by referring his resolution to the same committee, the whole subject would be presented for discussion, &c. He would, however, give way to the course moved by Mr. JOHNSON, and consent to laying the resolution for the present on the table. Mr. S. then withdrew his motion to commit the resolution, and it was laid on the table.

SEMINOLE WAR.

The House then again resolved itself into a Committee of the Whole on this subject, Mr. BASSETT in the Chair.

Mr. H. NELSON resumed the remarks which he commenced on Saturday, and spoke about two hours in opposition to the resolutions of censure.

Mr. TYLER, of Virginia, said, that he owed an apology to the Committee for rising at so late a period of the debate to address it. He proposed to present a very brief sketch of the views he had taken on this interesting subject. At the onset, I close in, Mr. Chairman, with the position laid down by the gentleman who has just addressed you, (Mr. NELSON) and say, that, however great may have been the services of General Jackson, I cannot consent to weigh those services against the Constitution of the land. Other gentlemen will, no doubt, yield me the correctness of this position. Your liberties cannot be preserved by the fame of any man. The triumph of the hero may swell the pride of your country—elevate you in the estimation of foreign nations—give to you a character for chivalry and valor; but recollect, I beseech you, that the sheet anchor of our safety is to be found in the Constitution of our country. Say that you ornament these walls with the trophies of victory—that the flags of conquered nations wave over your head, what avails these symbols of your glory if your Constitution be destroyed? To this pillar then will I cling. *Measures*, not *men*—and I beg gentlemen to recollect it, has ever been our favorite motto. Shall we abandon it now? Why do gentlemen point to the services of the hero in former wars? For his conduct there he has received a nation's plaudits, and won our gratitude. We come to other acts. If our motto be just, we must look alone to the *act*, not the *actor*. It is only then that we shall judge correctly. A Republic, sir, should substitute the Roman Manlius, and disapprove the conduct of her dearest son, if that son has erred. From what quarter do you expect your liberties to be successfully invaded? Not from the man whom you despise; against him you are always prepared to act—his example will not be dangerous. But, sir, you have more to fear from a nation's favorite; from him whose path has been a path of glory; who has won your gratitude and confidence—against his errors you have to guard, lest they should grow into precedents and become in the end the law of the land. It is the precedent growing out of the proceeding in this case that I wish to guard against. It is this consideration, and this only, which will induce me to disapprove the conduct of General Jackson.

Our sympathies have been appealed to in his behalf. There exists no cause for the appeal. Are we about, by this vote, to wither the laurels which bloom on his brow—to deprive him of character, of standing? No, sir, we arraign not his motives. On all hands it is conceded to his supporters that his motives were correct. Did we insist that he had intendedly violated the Constitution and the law, then should we make a charge, which, if supported, would properly degrade him in the estimation of all good men. But we make no such charge—we disapprove only his acts. Is this a vote of censure of the odious character which it has been represented to be? Censure implies bad motives and bad acts. Say, if you please, that I have shot my arrow over the house and wounded my brother. He complains of my act, not my intentions, because he is aware they were innocent; but, although he neither upbraids nor censures me, the wound still festers in his side. Is there not even a wide distinction between a vote of censure, in the obvious acceptation of the term, and a vote of disapproval? Is there anything more common than for an officer ordering a court martial to disapprove the sentence of the court, and direct it to reconsider its opinion—and yet, was ever such disapproval esteemed a censure on the court? An inferior court gives an erroneous opinion; an appeal is taken to a superior tribunal; the opinion of the inferior court is reversed—was such reversal ever construed to imply a censure on the judge? You differ from me in opinion. You disapprove my premises and the deductions therefrom. Sir, was it ever heard of before, that, this difference of opinion required us to regard each other as such objects of censure, as to interrupt our harmony or mutual respect and confidence? We do nothing here but combat the opinions and actions of the General, and if gentlemen will have it so, of the Executive. Shall we be denied the liberty of boldly and manfully expressing this difference of sentiment? Sir, I protest against this slavery of the mind. The body may be enchained and bowed to earth, but that ethereal essence resists your power and scoffs all efforts to inthral it.

What are the points of difference arising out of this case? Gentlemen justify the capture of St. Marks on the plea of necessity; we contend that no such necessity existed; and, believing so, we disapprove the capture. We agree, in our premises, that the General would only have been authorized to seize a neutral post, in order either to save his army, or to guard the post against the imminent hazard of falling into the hands of his enemy. We call upon gentlemen for the proof of the existence of such necessity, or of such danger. The letter of the Governor of Pensacola, informing General Jackson that the garrison of St. Marks was too weak to defend itself against

an hostile attack, and that the enemy had made demonstrations of an intention to seize it, will not justify him in having taken possession at the time he did. Before he approached, the danger had retired; no force was before it, nor within a great distance of it; nor had he any enemy in his rear, and his army was easily thrown between the fort and the foe. Sir, every document on your table goes to prove that the Indians were defeated, their forces broken, and that they had sought shelter and protection from the ruin and destruction which pursued them, in their swamps and hiding places. An attack on St. Marks was, therefore, rendered improbable. But admit, for the sake of argument, that this was not the case; nay, Mr. Chairman, to give to our opponents the strongest of all possible cases, let us imagine the Indians in possession of the fort—would your army have been in danger? Can any gentleman believe it? Sir, did you ever hear of an Indian's using cannon in action? Their situation would, indeed, have been ludicrous. I submit it, in the spirit of candor, to gentlemen to say, if the General could more ardently have wished for any event than that the enemy should have concentrated the whole of his forces at St. Marks, with the settled determination of holding the post. He would have been saved the fatigue of marching further; one action would have terminated the sufferings of his army; the defence would have been weak and unavailing, and a new spark of glory would have illumined the crest of the hero. But even this imaginary state of things would have presented a case contemplated in his orders, and, as a military man, he would have been bound to have reported to the President before he could have struck a blow. But we are told triumphantly by honorable gentlemen, that the Governor of St. Marks had violated his neutrality; that he aided and assisted the Indians—furnished them with munitions of war—nursed their wounded, and suffered them to hold their councils under his very nose. Be it so; I will admit all this. I give to gentlemen all they can ask. Nay, I will go further, and yield to them that he was destitute of principle, and was a deadly, but secret enemy of the United States; what inference can be drawn from these admissions? Why, sir, that he furnished you with abundant cause of war against Spain. But I demand to know who was authorized, under the Constitution, to have declared the war, Congress or the General? To this point we must come at last. Great Britain gave you innumerable causes of war; she searched your vessels—confiscated your property—disregarded your flag—impressed your seamen—and made an attack on one of your frigates in sight of your coast. France also committed aggressions on you, of a serious and afflicting character; yet, was it ever dreamed of that your Commodore had a right to strike a blow before Congress gave him authority. I put you a case parallel to the one I have supposed to exist: You had, during Mr. Adams's Administration, a quasi war with France. Did not Spain then violate every obligation of neutrality towards you? She suffered French consuls, residing in her seaports, to grant commissions to privateers, to prey on your commerce. She transferred to these consuls a portion of her sovereignty, and permitted them to adjudicate prizes. Would you have excused your naval officer if he had entered a Spanish port, captured their shipping, and destroyed their town? And yet is not that case as strong as the present; I implore you then, Mr. Chairman—I supplicate this Committee, in the name of liberty—in the name of the Constitution, to beware how they countenance a precedent of this sort. This nation, if this precedent receive your sanction, may be involved in war without the question ever having been submitted to the Representatives of the people. Do you wish any further illustration of this position? Suppose a war to exist between us and a northern tribe of Indians; your arms are victorious—your enemy flies, for protection, to a fort in Canada; they receive succor and protection at the hands of the officer commanding such fort; your General demands a surrender of the fort; his demand is refused; he carries it by storm, and retains possession—would the Governor of Canada submit in silence? No, sir—he would send an army to attack you; the pride of your officer would not permit him to treat; we have then hostile armies in the field; the war rages between us and England, without the approbation of the constituted authorities. You, however, must soon become parties in the war; for, if you admit the right to exist with the General to involve you in it, you owe a corresponding duty, and must furnish him the means of waging it to a successful termination. Taxes must be levied to carry it on; your resources must be developed; you will not abandon the standard of your country. And, sir, what prevented these consequences in the instance under consideration? Nothing but the imbecility of Spain. And shall we adopt a different rule of conduct when a weak nation is concerned, from that we would put in practice against a strong, a formidable nation? Manhood forbid it! Patriotism forbid it! Valor avert the deed! Mr. Chairman, the principles of justice—the principles of your Constitution, are inflexible, immutable; they yield not to time or circumstance. I appeal to the honor of this Committee—to the oath which each member has taken, to support the Constitution of this land—to guard and protect, not only that Constitution, that honor, but the character of this nation for justice and impartiality.

The remarks which I have made, relative to the seizure of St. Marks, are now strongly applicable to that of Pensacola. It is in vain you tell me that the Governor was destitute of principle—had violated his neutrality—had given shelter to a poor, miserable, broken and defeated foe—a foe, who, like the hunted beast of the forest, had held you but a moment at bay, and was then flying to his secret places, far from the haunts of civilized man, to hide himself from the desolating vengeance which pursued him. Sir, I carry you back to my first position. Congress, and not the General, was alone authorized to make war upon

him. Will it be said, that necessity, which justifies all things, authorized its capture? Where is it to be found. Indians retreated to the town—were in possession of it, if gentlemen will ask the admission. We require that the General shall look to his orders. It is the very case they contemplate—he must report to the Executive. But a threat is made—you are braved to your teeth. The gauntlet of defiance is thrown—you are threatened with an attack—let it come on. The storm has no terror for the brave, nor can the frown of the Spaniard shake the soul of the hero. But there was no danger to be apprehended. The Governor had no force with which to make the attack. My honorable friend from Virginia (Mr. BARBOUR) in graduating the necessity of this case, states, that if the attack had been made, Jackson would have been justified in seizing Pensacola. True, his right to seize might have existed, but he could have held it only for a moment. The assailant vanquished, the General would have been compelled to have returned to him his armor. Need I call to the recollection of the Committee the case of the Tripolitan brig? Before you declared war against Tripoli, one of her armed vessels attacked one of yours—the valor of our seamen triumphed—the brig surrendered. But, the battle ended, she was immediately restored. This proceeding was approved by that friend of liberty and man, Mr. Jefferson, and, in a Message to Congress, he represented the war as being altogether on one side, and demanded that our condition should be changed. This was the course of proceeding in older times. Would that the principles of those times could exist forever! But, sir, what was General Jackson's course of proceeding? He did not wait for, but made the attack. He seizes the post, enters into terms of capitulation with the garrison, and sends it off to a Spanish island; appoints officers of police—introduces our own laws, and makes what he calls a valuable addition to our territory. Sir, I appeal to my honorable colleague (Mr. H. NELSON) who has advised us to read the documents, and who professes a most intimate knowledge of these transactions, to say, if I have stated anything but facts. Mr. Chairman, I cannot imagine a more formidable inroad on the powers of this House. The military commissions the officers of police; the American law prevails; the Spanish customs are disregarded. Who has done all this? Not the Congress of the United States, but the commander of its armies. I am no apologist for Spain; our wrongs are numerous and great. But, I will never cease to protest against this violation of the Constitution. But the gentleman who has just addressed you (Mr. H. NELSON) urged that, in order to protect your frontier, it was necessary you should have these posts. That, but for their occupation, that frontier would, even now, in all probability be visited by massacre and blood. And are we prepared to justify this proceeding upon the plea of convenience; to what conclusions will this lead us? In prosecuting a war with the Turks, would not this same plea justify you, if you possess the power, in seizing on Gibraltar? This would enable you, with little difficulty, to bring them to terms, and to overawe any subsequent rupture. In the event of a war with England, you could not do better than wrest Cuba from the hands of Spain; for, by doing so, the commerce of the West Indies would be placed at your mercy, and their prosperity depend upon your will. And yet, sir, will the gentleman say, that one of your commodores, without your authority, should possess himself of Cuba? I again call upon this Committee to guard against the evils of this precedent. I have pointed out some few of its consequences; I have argued this as an abstract question; I have attempted to meet it fairly; I argue from the principles of common sense, and base myself upon the Constitution of my country. My colleague (Mr. H. NELSON) has asked you, if you were disposed to acquit yourself from the responsibility of these measures, after making an appropriation to carry on the war against the Seminoles. Sir, I will, with all due deference, propose a question to honorable gentlemen. Did not the chairman of the Committee of Foreign Relations distinctly announce, on this floor, at the last session, his intention of submitting to that committee a proposition to authorize the President of the United States to take possession of Florida? I understood it was submitted to that committee, and rejected by an unanimous vote. [Here Mr. HOLMES, from Massachusetts, rose to explain; he said that the proposition had been submitted to the Committee of Foreign Relations, at the last session, but that it had not been authorized by the President or the House.] Mr. TYLER continued. It came from the chairman—he had the right to submit the proposition. But I care not from whence it came. The proposition was submitted, and was distinctly negatived. Would not this House have done the same thing? I heard no second to the proposition. You would not even authorize the President to seize on these posts, and yet, when a military officer does it, we calmly fold our arms and approve the act. Has our course of policy so suddenly changed? What has produced this change? A Summer campaign? Have we more lights now than we had last Winter? Did you not know then, as well as you do now, the feelings of the Governor of Pensacola towards this nation? He had suffered, in our late conflict with England, an English army to possess itself of Pensacola, and from thence to carry on hostilities against us. General Jackson, in the year 1814, was compelled to dispossess that enemy. Sir, we had every light then which we possess now, on this subject, and we distinctly disapproved of the occupation of these posts.

The gentleman from Virginia (Mr. H. NELSON) has referred us to the seizure of Pensacola in 1814, and of Amelia Island, by way of justifying these proceedings. Then, you fought against the enemy, who had possession of the town. That enemy was beaten and driven off, and our victorious army returned to our own territory. The Spanish authorities were not interfered with. As to

Amelia Island, I shall not stop to inquire whether its occupation was right or wrong. If it stands on the same footing with the present case I do not hesitate to pronounce it wrong. And, sir, the circumstances of its being referred to, to justify this proceeding, proves the necessity of guarding against evil precedents. In the estimation of that gentleman, that precedent has already grown into law. Will you suffer this also to become the law of the land; and, by so doing, deliver yourselves up, bound hand and foot, to the arbitrary caprices of the officers of your army? I most devoutly pray that such may not be the result. I have every confidence in the patriotism of that army; but I cannot, will not, consent to invest them with powers conferred on Congress by the Constitution.

As to the remaining points of inquiry, I shall be very brief. Sir, my only object is to present you what I esteem the strong points of these questions. I do not wish, even if I had the power, to perplex you with subtle and ingenious reasoning. My object is to meet the questions fairly—to encounter the arguments of honorable gentlemen with such force as I can, and to contribute, as far as my humble talents will permit me, in elucidating this interesting subject. If, Mr. Chairman, the capture of St. Marks was unauthorized, the execution of Arbuthnot must of necessity have been so. Spain was a neutral in the war. Her flag, therefore, for he was in St. Marks, protected Arbuthnot from your power. This is the principle for which we have never ceased to contend. The same principle prevails on the land and on the ocean. If this man had been on board a Spanish vessel, according to this rule, one of your naval officers would have had no authority to have dragged him from on board that vessel and punished him with death. Against the British practice of search and impressment, our Government has never ceased to protest. It was the most prominent cause of the late war. Will you protest against this practice when observed by foreign nations, and shall we adopt the same practice in our armies and on the high seas? Is this to do justice? Our magnanimity, our honor, our consistency, are all at stake. If we cannot look to this House to preserve them, in the name of Heaven to whom shall we look? Even against the seizure of property protected by a neutral flag, we have constantly, unceasingly contended. Shall the rights of persons be less respected? I beg of gentlemen to recollect Valparaiso. The Essex frigate was under the guns of a Spanish battery: two English vessels attacked and captured her. Have we forgotten the clamor which this pusillanimity excited against Spain? Sir, she was represented either as hostile towards us, or so poor and degraded in spirit as to suffer her sovereignty to be invaded without resisting it. We have never ceased to remonstrate against this infraction of her neutrality, and, when we enumerate the causes of war against her, this is never omitted. I demand again to know if we shall adopt a different rule when we ourselves are the aggressors? No, sir, I insist that justice is the same everywhere, and under all circumstances. Let her fiat be done, as well for us as against us.

The execution of Ambrister and the two Indian chiefs I consider equally indefensible. Although the reasoning applicable to the case of Arbuthnot is not applicable to that of Ambrister, yet all the reasons which go to show the impropriety of the execution of the latter, apply also to the former, I shall not stop to inquire whether the court martial was properly organized or proceeded with due solemnity and form. This has already been sufficiently canvassed, and in my estimation constitutes only a secondary branch of inquiry. I reason from great principles recognised by the law of nations. That law recognises but one reason cogent enough to authorize a General to put to death his prisoners. And that is, "where the safety of his men requires it." Was that safety implicated by suffering a wretch to live? Was the existence of his men or his army endangered in the life of a miserable vampire who had crawled from the sinks of European corruption, and had visited this western shore, either to exist in the commission of crime himself or on the enormities of others? Or did the continuance of the lives of his Indian captives threaten discomfiture and overthrow? It cannot be pretended. The first was too insignificant to have excited such fears—the power of the last was broken, and all their efforts defeated. The rifle and tomahawk had been struck from their hands, and they were prisoners, defenceless and disarmed. Sir, would it not have better comported with your national character, if, instead of executing these captives, the General had said to them, "go, I give you your liberty: go to your 'few surviving warriors, and tell them that that 'nation against whose defenceless frontiers you 'have raised the murderous scalping knife, with 'whom you have ever been at war, whose blood 'you have delighted to drink—that nation, so 'abused, so insulted, has no law to punish you: 'it restores you to your native forests, and has 'only to ask that you will abandon your enemies, 'and instruct your warriors how to respect her 'rights." I cannot but think that this would better have accorded with the principles of humanity and the laws of nations. But, sir, we are told by my honorable friend from Virginia, (Mr. Barbour,) that the ancient law of nations permitted the conqueror to put to death his prisoners, and that that code applies still to savage nations. He admitted, however, that a new code had been adopted by civilized nations; and, sir, this new code provides the mode of conducting war even against barbarians. Does not the gentleman, then, see that his position and admission are at variance with each other? If the new code has abrogated the other, are you not bound by the first, and can you resort to the last? Can you break your contract at pleasure? [Here Mr. Barbour rose to explain. He said that it was true we did extend to savages many of the benefits of the new code, but that it was a gratuitous act on our part, and what they had no right to

demand; for, in the language of Bynkershoek, though justice may be insisted on in war, yet generosity cannot.] Mr. T. said that he regretted much if he had misunderstood the gentleman. His wish was fairly to meet the argument. But, sir, I contend that the rights which a civilized nation may exercise over its prisoners when warring against barbarians, are distinctly pointed out in the new code of national law. The very rule which I have laid down is there to be found, and is actually applicable to a war of the sort I have alluded to. This, then, is your contract with the civilized world. If we do not respect the stipulations of that contract, we throw ourselves out of the pale of the law. The gentleman from South Carolina, (Mr. LOWNDES,) with whom I have the satisfaction to agree, except in relation to this point, admits the propriety of the execution of Ambrister. He derives the power of the General from his right to refuse quarter in battle, and his right to punish for a breach of parole. These are cases constituting exceptions to the rule for which I contend, and are expressly enumerated. But does he find, in all the enumerated exceptions, a right appertaining to the commanding officer, to execute his prisoners, except where the safety of his army requires it? I defy gentlemen to produce such an instance. If his enemy gives no quarter, he has a right to refuse him quarter. But if you strike his weapons from his hand and make him your prisoner, that instant is his life placed beyond your reach, unless it be taken to preserve the lives of your men. The case of a man violating his parole is founded on the principles of humanity, and his punishment is properly left to the discretion of the officer.

This practice of paroling prisoners owes its origin to the rigorous confinement which each captive would necessarily be compelled to undergo but for its existence. The whole civilized world is, for these and other reasons, concerned in its preservation; the individual, too, accepts his parole under the express agreement that if he breaks it his life will be the forfeit. The gentleman from Kentucky (Mr. ANDERSON) contends that the right of retaliation must, from the nature of things, be vested in the commanding officer. I admit the truth of the position to a certain extent. Sir, the safety of his men may be involved in the exercise of this right. This is the controlling principle; under its influence everything which is done may be proper; but the very instant you pass beyond the limits it prescribes, that moment do you hurry headlong into error, and subvert the established order of things. Sir, take the case which he has put. He imagined your General with his army in Pensacola, besieged by a powerful enemy, and so surrounded as to be cut off from all intercourse with the Government; all the prisoners made by your enemy are put to death, and the gentleman triumphantly asks will you deny to your officer the right of retaliation when so circumstanced. No, sir, I will not deny it to him; I give it to him under the rule which I have laid down. By putting to death his captives, his enemy would be induced to abstain from his fell practices. The safety of his men, the preservation of their lives, would call upon him to retaliate, and the necessity of the case would justify him in doing so. I am, then, Mr. Chairman, forced to disapprove the execution of these men. When gentlemen point me to the bleeding scalps of my countrymen—when they read to me the long catalogue of ills which we have sustained—when they portray the sufferings of a mother bereaved of her only child—when they represent to me that child inhumanly butchered—when they show me the picture of desolation and despair which these wretches have realized—I am not wanting in sensibility, nor is the effect of the representation lost upon me. I can do justice to the feelings of General Jackson with these dread objects of savage barbarity around him; but, when I recollect that this gallant hero had routed these cannibals; had visited their land with the sword; had desolated their dwellings and crushed their power; and that, not satisfied with this, he had executed his vengeance on those who had fallen into his hands—sir, I am permitted to breathe, and inquire under what law have these prisoners been bereaved of existence? We live in a land where the only rule of our conduct is the law. The power of promulgating those laws is invested in Congress. They are not the arbitrary edicts of any one man, nor is any so high as to be above their influence. It is, then, because these proceedings have taken place in the absence of all law, that I cannot yield to them my approbation. It is because the precedent which may grow out of them is dangerous to the liberties of this country—because they militate against the powers of this House, the repository of the people's rights, and trench upon the Constitution of this land—that I must disapprove them.

One word more by way of conclusion. Mr. Chairman, we are denounced as the enemies of General Jackson and the President of the United States. Enemies of General Jackson! Of him who has shed a blaze of renown upon our country, bright as a beam of light, and lasting as history! Of him whose life has been dedicated to the service of his country, and who has by his valor entwined a wreath around her brow, lasting and as imperishable as his own fame! Oh no, sir; I, for one, feel no enmity towards him; I am the enemy of no man, but I trust I am a friend to the Constitution and the law. The enemies of the President! Where did he come from? What land gave him birth? Sir, he comes from the land in which we dwell; he is the friend and neighbor of many of us; in his long life of arduous service, we recognise the greatest devotion to the public weal; the most unshaken patriotism. But if he countenances what we deem erroneous proceedings, shall we not advise him of his error? Is this tame acquiescence to be expected of us? Suffer me to say, sir, and I say it with all proper decorum, that Virginia will not hesitate to disapprove the conduct of her dearest son, if she believes that son to have erred. Let me tell you, that if that man who carried you successfully

through the storms of the Revolution; who conducted you to victory and independence; he who was "first in war, first in peace, first in the hearts of his countrymen;" if that man had erred, dear as he was to her affections, Virginia would have stood forth to oppose his errors. The enemies of Mr. Monroe, sir? In what does friendship consist? Is it to be the faithless helmsman who, when the danger approaches, when the storm lowers, when the rocks are in sight, still folds his arms and cries out all's well? Or does it consist in advising of the danger, in giving the alarm, in pointing to the rocks which threaten us with shipwreck? Sir, we are all mariners on board one vessel, and that vessel is the Constitution of our country Our destinies, our hopes, the hopes and prospects of our latest generation, are all committed to our charge; and he who will not aid to reach the harbor in safety, is an enemy to his country, and deserves to perish.

Mr. POINDEXTER succeeded Mr. TYLER, taking the opposite side of the question, and opposing, in toto, the report of the Military Committee, and the amendments proposed thereto, by Mr. COBB. He had not proceeded far in his argument, when, at near four o'clock, the Committee rose, reported progress, and obtained leave to sit again.

TUESDAY, February 2.

Mr. PLEASANTS presented to the House a letter to him as chairman of the Committee on Naval Affairs, by the Secretary of the Navy, transmitting a list of the names of such navy agents, not now in service, as have discharged the balances standing against them on the books of the Navy; which letter was ordered to lie on the table.

Mr. NEWTON, from the Committee of Commerce and Manufactures, reported a bill for the relief of Robert Kid, of Philadelphia; which was read twice, and committed to the Committee of the Whole, to which is committed the bill for the relief of James Orr.

Mr. NEWTON, from the same committee, also reported a bill to authorize the Secretary of the Treasury to sell a lot of land at Bermuda Hundred, in the State of Virginia; which was read twice, and committed to the Committee of the Whole, to which is committed the bill to authorize the sale of a part of the glebe of Rock Creek church, in the county of Washington and District of Columbia.

Mr. McCOY, from the Committee of Claims, made a report on the petition of John McCausland; which was read, when Mr. McC. reported a bill for the relief of the said John McCausland, which was read twice, and committed to the Committee of the Whole, to which is committed the bill for the relief of James Orr.

Mr. H. NELSON, from the Committee on the Judiciary, to which was referred the bill from the Senate, entitled "An act further to extend the judicial system of the United States," reported the said bill without amendment, and the bill was committed to the Committee of the Whole, to which is committed the bill from the Senate, entitled "An act to provide for the more convenient organization of the courts of the United States and the appointment of circuit judges."

On motion of Mr. LIVERMORE,

Ordered, That there be printed for the use of the Representatives and Delegates in Congress, eleven hundred and twenty copies of the President's Message of the 15th of December, 1818, and of the documents therewith transmitted, being the remainder of the documents referred to in the Message of the 17th November, 1818, and containing the report of Theodorick Bland, on South America; and the correspondence between the Secretary of State and J. R. Poinsett; also, forty copies, to be presented to Theodorick Bland and forty to J. R. Poinsett.

On motion of Mr. RHEA, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of providing, by law, for the payment of all pensions belonging to persons residing in East Tennessee, at the State bank of Knoxville.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a copy of the order from the War Department, in virtue of which, the Negro Fort within the territory of East Florida was destroyed in July, 1816; and copies of letters from Generals Jackson and Gaines, in relation to the destruction of said fort; which comprise all the information in the War Department in relation to the subject of the resolution adopted by this House on the 26th instant; which letter was ordered to lie on the table.

THE SEMINOLE WAR.

The House then again went into Committee of the Whole, Mr. SMITH of Maryland in the Chair, on this subject.

Mr. POINDEXTER resumed his speech against the report and resolutions of censure, and spoke near three hours in support of his opinions, and in reply to gentlemen on the other side of the question.—His speech follows, entire.

Mr. POINDEXTER addressed the Chair as follows:

I rise, Mr. Chairman, under the influence of peculiar sensibility, to offer my sentiments on the subject before the Committee. We are called upon to disrobe a veteran soldier of the well-earned laurels which encircle his brow, to tarnish his fame by severe reproaches, and hand down his name to posterity as the violator of the sacred instrument which constitutes the charter of our liberties, and of the benevolent dictates of humanity, by which this nation has ever been characterized and distinguished. Were the sacrifice of this highly meritorious citizen the only evil with which the proposed resolutions are fraught, I should derive some consolation from the reflection, that there is a redeeming spirit in the intelligence and patriotism of the great body of the people, capable of shielding him against the deleterious consequences meditated by the propositions on your table. But there is another, and more serious aspect, in which the adoption of these reso-

lutions must be viewed; the direct and infallible tendency which they involve, of enfeebling the arm of this Government, in our pending negotiation with Spain; of putting ourselves in the wrong, and the Spanish Monarch in the right, on the interesting and delicate points which have so long agitated and endangered the peace of the two countries. I wish not to be understood as attributing to honorable gentlemen, who advocate the measure, such motives; they are, doubtless, actuated alone by a sense of duty. I speak of the effects which our proceedings are calculated to produce, without intending to cast the slightest imputation on those who entertain different opinions. Sir, do we not know with what delight and satisfaction the Minister of Spain looks on the efforts which are made on this floor to inculpate the Executive of the United States, for having committed against his *immaculate* master an act of hostility, in the entrance into Florida, and the temporary occupation of St. Marks and Pensacola? With what avidity and pleasure he peruses the able and eloquent arguments delivered in the popular branch of the Government, in support of the weighty allegations which he has already exhibited of the hostile and unwarrantable conduct of the commander of our army, during the late campaign against the Seminole Indians? And, sir, whatever may be the purity of intention, which I shall not presume to question, on the part of gentlemen who censure the course pursued by the commanding General, this debate will afford a valuable fund, on which Spain will not fail to draw, on all future occasions, to show that the pacific relations which she has endeavored to maintain have been violated, without an adequate cause, by the United States. Shall we put it in her power to make this declaration to the civilized world, and establish the fact by a reference to the Journal of the House of Representatives? I hope and believe we shall not. Sir, the nature of our free institutions imperiously requires that, on all questions touching controversies with foreign Powers, every Department of this Government should act in concert, and present to the opposite party one undivided, impenetrable front. The observance of this rule accords with every dictate of patriotism; and is the basis on which alone we can preserve a proper respect for our rights among the great family of nations. Internal divisions are often fatal to the liberties of the people; they never fail to inflict a deep wound on the national character; the lustre and purity of which it is our primary duty to preserve unsullied, to the latest posterity. Can it be necessary to call to the recollection of the Committee the peculiar and delicate posture of our relations with Spain? A protracted and difficult negotiation, on the subject of boundary and spoliations, is still progressing between the Secretary of State and their accredited Minister, at this place; the result is yet extremely doubtful; it may, and I trust will, eventuate in a treaty satisfactory to the parties, on all the points in contest; but, if Spain should continue to reject the moderate and reasonable demands of this Government, the indisputable rights of this nation must and will be asserted and vindicated by a solemn appeal to arms. I ask if, in such a crisis, it is either wise or prudent to pronounce, in the face of the world, that we have been the aggressors, and that war in its most offensive and exceptionable sense has been already commenced by General Jackson, under the sanction of the President of the United States? I hazard nothing in affirming that such a departure from the established usages of nations is without a parallel in the history of any country, ancient or modern. Under whatever circumstances danger may threaten us from abroad, it is from this House that the energies of the people are to be aroused and put in motion; it is our province to sound the alarm, and give the impulse which stimulates every portion of the Union to a simultaneous and manly exertion of its physical strength, to avenge the insulted honor and violated interests of our country. We are the legitimate organ of public sentiment; and it is incumbent on us to animate and cherish a spirit of resistance to foreign encroachments among our constituents, by urging the justice of our cause, and the necessity of their vigorous cooperation in support of the constituted authorities, who are responsible to them, for the faithful execution of the high and important duties with which they are intrusted. These are the means by which we shall perpetuate our Republican form of Government, and transmit its blessings to future generations. But we are required on the present occasion to forget the wrongs of which we have so long and so justly complained; to abandon, for a while, the lofty attitude of patriotism, and to tell the American people, in anticipation of a rupture with Spain, that it is a war of aggression on the part of their chief Executive Magistrate, commenced in Florida without proper authority; that the Spanish Government can consider it in no other light than premeditated, offensive war, made on them with a view of extending the territorial limits of the United States. The expression of these opinions, by this body, must cast a shade over the American name, which no lapse of time can obliterate; and, while we nerve the arm of the enemy, we shall approach the contest with an open denunciation against the President, who is charged with its prosecution to a speedy and favorable termination. He is denied the cheering consolation of *Union*, in the Government over which he has been called to preside, at a period of national peril, when every man ought to be invited to rally around the standard of his country. Sir, how is this most novel and extraordinary aberration from the legislative functions of the House attempted to be explained and justified? By gloomy pictures of a violated Constitution; pathetic appeals to humanity, in favor of a barbarous and unrelenting foe; and lamentations over the blighted honor and magnanimity of the nation. I, too, am a conservator of the Constitution; I venerate that stupendous fabric of human wisdom; I love my country, and will endeavor to rescue it from the

odious imputations which have been so freely cast on it in the progress of this discussion. I admonish gentlemen, who manifest such ardent zeal to fortify the powers of this House against military usurpations, that they do not suffer that zeal to precipitate them into an error equally repugnant to a sound construction of the Constitution. The report of the Committee on Military Affairs, taken in connexion with the amendments proposed by the honorable member from Georgia, (Mr. Cobb,) may be classed under two general divisions. 1st. Resolutions of censure, on the conduct of General Jackson, in Florida, for a violation of the orders of the President, and of the Constitution; and for the unlawful execution of the incendaries, Arbuthnot and Ambrister. 2d. Instructions to the Committee to prepare and report two several bills, the object of which is to divest this nation of some of the most essential attributes of sovereignty. I shall pass over the latter branch of this subject without observation; believing, as I do, notwithstanding the high respect which I entertain for the mover, that it is not seriously the intention of honorable gentlemen, by an act of legislation, to abrogate the rights of this nation, founded on the universal law of nature and of nations. Self-denial, though sometimes an amiable quality in an individual member of society, when applied to the whole community, renders it obnoxious to insult and oppression, and is a voluntary degradation, below the rank of other sovereignties, to which no American ought ever to submit. Neutral rights, and the usages of war, are already well established and understood by all civilized Powers; and it is not to be presumed that the interpolations which are proposed would be reciprocated, and constitute the basis of new principles of public law; we may prostrate our own dignity, and paralyze the energies of our country, but we shall find no nation so pusillanimous as to follow our disinterested example.

Considering, therefore, these propositions as merely nominal, intended only to enlarge the group, and give diversity to the picture, I shall leave them without further animadversion, and proceed to investigate the resolutions levelled at the fame, the honor, and reputation, of General Andrew Jackson; and, through him, at the President, under whose orders he acted, and by whom he has been sustained and vindicated. Sir, I hold it to be the indispensable duty of every tribunal, whether legislative or judicial, to examine with caution and circumspection into its jurisdiction and powers, on every question brought before it for adjudication; and this rule ought more particularly to be observed in cases involving personal rights and interests, where the party to be affected by the decision is not permitted to answer in his own defence. I ask, then, sir, has the House of Representatives, as a distinct and separate branch of Congress, the Constitutional power to institute an inquiry into the conduct of a military officer, and to sentence him to be cashiered, suspended, or censured? I demand a satisfactory and explicit response to this interrogatory, founded on a reference to the Constitution itself, and not on the undefined notions of expediency, in which gentlemen may indulge; and if it be not given, as I am very sure it cannot, we shall become the violators of that fair fabric of liberty, and erect a precedent more dangerous in its tendency, than the multiplied infractions which have been so vehemently alleged against General Jackson, admitting them all the force and latitude which the most enthusiastic *censor* could desire. Sir, it is high time to bring back this debate to first principles, and to test our jurisdiction over this case, by a recurrence to the structure of the Government of which we are a component part. Let us pluck the beam from our own eyes, before we seek to expel the mote which gentlemen seem to have discovered in the vision of General Jackson. The sages and patriots who established the foundation of this Republic have, with a wisdom and forecast bordering on inspiration, carefully marked and distributed the powers delegated in the Constitution to the Federal Government among the several departments, Legislative, Executive, and Judiciary. No principle is better settled, or more generally conceded, than that the powers properly belonging to one of these departments ought not to be directly administered by either of the others. The violation of this maxim leads, by inevitable results, to the downfall of our Republican institutions, and the consolidation of all power in that branch which shall possess the strongest influence over the public mind. Upon the independent exercise of the powers confided to each department, uncontrolled, directly or indirectly, by the encroachments of either, depends the security of life, liberty, and property, and the stability of that Constitution which is the pride of our country and the admiration of mankind. The honorable gentleman from Georgia has adverted to the opinions of the immortal author of the letters of Publius, the late Chief Magistrate of the United States; and the honorable Speaker has also invited our attention to that great Constitutional lawyer. They triumphantly ask, what *he* would say on the present question, were he a member of this House? I will not follow the example of these gentlemen, by substituting declamation for historical truth, or vague surmises, and assumed premises, for record evidence; but, while I accord to the distinguished statesman and patriot, whose exertions so eminently contributed to the establishment of this Government, and whose exposition of its fundamental principles cannot be too highly appreciated, all the merit of a useful life, devoted to the public service, guided by wisdom, virtue, and integrity; I appeal with pleasure and confidence to his able pen in support of the position which I have advanced, and which I deem an important point in the case under consideration. In the view taken by Mr. Madison, of the "meaning of the maxim which requires a separation of the departments of power," he repels the arguments of the opponents to the adoption of the Constitution, founded on the apprehension of Executive supremacy over the

Legislative and Judiciary, which, it was contended, would ultimately render that branch the sole depository of power, and subject the people of this country to the despotic will of a single individual. Comparing the powers delegated to the Executive, with those granted to the Legislature, and the probable danger of an assumption by either of the functions appertaining to the other, he says:

"In a Government where numerous and extensive prerogatives are placed in the hands of a hereditary monarch, the Executive department is very justly regarded as the source of danger, and watched with all the jealousy which a zeal for liberty ought to inspire. In a democracy, where a multitude of people exercise in person the legislative functions, and are continually exposed, by their incapacity for regular deliberation and concerted measures, to the ambitious intrigues of their Executive Magistrates, tyranny may well be apprehended, on some favorable emergency, to start up in the same quarter. But, in a representative Republic, where the Executive Magistracy is carefully limited, both in the extent and duration of its power, and where the legislative power is exercised by an assembly, which is inspired, by a supposed influence over the people, with an intrepid confidence in its own strength; which is sufficiently numerous to feel all the passions which actuate a multitude, yet not so numerous as to be incapable of pursuing the objects of its passions, by means which reason prescribes; it is against the enterprising ambition of this department that the people ought to indulge all their jealousy, and exhaust all their precautions. The legislative department derives a superiority in our Government from other circumstances. Its Constitutional powers being at once more extensive, and less susceptible of precise limits, it can, with the greater facility, mask, under complicated and indirect measures, the encroachments which it makes on the co-ordinate departments."

The correctness of the reasoning and predictions of this great and good man, who is called by the honorable Speaker the father of the Constitution, has been often demonstrated in the practical operations of this body, and never more forcibly than on the present occasion. Scarcely a session of Congress passes without some effort to enlarge the scope of our powers by construction or analogy; and unless these systematic advances in this House to crush the co-ordinate departments, by an unlimited exercise of authority over all subjects involving the general welfare, be resisted with firmness and perseverance, they will, at no distant period, eventuate in the destruction of those salutary checks and balances so essential to the duration of our happy form of Government and to the security of civil and political liberty. I deprecate every measure calculated to establish a precedent, which, in its effects, may lead to such dangerous consequences. An enlightened statesman has said that the concentrating all the powers of Government in the legislative body is of the very essence of despotism; and it is no alleviation that these powers will be exercised by a plurality of hands, and not by a single one. "An elective despotism was not the 'Government we fought for; but one which 'should not only be founded on free principles, 'but in which the powers of Government should 'be so divided and balanced among the several 'bodies of magistracy, as that no one could transcend their legal limits without being effectually 'checked and restrained by the others."

Sir, whenever these principles shall cease to be respected by the councils of this country, I shall consider the grand experiment which we have made in the administration of a Government of limited powers, founded on a written instrument, in which they are specified and defined, as altogether abortive, and as affording strong proof of the regal maxim, that man is incapable of self-government. If honorable gentlemen mean anything by the reverence which they profess to feel for the Constitution, I conjure them to look to its provisions, and forbear to adopt a measure in direct violation both of its letter and spirit. By article 2d, section 2, it is provided that "the President shall be Com-'mander-in-Chief of the Army and Navy of the 'United States, and of the militia of the several 'States, when called into actual service;" and by the 8th section of the 1st article, Congress is vested with power to "make rules for the government and regulation of the land and naval forces." Congress has long since fulfilled this duty; rules and articles of war have been sanctioned, and have continued to govern the Army from its organization up to the present time; in these the great principles of subordination and responsibility are graduated and established, from the Commander-in-Chief down to the most petty officer and common soldier. The President is placed by his country at the head of its physical force "to execute the laws of the Union, suppress insurrection, and repel invasion;" he is the ultimate tribunal to decide all questions touching the operations of the Army, and the conduct of the officers who compose it. If there be any power, clearly and exclusively belonging to the Executive, it is that which appertains to the government of the Army and Navy of the United States. Our whole system of laws recognises it; and until this extraordinary attempt to erect the House of Representatives into a court martial, with a view to cast an indelible stain on the character of General Jackson, without a fair and impartial trial, in which he might confront his accusers and be heard in his defence, no instance can be shown, since the foundation of the Government, where the President has been interrupted in the full exercise of his legitimate authority over the military officers under his command. The abuse of this power, or the improper direction and application of the public force, by the Chief Magistrate, or by any subordinate officer, with his privity and assent, in a manner, or for the accomplishment of objects dangerous to the liberties of the people, or subversive of the laws and Constitution of the Union, will find a ready and suitable corrective in this House, by an application of its power to originate impeachment against the President, Vice President, and all civil officers, for treason, bribery, or other high crimes and misdemeanors. In this sense

only can we be regarded as the grand inquest of the nation, and not to the unlimited extent for which gentlemen have contended. The power to impeach the President is expressly delegated; all other civil officers are liable to the same scrutiny, and the total omission, in the article of the military department, is, to my mind, conclusive evidence that they were never intended to be subject to the control of Congress, except in the usual course of legislation, under the power to raise and support armies. And this opinion is strengthened by the clause of the Constitution to which I have referred, directing Congress to provide for the government and regulation of the land and naval forces. The principle of official responsibility is to be found in every page of the Constitution; not a vague, uncertain responsibility, but that which is unequivocal, certain, and definite. We are answerable, at stated periods, to the people by whom we have respectively been chosen. The President is accountable to the nation at large at the expiration of his term of service; and, in the meantime, we hold a salutary check over his ambition, if he evince such a disposition, by means of impeachment. In like manner the whole civil department may be punished for a wanton prostitution of their official functions. The military and naval officers who command our army and navy are responsible directly to the Executive, who is their chief, and, through him, indirectly, to the Representatives of the people. Every link in the chain is essential to the beauty and symmetry of the whole; and, if preserved unbroken, affords the most ample security against any usurpation of power without a prompt and efficient remedy to detect and restrain it. It is now proposed to make this House the focus of every power granted to the Federal Government; to mount the ramparts which separate the departments, and compel every man who holds a commission to bow with submission to the gigantic strength of this numerous assembly. Those whom we cannot impeach we will censure, and record their names as fit objects for the scorn and detestation of posterity. Already we hold the purse and the sword of the nation. All legislation must receive our concurrence, in connexion with the President and Senate, before it has the force and effect of law. The treaty-making power may be controlled by us where an appropriation is required to fulfil the contract—the judiciary is at our feet, both in respect to the extent of its jurisdiction and the liability of its members to the summary process of impeachment—the President and heads of department, foreign Ministers, and the whole catalogue of civil officers, stand in awe of our frowns, and may be crushed by the weight of our authority. I ask, then, sir, if the officers of the Army and Navy are rendered subservient to us as a censorial, inquisitorial body, whether it will not amount to the "very definition of despotism." Yes, sir, we shall, if these resolutions pass, bear testimony of the soundness of the political axiom, that it is "against this department that the people ought to indulge all their jealousy, and exhaust all their precautions." But the Constitution, in this respect, has received a construction almost contemporaneously with its adoption. As early as the year 1792, a resolution was submitted, by a distinguished member from Virginia, in the House of Representatives, requesting the President to institute an inquiry into the causes of the defeat of the army under the command of Major General St. Clair. The agitation produced by that momentous disaster seemed to demand an investigation of the conduct of the commanding General. A great public calamity is always calculated to awaken feelings which, for a moment, usurp the empire of reason, and lead to excesses which sober reflection would condemn. It was not, therefore, wonderful, that a man of the soundest intellect, and most enlightened understanding, should have felt it his duty to call the attention of the President to a subject so deeply interesting to the country, and to request an inquiry into the causes of that signal and unfortunate defeat. The proposition was fully discussed, and finally rejected by a large majority, on the ground that it was an unwarrantable interference with the Constitutional functions of the Chief Magistrate. The substance of the debate may be found in the newspapers of that day; and among those who objected to the measure are the names of Madison, Ames, Baldwin, and many others who participated in the formation of the Constitution, and who were, consequently, better qualified to give to it a sound interpretation. A committee was subsequently appointed to inquire into the expenditure of the public money in that campaign, and other subjects of a general nature, connected with the legislative duties of Congress. Again: in the year 1810, a committee was raised to inquire into the conduct of General James Wilkinson, in relation to a variety of charges which had been publicly made against him; they were authorized to send for persons and papers. The General was notified of their sittings, allowed to attend in person before them, to cross-examine the witnesses, to confront his accusers, to exhibit evidence in his defence, and make such explanations as he might think necessary to a vindication of his conduct. The committee, after a very laborious investigation, simply reported the facts to the House, who resolved that the same be transmitted to the President of the United States. No opinion was expressed or intimated, as to the guilt or innocence of the General; no request was made of the President to institute a court martial, but he was left to the exercise of his own discretion, unbiassed by the slightest indication of the impression which the development had made on the House of Representatives. The result, we all know, was, that a general court martial was immediately convened, and General Wilkinson was honorably acquitted: both principle and precedent, therefore, combine in recommending a rejection of these resolutions, which claim for this House a power, not merely to request another department to perform a particular duty, but assume the right to adjudicate the case, and sentence an officer to irretrievable

infamy, without a hearing, and without appeal, save only to his God and the purity of his own conscience.

Permit me, sir, to present to the view of the Committee some of the unavoidable consequences which will flow from this premature and unauthorized proceeding. We announce to the President, and to the nation, that General Jackson, in the prosecution of the Seminole war, has violated his orders and broken the Constitution of his country, and that, in the trial and execution of Arbuthnot and Ambrister, he has been guilty of the horrid crime of official murder. We, on the part of the whole people, become the informers, and thereby impose on the President, as commander-in-chief of the army, the indispensable obligation to adopt one of two alternatives—either to dismiss from the service that officer, under our denunciations, or to assemble a regular court martial to investigate these charges, according to the forms prescribed in the laws enacted for the government of the army of the United States. The latter course, being the one best adapted to the attainment of justice, would, in all probability, be pursued. He details a court martial, composed of high-minded military men; charges and specifications are exhibited; and the General, for the first time, is allowed to answer to them—guilty or not guilty. He is put on his trial, and at the very threshold he is informed that he has already been found guilty by the highest tribunal in the Union—the Representatives of the American people. He, nevertheless, proceeds in his defence, and is ultimately convicted, and cashiered. Would not history record such a conviction as the result of our prejudication of the case? Would not the whole world attribute the downfall of this man to the monstrous persecution and flagrant injustice of that ungrateful country which he had so nobly defended? Yes, sir, to the latest posterity we should be regarded as having passed an *ex parte* decree of condemnation, which the court martial were bound to register, to secure themselves from similar animadversion. But let us suppose that, unawed by the imposing *dictum* which we shall have pronounced, the court martial acquit the General of the several charges and specifications on which he has been arrested. We should then have the military of the country arrayed against this body: we, acting under the solemn obligation of our oaths, declare, that General Jackson has been guilty of high crimes and misdemeanors; we are unable to tear from him his epaulets; and, when tried by his peers, our opinions are scouted, and he is maintained in the high rank from which we would have degraded him. In such a controversy, the only arbiter is force. Sir, take either horn of the dilemma, and we have abundant reason to shun the consequences which must follow the adoption of the proposed resolutions.

Our total inability to enforce the will of the majority, demonstrates most clearly the absence of the right to express that will; for, whatever any branch of the Government can constitutionally decide, the means necessary to carry its decision into execution can never be withheld or questioned. Sir, I have been not a little amused at the evasive contortions of honorable gentlemen, who, to avoid the perplexing difficulties by which they are enveloped, gravely affirm, that neither the report of the Military Committee, nor the resolutions respecting the seizure of the posts of St. Marks and Pensacola, and fortress of Barrancas, contain a censure of General Jackson; that they are harmless, inoffensive expressions of opinion, upon the passing events relating to the state of the Union. I put it to those gentlemen—for the argument has been resorted to by all who have spoken—whether, if I were to address either of them in conversation, and say, in the language of the propositions before the Committee, "Sir, you have violated the Constitution 'of the United States, and of course you are 'perjured. You have sentenced to death, and 'executed, two of your fellow men, without a 'fair trial, and contrary to all law, human and 'divine; consequently, your hands are stained 'with their blood," would they calmly reply, that my expressions conveyed no censure on them, and were not repugnant to their feelings or character, nor inconsistent with contemporaneous assurances of my high respect and consideration? Common sense revolts at conclusions so ridiculous, drawn from such premises. Add to this the express charge of a violation of orders, which the President, it seems, is not competent to determine for himself, and I may venture to defy any gentleman to cover a military officer with more odious epithets, or more vindictive censure. No man, however elevated his station, can withstand the overwhelming force of such an assault on his reputation, coming from this august body, after mature and solemn deliberation. The exalted mind of General Jackson would prefer even death to this fatal blow, aimed at that which is more dear to him than life—his well-earned fame and irreproachable honor. Sir, the immortal Washington was charged with a violation of the Constitution, in drawing money from the Treasury to pay the militia who served in the campaign against the insurgents in 1794, without an appropriation made by law; but at that day the secret of our power to censure had not been discovered, and the transaction passed without animadversion. It has remained for us to put in motion this new engine of inquisitorial crimination, and to wield it against a man whose arm was never extended but in defending the liberty and safety of his country against the complicated enemies by whom it has been assailed, and whose pure and unblemished patriotism, combined with his invincible valor, fortitude, and perseverance, have shed over his brow a resplendent ray of glory which neither clouds nor tempests can obscure, so long as virtue shall predominate over the envious and malignant passions of the human heart. Yes, sir! we are importuned to execrate the bloody deeds of the Seminole war, to chant requiems over the tombs of Arbuthnot and Ambrister, and to mourn over the wreck of our fall-

en Constitution; and, in an instant, as if by enchantment, the horrid picture vanishes from our affrighted imaginations, and eludes even the grasp of keen-eyed malice; and we hear the moral integrity and innocence of all these transactions announced from the same lips which utter their condemnation. The motives and intentions of General Jackson are eulogized and applauded by his most inveterate accusers. All the errors ascribed to him, and for which honorable gentlemen are prepared to immolate his character, and render his name, hitherto so dear to his countrymen, odious and detestable, are attributed to the impetuous ardor of his zeal to promote the general good, and give peace and security to our defenceless frontier.

He fills a space in the public eye, and commands a portion of the affection and confidence of his fellow-citizens, too copious and extensive to be tolerated by the sharp-sighted politician, whose splendid eloquence fades and evaporates before the sunshine of renown, lighted up by the unparalleled achievements of the conqueror of the veterans of Wellington. These modern casuists endeavor to magnify an unintentional violation of the Constitution into a crime of the blackest enormity, which can neither be extenuated nor forgiven. Are they willing to make this system of political ethics applicable to themselves, and to have their names specified on the Journal as culprits at the bar of an offended people, stamped with infamy and disgrace, if at any time they have, with the best intentions, given a vote, which, on a review of the subject, was found to conflict with some provision of the Constitution? What member of this House can say, with certainty, that he has, on all occasions, construed the Constitution correctly? And who among us would be satisfied to stake all his hopes and prospects on the issue of an investigation, which, disregarding all respect for the purity of the motive, should seek only to discover an inadvertent error, resulting from a defect of judgment in the attainment of objects identified with the best interests of the nation? Sir, if I mistake not, the honorable Speaker, and several other gentlemen, who have manifested great solicitude, and displayed a torrent of eloquence to urge the expediency of passing the proposed censure on the conduct of General Jackson, and who unhesitatingly admit the innocence of his intentions, would be placed in an unpleasant situation by the operation of the rule which they are anxious to prescribe in this case. A few short years past, these honorable gentlemen were the champions who resisted the renewal of the charter of the old bank of the United States. At that day they held the original act of incorporation to be a usurpation of power, not delegated to Congress by the Constitution, and to their exertions we were indebted for the downfall of that institution. The same distinguished members, at a subsequent period, acting under the high obligations of duty, and the solemnity of their oaths to support the Constitution of the United States, aided and assisted in establishing the mammoth bank, which now threatens to sweep with the besom of destruction every other moneyed institution in the nation into the gulf of ruin and bankruptcy. It will not be pretended that both these opposite opinions were correct; and yet I should be very sorry either to impugn the motives which actuated those gentlemen in the instances referred to, or to pass a censure on their conduct for an unintentional violation of the Constitution, calculated to withdraw from them the confidence of their constituents. There was a time, Mr. Chairman, when the Republican phalanx in every quarter of the Union regarded the specification of powers in the Constitution as the limitation of the grant, within which every department ought to be strictly confined. But at this day we are told, that this literal construction of the instrument is too narrow for the expanded views of an American statesman—mere "water gruel," insipid to the palate, and requiring the addition of a little fuel to give it energy and action to conduct this nation to the high destinies which await it. No power can be called for by an existing exigency, or a favorite system of policy, which, according to the doctrines now advanced, may not be found necessary and proper to carry into effect some one of the specified powers in the Constitution. The flexible character of man, and the frailty of human nature, afford an ample apology for these oscillations, and wretched indeed would be our situation if crime consisted in error, unaccompanied by the pre-existing will to perpetuate it. No man who respects his feelings or his character would accept a public trust on such conditions. As well might we censure the Supreme Court for having given a decision which we deemed contrary to the Constitution, and where no corruption could be alleged against the judges who pronounced it; which is an essential ingredient to constitute an offence for which a judicial officer is liable to impeachment. In such a case our censure might be retorted by an attachment for contempt, and the honorable Speaker, representing the majesty of this House, would be compelled to answer the charge by purgation, or otherwise, as the wisdom of the House should direct. I mention this to show the absurdity and inefficiency of every attempt to transcend the powers secured to us by the Constitution. Sir, I am sick to loathing of this incongruous, novel, and impotent effort to wound the sensibility of a hero, who has sacrificed whatever of health or fortune he possessed, and staked his life in common with the soldier by whose side he fought, that our exposed and unprotected frontier might once more repose in peace and tranquillity, undisturbed by the midnight yell of the merciless savage.

The hero of New Orleans wanted not a petty Indian war, to satiate his ambition, or add fresh laurels to the wreath already bequeathed to him by his country. It was a war of hardships, fatigues, and privations, in which for himself he had nothing to hope but the consolation of having accomplished the object for which he took the field, and of receiving the approbation of the President, to whom alone he was responsible for all the incidents of the campaign in which he

participated. Of this reward, so well merited, and so freely bestowed, we now seek to rob him, by fulminating resolutions and vindictive eloquence, against what honorable gentlemen are pleased to call a patriotic unintentional violation of the Constitution.

[The Committee then rose, reported progress, and asked leave to sit again; and the House adjourned. On the following day,]

Mr. POINDEXTER resumed his argument. Mr. Chairman, I wish it to be distinctly understood, that the view which I had the honor to take of this subject on yesterday, was not intended to shield the conduct of General Jackson from the strictest scrutiny. Even before this unconstitutional court, unheard and undefended, he fears not the penetrating touch of the most rigid investigation. He asks no palliatives, no exemption from responsibility. He needs only that protection which justice, sternly administered, affords to every virtuous man in the community. The argument was directed to the judgment of the House, in reference to its own legitimate powers, as a separate branch of the National Legislature. These consist of the right to judge of the elections and returns of our own members; to determine the rules of our own proceedings; to punish members for disorderly behaviour; and, with the concurrence of two-thirds, to expel a member; and they are all the ultimate powers of the House of Representatives. Allow me, sir, in closing my remarks on this point, to call the attention of the Committee to an opinion which fell from the venerable George Clinton, a short time before he took a final leave of this world and was deposited among the tombs of the fallen heroes and patriots, who, with him, had achieved the independence of their country. Placed in the chair of the Senate of the United States, he was required, by an equal division of that body, to give a casting vote on the question touching the power of Congress to incorporate a National Bank. It will be recollected that he negatived that proposition, and in support of his vote advanced the reasoning by which he was influenced, which he concluded with the following judicious and pertinent admonition: "In the course of a long life, 'I have found that Government is not to be 'strengthened by an assumption of doubtful pow-'ers, but by a wise and energetic execution of 'those which are incontestable; the former never 'fails to produce suspicion and distrust, whilst the 'latter inspires respect and confidence." The sentiment is worthy of the head and the heart which dictated it, and if properly improved will constitute a rich legacy from that inflexible patriot to those who may follow in the path of legislation. I earnestly recommend it to the favorable consideration of this body.

Mr. P. continued. I now, sir, said he, proceed to the topics already discussed with such distinguished ability. Perhaps I shall be guilty of a useless trespass on the patience of the Committee in attempting to give them a further examination. The causes and origin of the Seminole war, its prosecution, and final termination, have resounded in our ears until every feeling is paralyzed, and all the avenues to conviction are closed, by the frost of cold indifference, or the fatal spell of unconquerable prejudice. Under such discouraging circumstances, I enter with diffidence on the task of exploring the ground over which so many have trodden before me. Urged on, however, by a sense of duty and of the important results which may flow from the decision to be pronounced on these interesting subjects, I claim the indulgence of the Committee while I submit my opinions in relation to the principles and facts involved in them. The causes of this war stand first in the order of the discussion: upon a clear understanding of these materially depends the justification of the conduct observed in the prosecution of the war. Many of the rights which appertain to a belligerent in a defensive, cannot be claimed in an offensive war, and this is more particularly the case in respect to that which is now the subject of consideration. The honorable Speaker, aware of the necessity of affixing the guilt of the contest on the United States to sustain his conclusions, has labored to excite our commiseration for the poor, degraded, half-starved, persecuted Seminoles, while he charges the people of Georgia with robberies and murders on their innocent, unoffending neighbors; who, in their own defence, were compelled to take up arms and retaliate the injustice which had been practised against them. To these outrages, and the acquisition of Indian lands by the Treaty of Fort Jackson, combined with the dictatorial terms of that treaty, I understood the honorable gentleman to attribute the war which has produced so much excitement in this House. Sir, I apprehend that no gentleman on this floor is better acquainted with the origin of this war than the honorable member from Georgia who opened this debate; and if he is willing to admit the charge of robbery and murder made on his constituents—be it so. For one, I can only say, that no satisfactory evidence has been adduced of the fact, and I am therefore bound to controvert it.

[The SPEAKER explained: He meant only to express his fears that such was the fact, without intending to use the strong language which Mr. P. had ascribed to him.]

Mr. P. proceeded: Sir, I have the speech of the honorable gentleman before me; it contains not only the substance of this charge on the people of Georgia, but it refers, in extenso, to a paper signed by the chiefs of ten towns, addressed to the commanding officer at Fort Hawkins, specifying their grievances and the wrongs committed on them by the Georgians, for which they demanded an atonement. This paper the honorable gentlemen has characterized as an artless tale, told in language pathetic and feeling, which carried internal evidence of, at least, the belief of the authors of it that they were writing the truth. It complains, that the "white people car-'ried off all the red people's cattle, and still con-'tinued to do so; that the whites first begun; 'that, three years since, the whites killed three

'Indians, and, since that, three others; that the 'whites stole their horses, and all they had, and 'killed three more Indians; to which they have 'since added six more." Satisfaction is said to have been taken for all except three of the Indians alleged to have been murdered by the whites. From this summary of the paper referred to in support of the argument of the honorable Speaker, and the weight which he has attached to it, I think it must be manifest that I have not misconceived or misstated his premises. And I repeat that it is not for me to interfere between the honorable gentleman from Georgia, whose constituents have been thus implicated, and his honorable friend, who imputes to them such disgraceful conduct. But, sir, I cannot forbear to notice this "artless tale of truth," which is the sole evidence of the outrages complained of, and on which so high an eulogium has been pronounced. Whence came this manifesto?—Sir, it emanated from the pen of that infamous foreigner, Arbuthnot; it is one of the multitude of crimes which he expiated on the gallows, and is second only in impudence and falsehood to the famous proclamation of his predecessor, Colonel Nicholls. Its style is artful and insinuating; its import pregnant with all the horrid deeds excited and consummated by the mischief-meditating hand of that monster whose fate is so deeply deplored within these walls. And is the testimony of this man, the avowed enemy of the United States; the instigator of Indian hostilities, by means of intrigue and seduction; whose occupation was misrepresentation and deception, to draw the unlettered savage into the vortex of impending ruin; whose mind was the dark abode of vice, in all its hideous deformity, worthy of the panegyric which it has received, and of the confidence reposed in it by the honorable Speaker? Shall we dishonor the American name upon his authority, masked by the nominal signatures of ten towns, the dupes of his insidious policy, who knew no more of this "pathetic and feeling narrative—this simple tale of truth," than he thought proper to communicate to them? No, sir, I trust we shall not. We must look to other and more respectable sources, for the concatenation of events which resulted in the Seminole war: to these I shall presently call the attention of the Committee. But the treaty of Fort Jackson falls under the severe denunciation of the honorable Speaker, and the war is said to have had its origin in the imperious, haughty, and dictatorial spirit of that instrument.

Let us advert, for a moment, to the history of this transaction, and bottom our reasoning on facts, and we shall be less liable to the errors inseparable from a superficial view of any subject. The Creek Indians, towards whom the United States had, for more than twenty years, observed the most pacific policy, stimulating them to industry and agricultural pursuits, and inculcating on their minds the benefits of civilization, seized on the first favorable opportunity which offered, when we were contending for our existence as a sovereign and independent nation against the undivided strength of Great Britain, to take up arms against us, and make a common cause with the enemy; actuated to this measure, no doubt, by British and Spanish counsellors, and supplied, as we know, with the means of carrying on the war at Pensacola. While they were in our power, weak and unprotected, we cherished and fed them; we introduced among them implements of industry, taught them to cultivate the soil, and the use of the wheel and loom. We respected their territory, and prohibited all intrusions upon it. When they found us hard pressed, by the most powerful nation in Europe, we asked not their assistance, but advised them to stay at home and remain in peace; we told them not to fight on either side. But the demon of foreign seduction came among them; false hopes were infused into their minds; promises of British aid were made to them; the prophetic delusion of invincibility nerved the warrior's arm, and the tomahawk and scalping knife were raised against their benefactors, wielded with all the fury of savage barbarity, rendered still more ferocious by the influence of superstition and fanaticism. Such was their ingratitude, and such the return for our magnanimity! The bloody contest ensued. The massacre at Duck river, at Fort Mimms, and the butchery of our frontier inhabitants, without regard to age, sex, or condition, will long be remembered by the afflicted friends and relatives who survived the unfortunate victims, whose innocent blood stained the guilty hand of the inexorable savage. The melancholy story of their wrongs will be handed down to the latest generations. I hope they will not be forgotten by their country. At this momentous crisis Jackson sprung from the retirement in which his vigorous mind had been permitted to slumber, and contemplate, not without emotions of painful regret, the disasters which marked the progress of our armies. He took the field, at the head of the hardy and intrepid sons of Tennessee—his faithful companions in arms. They penetrated the swamps and the forests, enduring, with manly fortitude, every hardship and privation which the most vivid imagination can conceive or human language portray. The god of battles was on their side; victory attended their steps; they conquered. The vanquished enemy dispersed—a part of them fled into Florida, to throw themselves under British protection, and the residue surrendered to the mercy of the conquering General. And the articles of capitulation, signed on the 9th of August, 1814, have been called a treaty—a *chef d'œuvre*—in diplomacy, cruel and insulting in its terms, to a miserable fallen foe; derogatory to the national character, and the main cause of the recent war of the Seminoles. I have yet to learn that the subjugation of one tribe of Indians, and the terms of their submission, is justifiable cause of war on the part of another and a distinct tribe. But, independent of this objection to the ground assumed by the honorable Speaker, I contend there is nothing in these articles of capitulation, either unreasonable or incompatible with the sound morality which, it seems, so emi-

nently distinguished the Commissioners at Ghent. Let it be remembered that a conquering General, in the field, asks nothing of the enemy as a matter of courtesy. His business is to demand justice, and enforce a compliance at the point of the bayonet. And what are the conditions on which General Jackson agreed to receive the submissions of an enemy who had made on the United States an unprovoked war, in aid of a contemplated blow to be struck by Great Britain, on the great emporium of our western commerce? He demands "an equivalent for all expenses incurred 'in prosecuting the war to its final termination; 'that the Creek nation abandon all intercourse 'with the British and Spanish posts, those infernal fiends who had excited them to war; that 'they acknowledge the right of the United States 'to establish military posts and trading-houses, 'and open roads within their territory, and to the 'free navigation of their waters; that they surrender the property taken from citizens of the 'United States and friendly Indians, in return 'for which the property of those who submitted 'was to be restored; and that the instigators of 'the war, whether foreigners or prophets, if found 'within their territory, should be captured and 'surrendered. The United States voluntarily 'undertake to maintain those deluded, infatuated 'people, until they shall be enabled to support 'themselves by their own labor." Sir, I will thank any gentleman to designate which of these stipulations he would have omitted. Are they not all essential to a permanent peace, and a just indemnification for the injuries we had sustained from these red allies of Great Britain? Yes, sir; nor could General Jackson have done less in the faithful performance of his duty; and less could not have been expected by a conquered tribe of Indians under similar circumstances.

The frequent use of the word "demand," which has given so much offence, corresponds precisely with the nature of the transaction, which was purely military, purporting on its face to be "articles of agreement and capitulation," bearing no resemblance to a formal treaty entered into by the mutual consent of two independent sovereignties. I can perceive nothing on the face of this capitulation, either in form or substance, which is inconsistent with a proper respect for our own safety, or incompatible with national honor. The right to make roads, and establish trading-houses and military posts on the lands reserved to the Creeks, to which exception has been taken, as a high-handed, arbitrary measure, is universal among all the Indian tribes within our limits. I do not believe it was ever before questioned or complained of. But we are told that this compact was not entered into by a majority of the Creek nation; that it is not binding on them; and the territory acquired under it reverts, under the stipulation contained in the ninth article of the Treaty of Ghent. So said Colonel Nicholls and Arbuthnot; and so said Lord Castlereagh, until our vigilant and enlightened Minister, then resident in London, satisfied him that the treaty did not embrace the case. England, the only Power in Europe interested in the question, has abandoned her objections to our title, but they are renewed on this floor, doubtless for the sole object of promoting the interests of the United States! Sir, all that we gained during the late arduous struggle with Great Britain, except the glory of our land and naval victories, was this little indemnity from a domestic enemy, who made war on us without the slightest apology. And I ask, if it accords with the "expanded views of an American statesman," to throw the weight of his reasoning and opinions against the fair claim of the United States to a tract of country so dearly purchased with the best blood of the nation, and thereby revive doubts of our title already answered to the entire satisfaction of the British Cabinet, to whom alone we are bound to answer questions arising under the treaty of peace? The memorable visit of Nicholls, and his red companion Hillis Hajo, to England, was made for the express purpose of obtaining the aid of that Government in the war, which was then contemplated to dispossess the United States of the lands ceded by the Creek nation on the 9th of August, 1814. Had this debate taken place prior to their departure, they would have been furnished with an interpretation of the Treaty of Ghent favorable to their cause, given, too, by one of the American Commissioners who negotiated it, in this deliberative assembly. With such a paper, coming from such high authority, although not strictly official, they might, indeed, have assumed an imposing attitude with the British ministry. Our difficulties would have thickened around us, and the peace of the Union might have been endangered, without a relinquishment on our part of the lands so necessary to the growing strength and population of our Southern States and Territories, for the possession of which we were indebted to the valor and patriotism of that man who, for having done too much for his country, is arraigned as a criminal at the bar of this House. The Treaty of 1790, made at New York, with McGillivray, was objected to on the same pretexts now urged to defeat the agreement made at Fort Jackson in 1814. The Baron De Carondelet, in behalf of the Creek Indians, protested against it as absolutely null and void, because it had not been sanctioned by a majority of the nation. On the recent occasion Spain is silent, and we are favored with the humane and benevolent interposition of Nicholls and Woodbine, Arbuthnot and Ambrister! I confess, sir, I have no ambition to be found in the ranks of either of these sage and beneficent counsellors; it is enough for me to vindicate the rights of my own country against the attacks of all foreign emissaries, whatever guise they may assume to accomplish their detestable purposes. An honorable gentleman from Pennsylvania (Mr. HOPKINSON) has said, that every step we have taken, in reference to the unfortunate aborigines, whom we found in possession of the soil over which we have spread our population, has been marked with cruelty and blood; and the honorable Speaker has informed us, that the friends of legitimacy in Europe make

two serious and important charges against this country: the one is an inordinate spirit of aggrandizement, and the other the treatment which we extend to the Indians. Now, sir, with all the respect which I entertain for those gentlemen, and for the political morality of the friends of legitimacy in Europe, I deny, in their whole extent, the accuracy of these charges; they are unsupported either by history or the experience of any man living. When did the United States make an offensive war on an Indian tribe? When did they extend their settlements within the boundary of Indian territory, without a full equivalent, agreed on by treaty, fairly concluded and executed? I challenge any gentleman to put his finger on that page of history which affords evidence of these facts. And can England or Spain make the same declarations, supported by a retrospect on their past conduct towards the Indian tribes within their territorial limits? No, sir! they grant lands for military services, and push their settlements without the smallest respect for Indian boundary. The law of force is the only rule which they recognise as applicable to these people; and if presents, favors, or privileges, have been occasionally granted to them, they were based in avarice, or intended to stimulate them to the numerous wars which have proved so fatal to them, and which have drenched our extensive frontier in the blood of our citizens. I appeal to every Western man whether, in the long catalogue of Indian hostilities, from the period of the Revolution up to the present moment, one instance can be designated in which the war could not be traced to the influence of British agents and traders? Whether we have not constantly endeavored to withdraw their attention from the art of war; to cultivate with them the relations of peace and amity; to civilize them, and ameliorate their condition? These facts are notorious and indisputable; they demonstrate, most clearly, the mildness and justice of our policy towards the savage tribes, and leave no foundation for the charges made on this Government, either by the legitimates of Europe or the citizens of our own country.

I aver, without the fear of contradiction, that the United States have, on all occasions, without a single exception to the contrary, acted on the defensive in the commencement of every war with our Indian neighbors; that they have never turned a deaf ear to the voice of conciliation; and we have abundant evidence that the late Seminole war was of a character similar in all respects to those which preceded it. The finger of British intrigue, and of Spanish duplicity and connivance, are visible from the very inception of these hostilities to their final termination. I will not detain the Committee by entering into a methodical and critical examination of the documents, in the hands of every gentleman; showing the means employed to excite this war, the preparations made for its prosecution, and the guarantee of ultimate aid from the British Government to recover the lands for which the outlawed Creeks contended. They are voluminous and multifarious; many of them official, and all leading to the unavoidable conclusion, that nothing short of a restoration of these lands, upon the most humiliating terms, could avert the impending blow. I will endeavor to present a summary of the prominent occurrences, on which I may safely rest the vindication of this Government against the charge of aggression. The occupation of a strong military post on the Appalachicola, the asylum of fugitive slaves, of vagabonds, and banditti, of hostile Indians, and of all who would enlist under the English jack, or the bloody flag, is the first certain indication of the approaching rupture. It was the nucleus from which all the subsequent proceedings generated and matured. The Government of Spain tacitly acquiesced in this open violation of its neutral territory. Not even the redoubtable Don Jose Masot was heard to complain, except for the seduction and employment of negroes belonging to Spanish subjects, in this tri-colored collection of outlaws and murderers. The demands made on the United States, as the sole condition on which peace could be preserved, and the objects contemplated in the erection of this Negro fort, are specifically announced by that prince of scoundrels, Colonel Edward Nicholls, in his several letters to Colonel Hawkins, then the Creek agent. This fellow sometimes styles himself "commander of the British forces in the Floridas," and at others "commander of His Britannic Majesty's forces in the Creek nation." And on one of his communications is endorsed "on His Britannic Majesty's service!" What forces had Great Britain in the Floridas, or in the Creek nation? At peace with Spain and the United States, by what authority could that Government station a military force within the territories of either? These extraordinary transactions, it is true, have been verbally disavowed, but they have never been explained in the manner called for by their mischievous tendency, and necessary to exempt the British Ministry from the well-grounded suspicion of a participation in them. On the 28th of April, 1815, Nicholls informed Colonel Hawkins that the chiefs had come to a determination "not 'to permit the least intercourse between their 'people and those of the United States. They 'have, in consequence, (said he,) ordered them 'to cease all communication, either directly or 'indirectly, with the territory or citizens of the 'United States." They further warned the citizens of the United States from entering the territory or communicating, directly or indirectly, with the Creek people; and they describe their territory to be as it stood in the year 1811. They add their adhesion to the Treaty of Ghent, as an independent ally of His Britannic Majesty. If a doubt exists as to the intent and meaning of this insolent letter, which was itself sufficient cause for hostile operations on our part, it is fully removed by a subsequent letter from the same individual, "commanding His Britannic Majesty's forces in the Creek nation," dated at the British post on the Appalachicola river, May 12th, 1815. He says, "I have ordered them (the Indians) to

'stand on the defensive, and have sent them a 'large supply of arms and ammunition, and told 'them to put to death without mercy any one 'molesting them." Again: "They have given 'their consent to await your answer before they 'take revenge; but, sir, they are impatient for it, 'and well armed, as the whole nation now is, and 'stored with ammunition and provisions, having 'a stronghold to retire upon in case of a superior 'force appearing." He likewise threatens the "good and innocent citizens on the frontier," and admonishes our agent "that they do not find that our citizens are evacuating their lands according to the ninth article of the Treaty of Ghent." After this undisguised exposition of their *sine qua non*, their means of annoyance, their security from attack by a superior force in the "stronghold" which the sagacity of their leader had provided, and their impudent threat of war and vengeance against "the good and innocent citizens on the frontier," what man, whose mind is free from the despotic sway of prejudice, can hesitate as to the settled determination of these Indians to commence hostilities on the United States, whenever they should be ordered to strike by their good friend Colonel Nicholls? To ascertain with certainty how far they might depend on British protection, Nicholls and Hillis Hajo proceeded to London, with the famous address of all the chiefs to their good father, King George. This paper, of which Colonel Nicholls is both the hero and the author, breathes the same spirit of enmity to this country which runs through the whole of his letters and correspondence. In order to recommend themselves to the favor of the King, they assure him that they "have fought 'and bled for him against the Americans; that 'they will truly keep the talks which his chief 'has given them, if he will be graciously pleased 'to continue his protection; that they are deter-'mined to cease having any communication with 'the Americans, and warn them to keep out of 'their nation." These talks, which they gave a pledge truly to keep, were to "put to death, without mercy, every American who should be found on the lands ceded by the Treaty of Fort Jackson." The deputation was received with every mark of politeness and attention. Hillis Hajo was honored by the Prince Regent with the rank of Brigadier General in His Majesty's service, and presented with a splendid suit of British uniform, together with a rifle, tomahawk, and scalping knife, of British manufacture, with the royal arms engraven upon each of them. These circumstances attracted the attention of Mr. Adams, our Minister there, and several notes were addressed by him to Earl Bathurst and Lord Castlereagh, on the subject of the unwarrantable proceedings of Nicholls, in Florida, and of the address before noticed, which was called a treaty offensive and defensive. To these notes no written reply was furnished; they carefully avoided a correspondence, in writing, relative to these transactions; and Lord Bathurst, when pressed by our Minister in a conversation, observed, "to tell you the truth, Colonel Nicholls is, I believe, a man of activity and spirit, but a very wild fellow." He sent him word that he had no authority to make a treaty offensive and defensive with these Indians, and that the Government would not make any such treaty. He declined seeing him on that project, but expressed his intention of having an interview with him on the affairs of Florida, generally. This guarded course of conduct, combined with subsequent events, go far to strengthen the belief that the proceedings of Nicholls on all the other points were not disapproved, although they could not receive the open approbation of the British Cabinet. That war was to be made on the United States by the Indians in Florida, and their white and black allies, is a fact established by such a crowd of testimony, that it would be difficult to select that which would be deemed most conclusive and satisfactory. I will select only one deposition, which is so well supported, and affords such precise information, that I beg leave to read it to the Committee.

"*The deposition of Samuel Jervais.*

"Samuel Jervais being duly sworn, states, that he has been a sergeant of marines in the British service for thirteen years past; that, about a month ago, he left Appalachicola, where he had been stationed for several months; that the English Colonel, Nicholls, had promised the hostile Indians at that place a supply of arms and ammunition, a large quantity of which had been delivered to them a few days before his departure, and after the news of a peace between England and the United States being confirmed, had reached Appalachicola; that, among the articles delivered, were, of cannon four 12-pounders, one howitzer, and two cohorns, about three thousand stand of small arms, and near three thousand barrels of powder and ball; that the British left with the Indians between three and four hundred negroes, taken from the United States, principally from Louisiana; that the arms and ammunition were for the use of the Indians and negroes, for the purposes, as it was understood, of war with the United States; that the Indians were assured by the British commander that, according to the Treaty of Ghent, all the lands ceded by the Creeks in treaty with General Jackson were to be restored; otherwise the Indians must fight for those lands, and that the British would in a short time assist them.

his
"SAML. ⋈ JERVAIS.
mark.

"Sworn and subscribed to before me, this 9th May, 1815, at the town of Mobile.

"L. JUDSON, *J. P.*"

The evidence of this man is substantially sustained by Lieutenant Loomis, who so gallantly commanded the expedition which blew up the Negro Fort, and with it all the miserable miscreants who had sought refuge within its walls. Besides the letter of Lieutenant Loomis to Commodore Patterson, I am authorized by a naval officer of high respectability to state, that, at the time this fort was destroyed, there were in it eight hundred barrels of powder; three thousand stand of British muskets, packed in cases; equipments complete for five hundred dragoons; pistols, cut-

lasses, and carbines; four twenty-four pounders, taken from the British frigate Cydnus, with the name of that ship on them: one field piece, mounted; and two five-and-a-half inch brass howitzers. Such were the preparations made for the war, which was suspended only for the arrival of the red chief Hillis Hajo, and his companion Colonel Nicholls. The destruction of this "strong hold," on which the Indians might retire in case of discomfiture, and of the arms and ammunition which had been deposited there, induced Nicholls to procrastinate his return to Florida, and to appoint as his successor in the good work which he had begun Alexander Arbuthnot, of the island of New Providence. This man made his appearance in Florida in the character of an English trader in the year 1817, and simultaneously the warwhoop resounded through the forests, and the blood of our citizens began to flow on the borders of Georgia and the Alabama territory. I shall presently take a closer view of the means resorted to by this infernal missionary to kindle the flame of war and vengeance among the deluded Seminoles and Red Sticks. It is enough on this part of the argument to show that they were successful, and that actual violence was committed on the "good and peaceable inhabitants of the frontier," in conformity with the menace of his predecessor, Nicholls; and that the United States were compelled to take up arms and chastise the savages, in their own defence, after repeated efforts to bring them to a sense of justice and of their own interests, by friendly talks and pacific remonstrances.

Need I ransack the documents on our files to collect the evidence of the murders and robberies which preceded the determination of this Government to commence offensive operations against the Indians in Florida? They must be fresh in the recollection of every gentleman. They have been so often repeated by my honorable friends, that I will forbear the painful task of recounting them. The cruel massacre of aged mothers and helpless infancy were spread along the whole line of our Southern frontier in that quarter. The threatened war soon ripened into full maturity. The murders committed on our unoffending citizens were openly avowed, and justified under the hollow and unfounded pretence of retaliation for similar outrages alleged to have been practised by the Georgians on their people. As early as the 5th of February, 1817, the Governor of Georgia made a solemn appeal to the General Government for the protection of the exposed settlements within the limits of the State over which he presided. He details circumstances calculated to leave no doubt of the hostile spirit of the savages, and of the active preparations which were making by Woodbine and Nicholls to carry their hellish designs into execution. Scenes of cruelty, at the recital of which humanity shudders, followed in succession; and still the Executive paused, and demanded the punishment only of the offenders. On the 24th of February, 1817, fifteen Indian warriors entered the peaceful dwelling of the unfortunate Garret, a citizen of Wayne county, in Georgia; finding in it only Mrs. Garret and her two infant children, the eldest of whom was three years old, and the other in its mother's arms, on whom she had bestowed her tender smiles and caresses for the short period of two months. The helpless condition of this family, their natural protector being absent, innocent and unoffending, alike incapable of inflicting or repelling injury and insult, surrounded by a band of armed ruffians, exhibited a picture of human misery and heart-rending distress, which might well have tamed the ferocity of the most bloody monster who ever trod the face of the habitable globe. But their cries and entreaties were unavailing: the unhappy mother was twice shot through the body, stabbed, and scalped; her two babes murdered; her house robbed of all the valuables which it contained; and, to complete the melancholy catastrophe, the lighted torch was applied to the building, where once they enjoyed the sweets of domestic comforts, and where now their mangled and lifeless forms lay prostrate, covered with the warm blood yet streaming from their hearts; and the flames which ascended to heaven wafted their spirits into the presence of a just God, while, amidst the devouring element, their ashes mingled in one common grave! The mind which can contemplate with calm composure deeds of cruelty and barbarity like these, must be destitute of that refined sensibility which ennobles and dignifies our nature in all the social relations of life.

This act alone, independent of the black list which both preceded and followed it, was open, unqualified war on the United States, unless the criminal perpetrators of these crimes, whose enormity resembles more the tales of fiction and romance than the narrative of real unsophisticated truths, should receive the prompt and condign punishment which they so justly merited. General Gaines, in obedience to instructions, demanded the murderers, and admonished the chiefs and warriors of the consequences which would result from a refusal to comply with his demand. It was not only refused, but fresh outrages of a similar character were repeated, until the seizure and indiscriminate massacre of a boat's crew, under the command of Lieutenant Scott, put an end to all hope of conciliation, and the Secretary of War, by the direction of the President, ordered the commanding General to cross the Florida line, and terminate speedily this war, "with exemplary punishment for hostilities so unprovoked." The honor of the United States required that every drop of innocent blood which had been so wantonly shed should be washed out by the most ample atonement; and, to effect this object, General Jackson was directed to assume the immediate command of the forces in that quarter of the Southern division.

I trust, sir, I have said enough to satisfy the Committee that, on our part, the war was strictly defensive, entered into reluctantly, after every reasonable expedient to avert it had been resorted to in vain.

As to the propriety of a formal and legislative

declaration of war against an Indian tribe, the idea never before entered the imagination of any man during all the contests with the aborigines, through which we have waded. Like many other subtleties which have diversified this discussion, it is of modern origin, and may be classed among the numerous discoveries of the present day, which are not exclusively confined to mechanism, but frequently enlarge the scope, and enlighten the path of political science. The answer to this objection, if, indeed, it deserved one, has been given by several honorable gentlemen, and particularly by my honorable friend from Kentucky, (Mr. JOHNSON.) I shall not attempt to enforce the argument on a point so little entitled to serious consideration, and more especially in this case, where several acts of legislation have recognised the existence of the war, made with a full knowledge of the orders which had been given by the President for its prosecution in a foreign territory. At the last session, no exceptions were taken to these orders, but every man approved them, as properly adapted to the exigency by which they were dictated.

I shall now, sir, consider the questions connected with the prosecution of the war to its final conclusion; and the occupation of St. Marks and Pensacola, and of the fortress of the Barancas, by the American army. If I am asked why General Jackson entered the territory of Florida? I answer, he was ordered to do so by the President of the United States. And, with respect to all the subsequent proceedings, it is sufficient for *his* vindication, that they met the approbation of the same Chief Magistrate, who thereby incurred the responsibility which otherwise would have rested on the General alone. The President, in his Message at the opening of the present session of Congress, justifies the occupation of the posts of St. Marks and Pensacola, and explains the grounds on which they were ordered to be restored to the possession of Spain. He states, "that the commanding General was convinced 'that he should fail in his object, that he should 'in effect accomplish nothing, if he did not deprive those savages of the resource on which 'they had calculated, and of the protection on 'which they had relied, in making the war." And further, he adds that "in entering Florida, 'to suppress this combination, no idea was entertained of hostility to Spain, and, however justifiable the commanding General was, in consequence of the misconduct of the Spanish officers, 'in entering St. Marks and Pensacola, to terminate it, by proving to the savages and their associates that they should not be protected even there; yet the amicable relations existing between the United States and Spain could not be 'altered by that act alone." In addition to these views of the Executive, the Secretary of State, in his able letter to Mr. Erving, our Minister at Madrid, instructed him to acquaint the Spanish Government that the "President will neither inflict punishment nor pass a censure upon General 'Jackson for that conduct, the motives for which 'were founded in the purest patriotism: of the 'necessity for which he had the most immediate 'and effectual means of forming a judgment, and 'the vindication of which is written in every 'page of the law of nations, as well as in the first 'law of nature, self-defence." I have referred to these papers, coming from the Commander-in-chief of our army, addressed to the Congress of the United States, and, through the accredited Minister at Madrid, to the Spanish Government, to counteract the impressions attempted to be made by an unfounded discrimination between the President and General Jackson, in relation to the military operations of the late Seminole war.

I am very sure the President would disdain to shelter himself from the impending storm by seeking refuge under the masked battery which honorable gentlemen have, with so much ingenuity, erected for his safety and defence. The most scrupulous sense of military honor could not desire a more unequivocal approbation than is given by the President, of the conduct of General Jackson in Florida; they must stand or fall together; and I consider the feigned effort to separate them deceptive and illusory. If censure falls on the head of one, it lights with equal violence upon that of the other.

The act of crossing the Florida line, to subdue the hostile Indians in that province, appertaining to the dominions of the Spanish monarchy, was a measure in the execution of which the commanding General did no more than obey the call of his country, and the imperious obligations of duty. If this step was justifiable on principles of public law and the usages of war, the same justification runs through all the operations of the army under the command of General Jackson. Self-defence, that primary law of nature, either covers the whole of these transactions, or it does not afford a vindication of the Executive, in ordering the troops to march into Florida and put a speedy termination to the war. The entry of a belligerent army into a neutral territory, without the consent of the Sovereign, is *prima facie* a violation of his perfect rights, and amounts to the definition of war *de facto*. Such an entry, even against the will of the neutral Power, may, nevertheless, be made under particular circumstances, and furnish no ground of offence, or cause of war, to the neutral Sovereign; and precisely the same circumstances will justify the temporary seizure of a neutral town or military post. The conduct of the neutral towards the two belligerents must be impartial; no privilege can be granted to the one, which may not be taken by the other, in the same extent; and, if refused, force may be resorted to, without affording any just cause of complaint to the neutral who is guilty of such a departure from the rules prescribed to her by the settled law of nations, which require her to give no assistance to either party, where there is no obligation to give it, nor voluntarily to furnish troops, arms, ammunition, or anything of direct use in war. "For, should 'she favor one of the parties to the prejudice of 'the other, she cannot complain of being treated

'by him as an adherent and confederate of his 'enemy."—*Vattel*, 332.

The obligations incurred by treaty constitute the only restriction upon the operation of these rules; and I shall presently show, that, in the late war with the Indians in Florida, Spain was bound in a defensive alliance, *quo ad hoc*, with the United States, and that, she not only violated her neutral duties, but the most solemn stipulation, by which she was bound to become a party to the war as an ally of the United States. But, let it be admitted, that the colony of Spain on our Southern border was in all respects entitled to the immunities of an independent neutral State, and bound only to observe that impartiality which was essential to preserve her pacific relations with this country; and I contend, that she was guilty of such gross partiality, in supplying the enemy with the means of prosecuting the war, with the privilege of sheltering themselves within her fortified places, and with a ready market for all the property which they robbed and plundered from our citizens, as to have forfeited all claim to the respect due to fair and honorable neutrality, and to have become identified with the enemy, so far as she could, with safety to herself and utility to them, extend her aid and assistance in promoting their hostile operations against the United States. I have already shown, from evidence which cannot be controverted, that this war was, on our part, purely defensive, and consequently just; that it was instigated by British emissaries, with the assent and connivance of the local authorities of Spain. Florida was the theatre of the war; there the enemy concentrated all his forces, and sought the most favorable opportunities of making incursions into our territory; and, after striking an unexpected blow, again they retired into this asylum, where they were promised security and protection. From one thousand to one thousand two hundred men, under the command of Hillis Hajo, or the Prophet Francis, were collected and stationed at Spanish Bluff, the former residence of Doyle and Hambly; these men, we are told by Arbuthnot, were principally Red Sticks, who had fled from the limits of the United States and identified themselves in the war with the Seminoles; other bodies of men were scattered over the nation, amounting in the whole to more than two thousand warriors. Spain was a passive spectator of the scene, and quietly permitted these fugitives to elude the vigilance of our army, by remaining within her neutral territory. The safety of the United States, therefore, required, that, in our own defence, we should carry our arms into the country which was thrown open to our enemy, and from which predatory parties issued to rob and murder our defenceless citizens. In doing so, we were justified by a proper regard for our own interests, and by every principle of public law.—*Vattel*, 345, says:

"It is certain, that if my neighbor affords a retreat to my enemies when defeated and too much weakened to escape me, and allows them time to recover and watch a favorable opportunity of making a second attack on my territories; this conduct, so prejudicial to my safety and interest, would be incompatible with neutrality. If, therefore, my enemy, on suffering a discomfiture, retreat into his country, although charity will not allow him to refuse them permission to pass in security, he is bound to make them continue their march beyond his frontiers as soon as possible, and not suffer them to remain in his territories, on the watch for a convenient opportunity to attack me anew; otherwise, he gives me a right to enter his country in pursuit of them. Such treatment is often experienced by nations that are unable to command respect. Their territories soon become the theatre of war—armies march, encamp, and fight in it, as in a country open to all comers."

Yes, sir, the territory of Florida is emphatically a country "open to all comers." The British found a hearty welcome there during the late war. The outlawed Creeks received the right hand of fellowship from Governor Masot, and his retinue of official dignitaries; fugitive negroes and banditti are welcome guests, when associated in arms against the United States; and I am persuaded the devil himself would have received *holy orders*, had he made his appearance at Pensacola in the character of a foe to this country. We alone were excluded from the high privilege of meeting our enemies on that soil which was prostituted to every purpose which could in any manner subserve their views, and contribute to our annoyance. The fortress of Barancas was peaceably put into the possession of a British and Indian force, in our recent conflict with Great Britain. The negro fort was erected on the Appalachicola, with the avowed intention of war with the United States. The vilest reptiles in creation were collected to carry the nefarious projects of the incendiary Nicholls into execution, and not a murmur was heard, either from Pizarro or Masot, or the Governor General of Havana. But the moment we send a force to suppress these hostile combinations, Spanish sensibility breaks through the cloud by which it had been concealed. Protests and manifestoes proclaim to the world the wrongs committed by this Government, in the violation of the territorial sovereignty of the adored Ferdinand. With a full knowledge of this fraudulent neutrality on the part of Spain, and of our rights as a nation, to the means of self-preservation, the President would have been unmindful of the high trust and confidence reposed in him, had he not ordered the army into Florida, to terminate the war, with "exemplary punishment for hostilities so unprovoked." The occupation of the posts of St. Marks and Pensacola, and the fortress of Barancas, was a necessary means of accomplishing the end for which General Jackson entered the Spanish territory. They rest on the same general principles, and, if a distinction is taken which would justify the one and condemn the other, it must be founded on a diversity of facts, in reference to the facilities and privileges granted by the authorities of Spain to the other belligerent. For there is an universal rule, to which there is no exception, that whatever a neutral Power grants or refuses to one

of the parties at war, she must in like manner grant or refuse to the other; and, if she departs from this strict line of impartiality, by favoring either to the injury of the other, the injured nation may do herself justice, and take *by force* what is unjustly denied to her.

Such is the law by which the conduct of all civilized nations is regulated and governed. It remains only for me to glance at the most prominent points in the evidence to show its application, and thereby rescue General Jackson from the imputation of having snatched from Congress the power delegated in the Constitution to "declare war." I ask then, sir, did the Governors of St. Marks and Pensacola allow the Indians and negroes free access into their fortifications, and supply them with arms and ammunition to carry on the war in which they were engaged with the United States. To establish these facts, with regard to the former, I am perplexed with the difficulty of selecting that part of the testimony which might be deemed least susceptible of doubt or equivocation. The whole volume is full of details showing the abominable duplicity and perfidy of the treacherous Luengo. St. Marks was the council-house of the Indians, in which all their plans of operation were discussed, in concert with the commandant and his friend, Arbuthnot, between whom there existed the most perfect cordiality. St. Marks was, in all respects, *substituted* for the negro fort, which had been destroyed by the gunboats under the command of Lieutenant Loomis. To that place they retreated, immediately after this disaster befell them, and ever since they have made it the depot of plundered property, known to be so by Luengo himself, who even made contracts with the depredators for the beef, cattle, and other property which they might capture from the people of Georgia. Having been charged, by General Jackson, with conduct so contrary to the pacific relations existing between Spain and the United States, Luengo, in his defence, written at Pensacola, on the 18th of May, 1818, more than one month after the occupation of the post by the American troops, when all his powers of prevarication were taxed to exculpate himself from these charges, in reply to the information which had been communicated to the commanding General, that he had supplied the Indians and negroes with munitions of war, states: "I thought that I 'had convinced him of the contrary in my answer, 'in which I represented to him, that no one could 'better remove from his mind any unfavorable 'impression on this point than Mr. William 'Hambly, who, during his stay here, repeatedly 'interpreted to me the anxiety of the chiefs to 'obtain such supplies, and that he could also in-'form him that I uniformly counselled them to 'avoid the destruction which has overtaken them, 'and which I foresaw from the first." Now, sir, what is the evidence of Mr. Hambly, whose credibility is admitted by the Spanish commandant, and whose situation enabled him to give a full and precise statement of facts? The letter addressed by him, together with Edward Doyle, to General Jackson, exposes the transactions of St. Marks in so clear a light, that I beg leave to read it to the Committee.

"*William Hambly and E. Doyle to General Jackson.*

"FORT GADSDEN, *May* 2, 1818.

"SIR: We beg leave to submit to you the following facts. On the 13th December, 1817, we were violently torn from our settlement, on the Appalachicola river, by a number of Indians, headed by Chenubby, a chief of the Fowl-Town tribe, carried to Mickasuky, and delivered to Kenagee, King of the Mickasukians. Kenagee carried us to the Negro Towns, on the Suwance, and thence to the Spanish fort St. Marks; to the commandant of which he delivered us as prisoners of war, captured under the orders of a Mr. Arbuthnot, reported to us as a British agent. At St. Marks we were treated as prisoners, and not permitted to wander beyond the walls of the garrison. While at that post, the ingress and egress of Indians hostile to the United States was unrestrained; and several councils were held; at one of which Kenagee, king of the Mickasukians; Francis, or Hillis Hajo; Hemathlemico, the chief of the Autosses; and the chief of Kolemies, all of the old Red Stick party; and Jack Mealy, chief of the Ochewas, were present. When it was reported that these chiefs, and their warriors, were entering Fort St. Marks for the purpose of holding a council, Hambly represented to the commandant the impropriety of permitting such proceedings within the walls of a Spanish fortress, the officer of which was bound to preserve and enforce the treaties existing between the King of Spain and the United States; he replied to Hambly with some degree of warmth, observing that it was not in his power to prevent it. On the Indians coming into the fort, at their request we were confined. The council was held in the commandant's quarters. He, the commandant, was present, but strictly forbade the intrusion of any of the officers of the garrison. The Indians were in the habit of driving to Fort St. Marks, and disposing of, cattle to the commandant and other Spanish officers. While at that post, three or four droves were brought in, acknowledged by the Indians to have been stolen from the citizens of the United States, and purchased by the Spanish officers. We were present at most of these contracts, and Hambly often referred to as an interpreter between the purchaser and seller. Chenubby, a Fowl-Town Indian, once applied to Hambly to mention to the commandant that he was about visiting the frontiers of Georgia, on a plundering expedition, and wished to know whether he would purchase the cattle brought in. A contract was entered into, and Chenubby, some time after, brought in, and disposed of, eleven head of cattle to the Spanish commandant of Fort St. Marks. These same cattle were those purchased by you, from the commandant, as his private property.

"WILLIAM HAMBLY.
"EDWARD DOYLE."

In support of the statement made by these men, I might refer to many others in the volume of documents, which have been printed, on this subject. I will, however, dispense with a detailed view of them, and barely add an extract from a letter of Lieutenant Gadsden, whose reputation as a soldier and man of honor and veracity, places him above the reach of suspicion.

"*J. Gadsden to General Jackson.*

"Fort Gadsden, *May* 3, 1818.

"Sir: In conversation with the commandant of Fort St. Marks, on the subject of having that work occupied by an American garrison, I had occasion to notice the aid and comfort that the hostile party of Indians had received, as reported, from him; that they had free access within the walls of his fort, and that it was well known no small supplies of ammunition had been received from that quarter. In reply, he stated that his conduct had been governed by policy; the defenceless state of his work, and the weakness of his garrison, compelled him to conciliate the friendship of the Indians, to supply their wants, and to grant what he had not the power to deny, and to throw open, with apparent willingness, the gates of his fortress, lest they should be forced by violence; that he had been repeatedly threatened by Indians and negroes, and that his security depended upon exhibiting an external friendship. Respectfully, yours, &c.

"JAMES GADSDEN, *Aid-de-Camp.*"

From the testimony of these respectable witnesses, and many others to whom I think it unnecessary to refer, it is evident that the enemy had the unlimited use of this fort for all the purposes of war; that their stolen property was received, and contracted for by the commandant, knowing it to be such; and that they were supplied with arms and ammunition, and every other material, to enable them to continue their aggressions on the unprotected inhabitants of Georgia and the Alabama Territory. The only apology offered by the commandant for his unfriendly and unwarrantable conduct was, that he had been repeatedly threatened by the Indians and negroes, and that his security depended upon exhibiting an external friendship. It is immaterial whether we take the facts or the excuse, for either, unconnected with the other, will amount to a justification of General Jackson in taking forcible possession of that post. "To conduct prisoners, 'or convey stores, to a place of safety, are acts of 'war, consequently not to be done in a neutral 'country, and whoever would permit them would 'depart from the line of neutrality by favoring 'one of the parties." Again, "necessity may 'even authorize the temporary seizure of a neu-'tral town, and putting a garrison therein with a 'view to cover ourselves from the enemy, or to 'prevent the execution of his designs against that 'town."—*Vattel*, 342-4. The truth is, that our enemy was denied nothing which he asked, and we were refused the humble privilege of putting the place in a state of defence against an enemy who ought to have been considered common to Spain and the United States. In such a case, to have hesitated would have been pusillanimous and disgraceful in the commanding General. Passing from St. Marks to Pensacola, there is no substantial change either of principle or fact. General Jackson, it is true, at the date of his letter to the Secretary of War, from St. Marks, thought the war at an end. His health having been much impaired by the hardships and fatigues of the service in which he was engaged, he had determined to return to Nashville; but subsequent information, of which we have the most authentic proof, satisfied him that he had not yet effected the object of the campaign. The Indians, deprived of their accustomed resort at St. Marks, flew to Pensacola, where they had always been received with open arms by the Governor. Expeditions were fitted out, and massacres committed, by parties of hostile Indians, going directly from that place to the Escambia and Alabama.

I will not detain the Committee by a reference to the correspondence and depositions at large, furnishing, as they do, indubitable evidence of the hostile disposition of the Governor of Pensacola, and of the aid given by him to the savages, for the express purpose of committing murders on the people of the United States. Thirty or forty witnesses, many of them subjects of His Catholic Majesty in Florida, and long resident there, testify to these facts. Provisions, arms, and munitions of war, were regularly issued to the Creeks and Seminoles, from the King's storehouse, during both wars in which we have been engaged with these tribes of Indians. Numerous bodies, of from two to five hundred Indians, driven from other parts of Florida, were seen in and near to Pensacola, but a few days after the approach of our army; they were armed and equipped for war by Governor Masot. The leaden aprons were taken from the ordnance at the Barancas, and run into bullets, to obtain the necessary supply of that article. The massacre of Stokes's family, of travellers from Georgia to the Alabama, and of our frontier settlers in that quarter, may all be attributed to the free admission of the hostile Indians into Pensacola, and the assistance afforded them by the Spanish Governor. General Jackson was well informed of these circumstances, and saw in them certain indications that all his previous operations were worse than useless, if he returned without leaving an American garrison at Pensacola. He accordingly moved towards that town, after having discharged the Georgia militia, whose services were no longer necessary. He made Governor Masot distinctly acquainted with his views, and the basis on which his conduct was founded; that he entered the territory of His Catholic Majesty, not as the enemy but as the friend of Spain, to inflict merited punishment on the common disturber of the peace of both countries; that he meant nothing more than to place an American force in Pensacola and the Barancas, which should be sufficient to guaranty the security of the United States from a protracted savage war. He never intimated an intention of disturbing either the civil or military authorities of Spain. In return, Governor Masot protested against the entrance of the American commander into his territory, for any purpose; ordered him, in the name of the King, to depart forthwith, and threatened to repel force by force, if he persisted in his intentions. The well known valor and intrepidity of General Jackson took fire at his insulting menace; he would have preferred an honorable grave, under the walls of the Spanish fort, to a cowardly, disgraceful retrograde, under

the gasconading threat of this impotent instrument of a monarch, whose very name excites the smile of contempt throughout the civilized world. He moved directly to the town of Pensacola, and mark, I beseech you, sir, the conduct of Governor Masot. The Indian warriors who were with him, and their families, were shipped in public vessels across the bay to the island of Santa Rosa. He retired before the American army, who really intended to do him no violence, into the fortress of San Carlos de Barancas, where he permitted himself to tremble and equivocate for a day or two, and then, by his own request, the fort was delivered into the hands of General Jackson, and the Spanish troops, with this magnanimous Governor at their head, were transported to the Island of Cuba. We are told by honorable gentlemen that this last measure gave to the transaction all the pomp and circumstance of war. That the Spanish troops were made prisoners of war, and forced to quit the country in which they were stationed under the protection of their sovereign. There would indeed be some plausibility in the conclusion, if the premises assumed were not destitute of foundation. Every proposal relating to the surrender of the fort came from Governor Masot; it was by his own desire that vessels were provided for the transportation of the garrison, and the officers attached to the civil administration, and of the Alabama Chief Hopayhoal, and family,* to the Havana. It was his own puerile resistance which gave to this affair the aspect of a capitulation. General Jackson never contemplated an act of hostility against Spain; his sole object was to give peace and security to his own country, and to guard against the renewal of hostilities by prohibiting the customary supplies which the Seminoles and Red Sticks received from this faithless unprincipled Governor. In proof of this, I refer to his whole correspondence, and the general order issued after the surrender of the Barancas. In a letter dated at Pensacola, the 25th of May, 1818, General Jackson tells Governor Masot, "if the force which you are now disposed wantonly to sacrifice had been wielded against the Seminoles, the American troops had never entered Florida." And the following extract from his general order, issued on the occasion, fully explains the motive by which he was governed, and excludes the supposition that he intended to commit an act of war against Spain:

"Major General Andrew Jackson has found it necessary to take possession of Pensacola. He has not been prompted to this measure from a wish to extend the territorial limits of the United States, or from any unfriendly feeling on the part of the American Republic towards the Spanish Government. The Seminole Indians, inhabiting the territories of Spain, have, for more than two years past, visited our frontier settlements with all the horrors of savage massacre; helpless women have been butchered, and the cradle stained with the blood of innocence; these atrocities, it was expected, would have early attracted the attention of the Spanish Government, and, faithful to existing treaties, speedy measures adopted for their suppression. That, so far from being able to control, the Spanish authorities were often compelled, from policy or necessity, to issue munitions of war to these savages, thus enabling, if not exciting, them, to raise the tomahawk against us.

"The immutable laws of self-defence, therefore, compelled the American Government to take possession of such parts of the Floridas, in which the Spanish authority could not be maintained. Pensacola was found in that situation, and will be held until Spain can furnish military strength sufficient to enforce existing treaties."

And what, sir, was the existing treaty to which the General alludes? I have said that it is a treaty of defensive alliance, *quo ad* Indian hostilities, between Spain and the United States. The 5th article is in the following words:

"The two high contracting parties shall, by all the means in their power, maintain peace and harmony among the several Indian nations who inhabit the country adjacent to the lines and rivers which, by the preceding articles, form the boundaries of the two Floridas. And, the better to obtain this effect, both parties oblige themselves expressly to restrain, by force, all hostilities on the part of the Indian nations living within their boundary; so that Spain will not suffer her Indians to attack the citizens of the United States, nor the Indians inhabiting their territory; nor shall the United States permit these last mentioned Indians to commence hostilities against the subjects of His Catholic Majesty or his Indians, in any manner whatever."

Vattel, 323, thus defines a defensive alliance: "Some alliances are both offensive and defen-'sive; and there seldom is an offensive alliance 'which is not also a defensive one. But it is 'very usual for alliances to be purely defensive; 'and these are, in general, the most natural and 'lawful. It would be a tedious, and even useless 'task, to enumerate in detail all the varieties in-'cident to such alliances. Some are made with-'out restriction, against all opponents; in others, 'certain States are excepted; others, again, are 'formed against such or such a nation, expressly 'mentioned by name." Of the latter class, is the alliance entered into by Spain in the article of the treaty of the 27th of October, 1795, with the United States. This article was inserted to prevent the recurrence of difficulties which had arisen between the two Governments, as early as the year 1791, respecting the Creek tribe of Indians. A spirited and acrimonious correspondence took place, at that period, between Gardoqui, the Spanish Minister, and Mr. Jefferson, then Secretary of State. Spain alleged that it was

* It is worthy of particular notice, that this Indian chief was one of the principal instigators of the war, and had but a short time before sent out a party of outlawed Creeks, who massacred Stokes's family, and brought in the bloody clothes of the women and children, which were sold publicly in the streets of Pensacola. Why is Governor Masot so much interested for his safety, as to make it one of the specific conditions on which he would surrender the fort? And also to bind himself, in "the name of his Government, that the said chief shall never return to the Floridas?"

the intention of this Government to exterminate the Creek nation, and to seize on their lands; and we charged the hostilities of the Indians to Spanish and British agency and influence, originating in motives unfriendly to the peace of the United States. The controversy was maintained with increased violence until articles of the treaty of 1795 were agreed on, in which the parties agree to make a common cause in the suppression of Indian wars, on their respective borders.

But it is said that this does not fall within the definition of an alliance, because the duties to be performed by each nation are confined to their own territorial limits. The case now under consideration exposes the fallacy of this objection. The Seminole tribe of Indians have made an unprovoked war on the United States; we, in our own defence, under the sanction of the public law of nations, enter the territory of Florida, to put a speedy termination to this war. Spain, by treaty stipulation, is *ipso facto* bound to become a party to the war, on our side; and I ask if the armies of both Powers would not, on meeting, regard each other as friends, fighting for a common object, specified in the existing treaty between the two Governments? They could be considered in no other light than as allied forces, against a common enemy, rendered so by the solemn engagement of Spain "expressly to restrain, by force, all hostilities on the part of the Indian nations living within her boundary." The violation of this treaty, while it fixes an indelible stain on the Spanish nation, does not abrogate the rights which we may lawfully claim and exercise under it. As an ally, we had the right, without giving cause of offence to Spain, to enter her territory in pursuit of the enemy; to claim the hospitality of the authorities there; to occupy the strong positions which might be necessary to the safety of our army, and the discomfiture of the enemy; and to claim admission into her fortifications. doing no injury to public or private property, And yet all these privileges were freely granted to the hostile Indians, and sternly denied to us, contrary to the principles of fair and honest neutrality, and in direct violation of the obligations imposed on Spain, by virtue of her treaty with the United States. "The sovereign who violates 'his engagements on pretences that are evidently 'frivolous, or who does not even think it worth 'his while to allege any pretence whatever to 'give a colorable gloss to his conduct, and cast 'a veil over his want of faith—it is such a sov-'ereign who deserves to be treated as an enemy 'of the human race."—*Vattel*, 230. If the definition be not literally applicable to Spain in the conduct of her officers at St. Marks and Pensacola, during the late Seminole war, I confess I do not understand the use of words, or the meaning of the English language. We admit the plea of imbecility in its fullest extent; we know that this province has been almost abandoned by the parent country; but that will not excuse the aid and comfort bestowed on our enemy; nor the order to General Jackson to leave the territory; nor the threat of compulsion in case of his refusal to obey the order of His Catholic Majesty's representative. Sir, every gentleman must be satisfied, that if, instead of the inhospitable treatment which our army experienced, and the empty menace with which it was insulted, the hand of friendship had been held out to us, and a cordial reception given to our troops, so long as they adhered to the legitimate object for which they entered Florida, neither St. Marks nor Pensacola would have been occupied longer than the most urgent necessity required. The honor of the Spanish monarch might have been preserved, and the authority of his officers have remained undisturbed. "To refuse an ally the succors due to him, without having any just cause to allege 'for such refusal, is doing him an injury, since it 'is a violation of the perfect right which we gave 'him by a formal engagement." And further: "As it is an obligation naturally incumbent on 'us to repair any damage caused by our fault, 'and especially by our injustice, we are bound to 'indemnify an ally for all the losses he may 'have sustained in consequence of our unjust 'refusal."—*Vattel*, 327. Whether we consider the question as resting on the great and universal principles which regulate belligerent rights, and neutral duties, or the sacred and inviolable obligations of treaties, General Jackson stands erect, and the people of this nation will accord to him their hearty thanks for his manly independence in asserting and maintaining their rights.

Mr. Chairman, I will readily concede to honorable gentlemen, that, if war was made on Spain, either by the orders of the President, or by General Jackson, without the authority of Congress, it amounts to a violation of the Constitution, and the most severe punishment, and not mere censure, ought to await the guilty hand which aims a blow at the tree of liberty, on the soil where alone it is permitted to grow and flourish. But I deny that an act of war either has been, or was designed to have been, committed by General Jackson, in any part of his proceedings in Florida. By war, I wish to be understood to mean that state of things which puts one nation in collision with another; which arrays the people of one sovereignty against the people of another sovereignty; and not such acts as may or may not eventuate in a rupture betweeen Powers in amity with each other. The *maximum* must be reached, or the Constitutional power of Congress to declare war remains inviolate. Suffer me to illustrate this postulatum, by showing its analogy to another and a more familiar subject. Suppose a bill suspending the *habeas corpus* is proposed in this House, at a time of profound peace, both at home and abroad; every gentleman will admit that the passage of such a bill would violate an express provision of the Constitution. I ask, if it should pass the first and second readings, and be ordered to be engrossed and read a third time, if, on the question, shall the bill pass, it is rejected—whether any of the incipient proceedings amounted to a breach of the Constitution? I presume it will not be contended that they did. The violation of the instrument begins with the operation of

the measure which it prohibits. So neither is an incipient step taken by a subordinate authority under the Government, which bears the semblance of hostility to a foreign nation, war, until it passes the ordeal of the ultimate power of both countries, and is deemed by them not susceptible of amicable and honorable explanation and amends. Let us test the conduct of General Jackson by these plain and simple rules, and it will be found that he has neither violated the Constitution nor compromitted the peace of the nation.

I have already attempted to prove to the Committee that the conduct of Spain, in relation to our savage enemy, justified the entrance of our army into her territory, and the occupation of the posts of St. Marks, Pensacola, and the fortress of Barancas. But I will admit, for argument sake, that these latter acts were not strictly justifiable, and that Spain had a right to complain of them; and yet, I say, they did not amount to the definition of war, and, consequently, that General Jackson is not chargeable with having usurped the powers of Congress. To sustain this position, I rely on the practice of the most enlightened European Governments in cases similar in their character; and on the effect of these measures—upon the subsisting relations between Spain and the United States. The European precedents to which I shall refer may be found in the celebrated letter of Mr. Madison to Mr. Rose, on the subject of the attack on the American frigate Chesapeake by the British ship Leopard; I beg leave to read them in the order given to them in that correspondence.* In these instances force was resorted to; actual violence used, blood spilt, vessels captured, whole settlements broken up and destroyed, and yet the proud and haughty monarchs of England, France, and, I may add, of Spain, at that day, did not consider either of them as actual war, but occurrences open to fair and candid explanation and honorable amends; which, being demanded, resulted in the preservation of peace between the parties concerned.

* In the year 1764, Bermudians, and other British subjects, who had, according to annual custom, taken possession of Turk's Island for the season of making salt, having been forcibly removed, with their vessels and effects, by a French detachment from the island of St. Domingo, to which Turk's Island was alleged to be an appurtenance, the British Ambassador at Paris, in pursuance of instruction from his Government, demanded, as a satisfaction for the violence committed, that the proceedings should be disavowed; the intention of acquiring Turk's Island disclaimed; orders given for the immediate abandonment of it on the part of the French; everything restored to the condition in which it was at the time of the aggression; and reparation made of the damages which any British subjects should be found to have sustained, according to an estimation, to be settled between the Governors of St. Domingo and Jamaica. A compliance with the whole of this demand was the result.

Again, in the year 1789, certain English merchants, having opened a trade at Nootka Sound, on the Northwest coast of America, and attempted a settlement at that place, the Spaniards, who had long claimed that part of the world as their exclusive property, detached a frigate from Mexico, which captured the two English vessels engaged in the trade, and broke up the settlement on the coast. The Spanish Government was the first to complain, in this case, of the intrusions committed by the British merchants. The British Government, however, demanded that the vessels taken by the Spanish frigate should be restored, and adequate satisfaction granted previous to any other discussion. This demand prevailed; the Spanish Government agreeing to make full restoration of the captured vessels, and to indemnify the parties interested in them for the losses sustained. They restored, also, the buildings and tracts of land, of which the British subjects had been dispossessed. The British, however, soon gave proof of the little value they set on the possession, by a voluntary dereliction, under which it has since remained.

The case which will be noted last, though of a date prior to the case of Nootka Sound, is that of Falkland Islands. These islands lie about one hundred leagues westward of the Straits of Magellan. The title to them had been a subject of controversy among several of the maritime nations of Europe. From the position of the islands, and several other circumstances, the pretensions of Spain bore an advantageous comparison with those of her competitors. In the year 1770, the British took possession of Port Egmont, in one of the islands, the Spaniards being at the time in possession of another part, and protesting against a settlement by the British. The protest being without effect, ships and troops were sent from Buenos Ayres, by the Governor of that place, which forcibly dispossessed and drove off the British settlers. The British Government, looking entirely to the dispossession by force, demanded, as a specific condition of preserving harmony between the two Courts, not only the disavowal of the Spanish proceedings, but that the affairs of that settlement should be immediately restored to the precise state in which they were previous to the act of dispossession. The Spanish Government made some difficulties—requiring particularly a disavowal, on the part of Great Britain, of the conduct of her officer at Falkland Islands, which it was alleged gave occasion to the steps taken by the Spanish Governor, and proposing an adjustment by mutual stipulations, in the ordinary form.

The reply was, that the moderation of His Britannic Majesty having limited his demand to the smallest reparation he could accept for the injury done, nothing was left for discussion but the mode of carrying the disavowal and restitution into execution—reparation losing its value if it be conditional, and to be obtained by any stipulation whatever from the party injured. The Spanish Government yielded; the violent proceedings of its officers were disavowed; the fort, the port, and everything else, were agreed to be immediately restored to the precise situation which had been disturbed; and duplicates of orders issued for the purpose to the Spanish officers, were delivered into the hands of one of the British principal Secretaries of State. Here, again, it is to be remarked, that satisfaction having been made for the forcible dispossession, the islands lost their importance in the eyes of the British Government—were, in a short time, finally evacuated, and Port Egmont remains, with every other part of them, in the hands of Spain.

These were direct acts of hostility, committed by the military of one Power against the subjects of the other, without a previous declaration of war, and therefore more offensive to the dignity and honor of the Sovereign than the temporary occupation of a town or fortress, in the prosecution of a war with another nation, to whom the same privilege had been granted. According to the practice of nations, therefore, the proceedings at St. Marks and Pensacola cannot be regarded as deciding the question of peace and war between Spain and the United States, waiving all the circumstances which so fully justify the commanding General. Neither Government understood them as amounting to a change of the amicable relations which existed prior to these occurrences, and which it was their mutual desire to preserve. Spain demanded a restitution of the posts in the possession of the American troops; they were ordered to be restored; Pensacola unconditionally, and St. Marks on the appearance of an adequate force to protect it from the savages. The Spanish Minister, in the name of his master, also demanded the punishment of General Jackson. He was told that the President would "neither inflict punishment, nor pass a censure" on the General, for conduct which found its justification in the perfidy and duplicity of Governor Masot, and the officers of His Catholic Majesty, in Florida. We, on our part, demanded the punishment of these Spanish officers; they have neither been punished, nor their conduct formally investigated. Thus the affair has terminated, to the satisfaction of both parties, so far as it is essential to the preservation of peace between the two countries. It did not originate in a disposition to produce a rupture with Spain, either on the part of the President or of General Jackson. Pizarro blustered for a while; published his protest; interdicted all further communications with this Government until proper explanations were made, and submitted the matter to the Congress of Aix la Chapelle; hoping to excite the sympathy of the allied Sovereigns, and to obtain their interposition in behalf of Spain. He, however, in a few days, so far subdued his resentment as to resume his usual correspondence and intercourse with Mr. Erving, our Minister at Madrid. The Congress of Aix la Chapelle expressed no opinion on the subject, and Don Onis, the Minister of Ferdinand at this place, has never for a moment ceased to fulfil his functions, without the smallest interruption; and so little was the respect which he paid to the letter of Pizarro, suspending further communications with the American Government, that he did not think it worthy of being officially made known to the Secretary of State. He places the vindication of his master on ground totally different from that assumed in this House by those who defend his cause, in attempting to censure the conduct of General Jackson. He says, in a letter to Mr. Adams, of the 8th of July, 1818: "It cannot be supposed that the Indians, 'against whom the American commander directed his operations, received protection in 'Florida. They never received either favor or 'protection from the Spanish authorities, either 'within or without the territory under their 'jurisdiction."

Speaking of the Governor of Pensacola, he alleges, that "he took every necessary precaution 'to prevent the Indians being supplied with arms 'and ammunition within His Majesty's territory. 'These facts being of public notoriety, and im-'possible to refute, there can be no excuse, pre-'text, or subterfuge, offered for a series of such 'unheard of outrages." And, sir, this is the true and only basis on which to rest the slightest charge against the proceedings of General Jackson. It is a question of fact; and if Don Onis speaks the truth, in saying that the Indians received neither favor or protection from Luengo or Masot, and that everything was done in their power to prevent their being supplied with arms or ammunition, and that it is impossible to refute these facts—then I say with him, that the American commander was censurable, and ought to be brought before a general court martial. But, unfortunately for the Don, the evidence is all on the other side; and these facts, which he says "it is impossible to refute," are contradicted even by the officers themselves, whom he thus boldly defends. I contend, therefore, on the authority of the Spanish Minister himself, that, the proof being against him, the conclusion fails, and General Jackson stands acquitted by Spain of all blame or censure for his occupation of St. Marks and Pensacola. The Chevalier Onis will not stoop so low, as to put the issue of controversy on the wire-drawn theories, and ingenious sophistry, with which he has been so generously supplied by honorable gentlemen who have participated in this debate. He takes the high and imposing attitude of facts, from which he deduces the innocence of the colonial authorities in Florida, and the consequent guilt of the American commander; and surely he ought to be allowed to shape the defence of his own *immaculate* master. On that ground I am content to submit the case to the decision of an impartial world. Sir, if the United States have been precipitated into hostilities with Spain, by General Jackson, and the Constitutional powers of Congress, in that respect, have been usurped, by whom has the war been recognised, and where are its effects to be seen or felt? Spain has given no evidence of a belief on her part that she is at war with us, or that she contemplates becoming so. We have disavowed all hostile intentions towards her. She has a Minister resident at Washington, who is treated with every respect due to his rank, and who is now employed in the interesting duty of forming a treaty on the subjects which have so long remained unsettled between his Sovereign and this country. We also have a Minister of equal rank and dignity at Madrid, who receives there the most polite attention. No armies are in the field; no fleets on the ocean; no appropriations required to carry on the war—but it is nevertheless the foundation upon which the whole argument of the advocates

of these resolutions is built, and all the dreams of our violated Constitution, with which we have been amused for the last three weeks, are predicated on this visionary war, which honorable gentlemen imagine to exist, for the sake of the argument, but which neither of the *feigned* belligerents acknowledge, and which is carried on without men, money, or ships, while both nations are under the singular delusion that they are in a state of profound peace! I have heard, sir, of wars in the moon, and I presume this must be one of that description.

Mr. Chairman, I think it must be manifest to every candid mind, disposed to look at these events with an impartial eye, that no act of war has been committed against Spain: that none was ever intended; that our relations of amity with that nation have undergone no change; and that General Jackson has been most unjustly charged with a violation of the Constitution of his country. The total neglect of Spain for the last ten years to maintain her authority in Florida, and the facilities which it affords to our enemies, has compelled the Government of the United States to consider that territory open to our arms whenever the public safety required that they should be sent there; and the Spanish Government has no just right to complain of treatment which her own negligence and imbecility has imposed on us as a duty, in self-defence.

Permit me, sir, to call the attention of the Committee to a measure which was adopted during the Administration of President Madison, relating to that part of Florida which lies west of the Perdido, and which we claimed under the cession of Louisiana. Spain was in possession of the country, and contested our claim; a special mission had been sent to Madrid to negotiate a treaty of limits with that Government, and the effort to effect that object was unsuccessful. Pending this question of the title between the two Governments, in the year 1810, Mr. Madison issued a proclamation annexing the disputed territory to the present State of Louisiana, then the Territory of Orleans. That proclamation is in the following words:

"Now be it known, that I, James Madison, President of the United States of America, in pursuance of these weighty and urgent considerations, have deemed it right and requisite that possession should be taken of the said territory, in the name and behalf of the said United States. William C. C. Claiborne, Governor of the Orleans Territory, of which the said territory is to be taken as part, will accordingly proceed to execute the same, and to exercise over the said territories the authorities and functions legally appertaining to his office; and the good people inhabiting the same are invited and enjoined to pay due respect to him in that character; to be obedient to the laws, to maintain order, to cherish harmony, and in every manner to conduct themselves as peaceable citizens, under full assurance that they will be protected in the enjoyment of their liberty, property, and religion."

To carry the power vested in him into effect, Governor Claiborne was authorized to call in to his aid the regular troops of the United States on the Mississippi; and, if these should be deemed insufficient, to call out the militia of the Orleans and Mississippi Territories, and to take forcible possession of the territory, if resistance should be made. The order was executed. The laws of the United States were extended to the country, by virtue of this proclamation, and at that time, and for more than one year afterwards, a Spanish garrison remained at Mobile. This step was taken but a few weeks before the meeting of Congress, and communicated to both Houses at the opening of the session. An interesting and animated debate arose in the Senate on that part of the President's Message. Parties were then marshalled; the opposition to Administration was systematic and uniform; and its friends were equally so. The proceeding was denounced, as an unauthorized act of war on Spain; as a usurpation, by the Executive, of the power vested alone in Congress, to declare war. The Constitution was said to be violated: the country menaced with all the horrors of war, both by England and Spain. The arguments used on that occasion, by the old Federal party, bear a strong resemblance to those which we have heard on the present occasion, from the friends of these resolutions. I listened, sir, with great pleasure, to a very able and eloquent speech delivered by the honorable Speaker, then a member of the Senate, in defence of this Executive measure. He received my thanks, and, I have no doubt, the thanks of the nation, for the unanswerable and lucid views which he took of that subject. I hope the honorable gentleman will pardon me for the liberty which I take in reading a few sentences from that speech, to the Committee. Their application to the recent occurrences in Florida will be readily perceived, conveyed in language much superior to any which falls within the compass of my humble capacity. "I have (said he) no hesitation in 'saying, that, if a parent country either cannot, 'or will not, maintain her authority over a colony 'adjacent to us; and if misrule and disorder 'prevails there, dangerous to the Union; or men-'acing the peace of our frontier; or unfavorable to 'the execution of our laws; we have a right, on 'the eternal principles of self-preservation, to lay 'hold of it. This principle, alone, independent 'of any title, would justify the occupation of 'Florida." Sir, if the eternal principle of self-preservation alone would justify the occupation of that part of Florida, without any title, to guard against a contingent danger, will it not apply with more than equal weight, to a case of actual existing danger, when the frontier is deluged in the blood of helpless age and infancy? If misrule and disorder prevailed in that portion of the province, at the time we took possession of it, the same remark was applicable to Pensacola and its dependencies when that place was surrendered to the American forces. We were then at war with no Indian tribe who gained admission into the territory. We apprehended no immediate invasion from any quarter; and I ask the honorable gentleman, if that measure was justifiable on

the reasonable probability of approaching hostilities, can he condemn General Jackson for a similar precaution, surrounded as he was by a combination of Indians and negroes, prepared to renew their deeds of cruelty and blood whenever the army under his command should retire within the limits of the United States?

Let me not be told, that we had a fair title to the country under the purchase of Louisiana; for, so far as it related to the national feelings of Spain, and to the compromitment of our own peace, it was sufficient that Spain was in the actual possession of the soil, and claimed a paramount right to the sovereignty over it. We forcibly wrested it out of her possession, and extended our laws, both general and local, to its inhabitants, by proclamation; and I am at a loss to distinguish that act from the military occupation of another district in Florida, on the same great principle of self-preservation. I accord my approbation to both measures, alike in their character and in their effects, and leave the honorable Speaker to show, if he can, in what consist the shades of difference which will authorize us to justify the one and censure the other. On various other occasions we have marched troops into Florida, and fought battles there, without exciting the smallest sensation in this House, on the score of a usurpation of its powers by the Executive. In 1812, Colonel Smith, at the head of a rifle regiment, was posted before St. Augustine; a detachment from his command was attacked and defeated by the Indians and negroes from the Spanish fort; he declared his intention of storming the place, but his troops were enfeebled by disease, and he retreated to the State of Georgia. A regiment of volunteers, commanded by Colonel Williams, of Tennessee, likewise carried their military operations into that country. The Georgia militia have frequently been ordered there, in pursuit of hostile Indians. In 1814, General Jackson fought a battle in Pensacola, and dislodged the British force in the Barancas, who blew up the fortress on retiring into their vessels. Since that period, the negro fort, so often mentioned on the Appalachicola, was attacked and destroyed by a combined land and naval force. All these events have passed in review before us, and never until now were they considered either war on Spain, or a violation of the Constitution. But, sir, everything heretofore held sacred, both in principle and practice, must bend to this unprecedented scheme of passing censure on General Jackson, who has been modestly compared to Alvear, Cortes, Pizarro, and Hyder Aly, by an honorable gentleman from New York (Mr. STORRS,) and at the same time the gentleman assured us of the very high respect in which he held the character and services of that distinguished hero! Sir, there are some men too high in the estimation of their fellow-citizens, to be permitted quietly to enjoy the distinction conferred on them by a grateful country. Had General Jackson been less useful to the nation, he might have escaped the mortification of the denunciations uttered against him on this floor.

Mr. P. continued. Sir, said he, I have been mortified and disgusted at the sickly agonies and sympathetic effusions which have been so often repeated by honorable members on the subject of the trial and execution of the instigators of the Seminole war, Arbuthnot and Ambrister. Inflated appeals to our humanity and magnanimity have rung through this hall to excite our commiseration for these guilty men. They have failed to reach either my judgment or the feelings of my heart. My sympathies, thank God, are reserved for the bleeding and suffering citizens of my own country; and objects of that description, in abundance, are exhibited to our view in the narrative of events connected with the short but bloody career of these foreign incendiaries in Florida. The punishment inflicted on them was more than merited by the enormity of their crimes; the example, I trust, will be a salutary warning to British agents on the whole extent of our Indian frontier; and, if future outrages of the same kind should be practised, we owe it to the safety and honor of our country to retaliate on the offenders with the utmost rigor and severity, until the subjects of foreign nations shall be taught to dread our vengeance, if they do not respect our rights. Sir, it is not my intention to enter into a detailed argument on the various technical objections which have been resorted to by gentlemen skilled in the nicety of special pleading, to show that a count or an inuendo is wanting in the declaration, or that judgment has not been pronounced according to the forms in such case made and provided. Such trash may serve to supply the vacuum of empty declamation, but I can never consent to convert this great political theatre into a court of errors and appeals, sitting to scan the record and regulate the proceedings of inferior tribunals. My views are directed to measures in reference to their operation on the general welfare of my country, and, whenever that effect is produced, I would not retrace the step, unless the honor of the nation imperiously demanded the sacrifice. The proceedings of the special court convened by General Jackson on this occasion, have been fully and ably defended by honorable gentlemen whose profound knowledge of military science and the practical usages of war gives to their opinions and arguments the weight of authority, and supersedes the necessity of further investigation. If, indeed, errors in point of form were committed by the court, or if they misunderstood the powers vested in them by the order of the commanding General, it does not become the dignity of this House to ascribe these irregularities to General Jackson; it is to the general order we must look for a definition of the duties which the court were required to perform. They were instructed to "record the documents and testi-'mony in the several cases, and their opinion as 'to the guilt or innocence of the prisoners, and 'what punishment, if any, should be inflicted." Call it, therefore, a court martial, or by whatever other name you please, these were the powers conveyed to it, and no assumed title could enlarge

the grant or substantially change its character. The opinion of the court was given in the form of a sentence and carried into execution, but the same result would have followed if there had been no departure from the literal import of the order. To cavil at such petty inaccuracies, where substantial justice has been done, is, I repeat it, unbecoming the dignity of the House of Representatives. That these perfidious miscreants met the fate which their conduct merited cannot be seriously doubted by any one. On the principle of reprisals it was lawful to execute them, and, as criminals of the highest grade, whose guilty hands involved a whole country in scenes of massacre and robbery, they fell just victims to the offended laws of nature and of nations. "Those 'who, without authority from their sovereign, 'exercise violence against an enemy and fall into 'that enemy's hands, have no right to expect the 'treatment due to prisoners of war; the enemy 'is justifiable in putting them to death as ban-'ditti." Again, "the violences committed by the 'subjects of one nation against those of another, 'without authority, are looked upon as robberies, 'and the perpetrators are excluded from the rights 'of lawful enemies;" and, also, "whosoever of-'fends the State, injures its rights, disturbs its 'tranquillity, or does it a prejudice, in any man-'ner whatever, declares himself its enemy, and 'exposes himself to be justly punished for it." (*Vattel*, 162.) Sir, can any gentleman compare these principles of national law with the evidence in the trials of Arbuthnot and Ambrister, and seriously contend that they have suffered unjustly, and contrary to law; that they have been doomed to perish under the rod of military despotism? I frankly confess it would require a stubborn determination to persevere in error, which I do not possess, to draw conclusions so inconsistent with such premises. Some gentlemen have attempted to make a distinction between the guilt of these men. Ambrister, say they, was taken in arms; he commanded the negroes and Indians; led them into battle; was identified with them, and, therefore, deserved death. Arbuthnot, we are told, was a mere merchant, a dealer in the articles which the Indians were accustomed to purchase.

I have, in the preceding part of my remarks, had occasion to advert to the objects for which this man entered Florida, and the part which he took in exciting the Indians to war. If Nicholls was an innocent dealer in "the articles which the Indians were accustomed to purchase," so was Arbuthnot; their views were the same; they held the same language to the savages, and each gave a pledge of British aid, in case war should be waged for the recovery of the lands ceded by the Treaty of Fort Jackson. He frequently assured the chiefs that he had authority to correspond with His Majesty's Minister at Washington, with Governor Cameron, of New Providence, and the Governor General of Havana, on the subject of the necessary supplies for carrying on the war; and that he was in possession of a letter from Earl Bathurst, which informed him that Mr. Bagot was instructed on that subject. On the back of a letter addressed by him to that Minister, he states the aggregate force imbodied among the Indians and the positions at which they were posted, and requests a supply of arms and ammunition, specified in the following memorandum:

"A quantity of gunpowder, lead, muskets, and flints, sufficient to arm 1,000 to 2,000 men.
Muskets, 1,000; more smaller pieces, if possible.
10,000 flints; a proportion for rifle, put up separate.
50 casks gunpowder; a proportion for rifle.
2,000 knives, six to nine inch blade, good quality.
1,000 tomahawks; 100 lbs. vermillion.
2,000 lbs. lead, independent of ball for musket."

This paper speaks for itself; it cannot be misunderstood; and shows, most clearly, the participation of Arbuthnot in providing the means necessary to the prosecution of the Seminole war. He was the prime minister of the hostile Indians; had a full power of attorney to make talks, and act for them in all cases whatsoever; and if Ambrister, who was but a subordinate agent, was justly sentenced to suffer death, what excuse can be offered for the man who put the whole machinery of war, massacre, and robbery, in motion? Can it be said that he had not disturbed the tranquillity of the United States? I presume it cannot, and, of course, according to the maxims of public law, to which I have referred, "he had declared himself our enemy, and exposed himself to be justly punished." It is unnecessary for me to enlarge the discussion on the right of the commanding General to retaliate on the enemy for the acts of cruelty and barbarity which were practised in the progress of this war. Honorable gentlemen, who controvert the right, have shown no instance in which it was denied, either in Europe or America; and, in support of it, we have the examples of Washington, and many other general officers, who fought in the war of the Revolution. Yes, sir, General Jackson had the right to inflict punishment on these outlaws. I rejoice that he exercised that right; and, if we do not paralyze and destroy the good effects of the act, it will contribute, in no small degree, to the future peace and security of our frontier. But the honorable Speaker has said that we have no right to practise retaliation on the Indians; that we have forborne to do so from the earliest settlement of the country, and that it has become the common law of the land, which we are bound not to violate. Sir, from what source does the gentleman derive the principle that a right, inherent in the nature of man, which he inhales with his first breath—which "grows with his growth and strengthens with his strength"—which has the fiat of God for its sanction, and is incorporated in the code of all the nations of the earth, becomes extinct with regard to those who may forbear to exercise it, from motives of policy or humanity, for any number of years? That a common law is thereby entailed on the American people, to the latest generations, by which they are required to bend beneath the tomahawk and scalping knife of the savage, and submit to every

cruelty and enormity, without the privilege of retaliating on the enemy the wrongs and injuries we have suffered by his wanton transgression of the rules of civilized warfare? We have, it is true, tolerated much of the inhuman conduct of the aborigines towards our frontier inhabitants. We have endeavored to teach them, by examples of humanity and magnanimity, the blessings and advantages of civilization; but instances are not wanting of the most severe retaliation on these monsters for their deeds of barbarity. If, however, there was not a solitary case on record, of the exercise of the right, it remains inviolate and inviolable. No community has the power to relinquish it and bind posterity in the chains of slavish non-resistance. The gentleman's common law will not do for the freemen of the United States; it is unique and absurd. Sir, if the Committee will pardon the digression, this novel idea of common law reminds me of an occurrence which is said to have happened in the early period of the settlement of the present polite and flourishing State of Kentucky: A man, in personal combat, deprived his antagonist of the sight of an eye by a practice familiar at that day, called *gouging;* the offender was prosecuted and indicted for the outrage; he employed counsel to defend him, to whom he confessed the fact. Well, sir, said the lawyer, what shall I say in your defence? Why, sir, said he, tell them it is the custom of the country! And I presume if the honorable Speaker had presided on the trial, he would have said, "Gentlemen of the jury, it is the common law of Kentucky, and you will find a verdict for the defendant." But, sir, to be serious, let me bring the case home to the honorable Speaker himself. Suppose a band of these barbarians, stimulated and excited by some British incendiary, should, at the hour of midnight, when all nature is wrapt in darkness and repose, sound the infernal yell, and enter the dwelling of that honorable gentleman, and in his presence pierce to the heart the wife of his bosom and the beloved and tender infant in her arms—objects so dear to a husband and a father—would he calmly fold his arms and say, well, 'tis hard! but it is the common law of the country, and I must submit! No, sir; his manly spirit would burn with indignant rage, and never slumber till the hand of retributive justice had avenged his wrongs.

"Mercy to him who shows it, is the rule,
And righteous limitation of the act,
By which Heaven moves in pardoning guilty man;
And he that shows none, being ripe in years,
And conscious of the outrage he commits,
Shall seek it, and not find it, in his turn."

I have no compassion for such monsters as Arbuthnot and Ambrister; their own country is ashamed to complain of their fate; the British Minister here has disavowed their conduct and abandoned their cause; and we, sir, are the residuary legatees of all the grief and sorrow felt on the face of the globe, for these two fallen murderers and robbers! For I call him a murderer who incites to murder.

Mr. Chairman, I am not the eulogist of any man; I shall not attempt the panegyric of General Jackson; but if a grateful country might be allowed to speak of his merits—

Louisiana would say, "You have defended our capital against the veteran troops of the enemy, by whom it would have been sacked, and our dwellings enveloped in flames over the heads of our beloved families."

Georgia: "You have given peace to our defenceless frontier, and chastised our ferocious savage foe, and the perfidious incendiaries and felons by whom they were excited and counselled to the perpetration of their cruel deeds. You have opened additional territory to our rich and growing population, which they may now enjoy in peace and tranquillity."

Alabama and Mississippi: "You have protected us in the time of our infancy, and in the moment of great national peril, against the inexorable Red Sticks and their allies; you have compelled them to relinquish the possession of our lands, and ere long we shall strengthen into full manhood, under the smiles of a beneficent Providence."

The whole Western Country: "You have preserved the great emporium of our vast commerce from the grasp of a powerful enemy; you have maintained for our use the free navigation of the Mississippi, at the hazard of your life, health, and fortune."

The Nation at large: "You have given glory and renown to the arms of your country throughout the civilized world, and have taught the tyrants of the earth the salutary lesson, that, in the defence of their soil and independence, freemen are invincible."

History will transmit these truths to generations yet unborn, and, should the propositions on your table be adopted, we, the Representatives of the people, subjoin: "Yes, most noble and valorous Captain, you have achieved all this for your country; we bow down under the weight of the obligations which we owe you, and as some small testimonial of your claim to the confidence and consideration of your fellow-citizens, we, in their name, present you the following resolutions:

"*Resolved,* That you, Major General Andrew Jackson, have violated the Constitution which you have sworn to support, and disobeyed the orders of your superior, the Commander-in-Chief of the Army and Navy of the United States.

"*Resolved,* That you, Major General Andrew Jackson, have violated the laws of your country and the sacred principles of humanity, and thereby prostrated the national character, in the trial and execution of Alexander Arbuthnot and Robert C. Ambrister, for the trifling and unimportant crime of exciting the savages to murder the defenceless citizens of the United States.

"Accept, we pray you, sir, of these resolves; go down to your grave in sorrow, and congratulate yourself that you have not served this great Republic in vain."

Greece had her Miltiades, Rome her Bellisa-

rius, Carthage her Hannibal, and "may we, Mr. Chairman, profit by the example!" Sir, if honorable gentlemen are so extremely solicitous to record their opinions of this distinguished General, let us erect a tablet in the centre of our Capitol square: let his bust designate the purpose: thither let each man repair, and engrave the feelings of his heart. And, sir, whatever may be the opinions of others, for one I should not hesitate to say, in the language of the sage of Monticello, "*Honor and gratitude to him who has filled the measure of his country's glory!*"

Mr. FULLER, of Massachusetts, next addressed the Chair. Many members of this House, as well as others, have expressed their regret that so much time should be employed in a discussion which is not likely to produce any practical result. For my part, said Mr. F., I am well convinced that a practical result will be produced; not, perhaps, a legislative act, nor even a vote of censure or of approbation of the late campaign in Florida, but another more general and more important result will unquestionably be attained, in which the enemies of the resolutions before us, as well as their friends, will have reason to rejoice. Much light will certainly be thrown on some of the hitherto unsettled powers of our military commanders. Since the adoption of our national Constitution, various points have been settled in relation to the exercise of its civil powers; many of them are now so well defined and established as to be acquiesced in by all parties; but the military power, intrusted in part to the Executive, and to officers of his appointment, has not till recently had the same opportunity of being tested by experience, and fixed by the public voice, after being duly weighed and considered. It is our duty, therefore, to watch with vigilance the assumptions of military power, and never to acquiesce in its exercise when of a doubtful nature. All doubts should be removed by a decision in the proper form.

The gentleman from Mississippi, who has just sat down, (Mr. POINDEXTER,) denies the right of Congress to decide on the question comprehended in the several resolutions before us. He insists that we have no right to censure a military officer, because he is not appointed, and cannot be removed by us; that he is responsible to the President alone, from whom his commission emanated. He has read to us several resolutions, of which General Jackson is the subject, and the House is represented as voting a censure upon him. If the resolutions read by that gentleman were now under discussion, it would indeed be necessary to determine whether this House possesses the power to examine the conduct of the military officers of the nation, and to censure or approve as they may appear to merit. That it does possess this power, many of the advocates of General Jackson have admitted in the present debate. The power of approving has been often exercised, and the instance of General St. Clair, cited by the gentleman to prove the contrary, has no tendency to that effect. The illustrious men who are named by him as voting in the negative on a call for papers from the Executive, did not deny the power of the House, but objected to the imperative terms of the resolution as improper.

But, sir, this is not the present question. The resolutions under discussion do not necessarily imply a censure of the commanding General. His friends contend that his conduct was warranted by his orders from the War Department; and consequently that Department, or the Executive, is alone chargeable with the acts complained of. On that subject my views differ, it is true, from those gentlemen, but it is not my intention at this moment to consider the fair construction of the orders. Much broader considerations ought here to guide us. The resolutions propose several legislative provisions; the necessity for these can only be inferred from perceiving that our army in Florida, and its commander, did several acts, which might have involved this nation in war. A legal prohibition of similar acts may hereafter prevent a war, when the weakness of our antagonist may not, as in the present instance, avert the calamity. Whether the seizure of the Spanish fortresses, therefore, originated with the Executive or with the General, the legality of the act, or the necessity of its prohibition, ought to be determined here. It is, besides, very manifest that the President, by whom the voluminous documents on the Seminole war were voluntarily communicated, as accompanying his message at the commencement of the session, believed that *some* use was to be made of them. He did not surely send them to be read for our amusement, by our firesides. If the use now proposed is not the object of the communication of such information, gentlemen will be so good as to mention any other, that comports with our legislative character.

In examining the mass of papers on the Seminole campaign, it is impossible not to recur to the origin of the war, and to inquire whether the inconsiderable and scattered tribes of Seminole and Creek Indians, most of them within the limits of the Floridas, were in fact the aggressors: whether our territory was actually invaded, and our troops ordered to pursue the assailants beyond our territorial boundary. In the late war with Great Britain, the Creeks, within our acknowledged limits, were excited by Nicholls, and other British emissaries, to take arms against us. General Jackson in one decisive battle put an end to this war. Eight hundred Indians are said to have fallen in this sanguinary battle. The gentleman from Virginia (Mr. SMYTH) calls our attention, with great exultation, to this exploit of his favorite chieftain. Only twenty Indians, he says, were slain in the decisive battle of General Wayne, on the Miami, and only thirty in that of Tippecanoe, in 1811. How much, then, is the military prowess of General Jackson to be admired, who killed *eight hundred!* Let gentlemen applaud this monstrous sacrifice of human life; but let me be allowed to estimate the glory of a battle by its results. General Wayne achieved for his country a lasting peace, on equitable and safe terms—a peace which has been generally observ-

ed on both sides to the present hour. Has the great Creek victory been equally beneficial to our country? On the 9th of August, 1814, General Jackson dictated to the surviving Creeks, or at least as many as would submit to his terms, "articles of capitulation," by which he demands of the prostrate warriors, as an indemnity for the expenses of the war, fifteen millions of acres of land, worth at least, at the present legal price, thirty millions of dollars, but in fact worth double that sum.

One gentleman, no doubt to shew us the value of General Jackson's services, says, that this territory was the only acquisition made by us in the war with Great Britain, except renown. I am glad to hear the exception, and shall ever deem the high reputation of our military and naval heroes of far more actual value to the nation, than any quantity of territory extorted from the Indian natives. But was it right, sir, under the name of indemnity, to compel the cession of a quantity of land, amounting to ten times or twenty times the expense for which it was demanded? The land would not only pay for the Creek war, but, at a moderate estimate, would pay half the expense of the war with Great Britain. With potent England we make peace without any indemnity but "renown," but we compel the ignorant fugitives of the forest, who were enticed into the war by her, and who have nothing but their wilds and their huts, to cede us fifteen millions of acres. From these wide domains, those tribes which had before traversed them for a livelihood were compelled to retire. Destitute of homes, and of the hunting grounds where before they had gained a subsistence, the Red Sticks and other Creeks, not parties to the "capitulation" of Fort Jackson, are driven into exile, and branded as outlaws, and are only saved from total destruction by their neighbors in Florida, the Seminoles. The cession of land contained in this capitulation, since dignified by the name of treaty, was obtained by duress—by military coercion. The Executive and Senate evidently had great doubts concerning it. Congress convened on the 19th September, 1814, and no doubt this instrument was laid before the Senate, as was the duty of the President, without delay; yet almost five months elapsed without any ratification. We are left to infer the cause of the delay, and, for the honor of the treaty-making power, I will not doubt that the exorbitant terms of the instrument itself, so unjustly dictated to a feeble and prostrate enemy, were considered as incompatible with the honor and equity of a great and just nation. On the 15th of February, 1815, the Treaty of Ghent was received at Washington. By the ninth article of that treaty, all the Indians who should remain at war with either party, at the time of the ratification, were to receive all the lands which belonged to them in 1811. The Creek Treaty then came once more under consideration. If they ratified it, they seemed to sanction the unjust acquisition of territory; if they rejected it, the lands must be unconditionally restored, and a popular clamor might be raised by speculators and others, who considered the land as their prey. They determined to ratify the Treaty of Fort Jackson, which was done on the 16th February, and on the next day the Treaty of Ghent was ratified. Considering the responsibility of the Government, and the delicacy of their situation at that time, the ratification cannot be censured, because the Creeks could still look to Congress for redress, and to that source it would have been most prudent for them to have resorted. If they had, I cannot doubt that they would have had an impartial hearing, and that justice would have been done. It appears, however, that those who had fled into Florida, and were still supplied and encouraged by Nicholls, were only taught to expect redress from the Treaty of Ghent. Perhaps there is reason to believe that the British Commissioners at Ghent intended and expected to include the Creeks in the provision of the ninth article; as Jackson's capitulation, if known at all in Europe, must also have been considered of no validity, being unratified. If so, can the exiled Red Sticks, or even their British advisers, be severely censured for persisting in claiming a restoration of their lands under this treaty? Hence we trace one great cause of the Seminole war.

Another train of facts demands our attention. Nicholls, during the war with Great Britain, had erected a fort on the Appalachicola river, within the limits of Florida. After the peace he supplied the exiled Red Sticks and other Creeks, together with the fugitive negroes, with a liberal amount of ammunition and cannon. He delivered this fort, thus supplied, into their possession, and taught them to consider it as their refuge and protection. Whatever right the Spanish authorities might have to dismantle or destroy this fort, it is manifest that we had no such right. We remonstrated, indeed, with the Governor of Pensacola, and he declared it was erected without his consent, and in violation of the jurisdiction of His Catholic Majesty. This remonstrance, however, could only have related to its erection during the war with Great Britain, and after the termination of that war it was no more a subject of just complaint on our part, than Pensacola itself, or any other fortress in the Spanish territory. Our military commander in that quarter, however, as early as April or May, 1816, seems to have meditated its destruction. Fort Scott is hastily erected, at the junction of the Chatahoochee and Flint rivers, just within our own boundary; and a naval force from New Orleans ordered to ascend the Appalachicola river, to pass by the Indian fort beforementioned, and to meet a military detachment under Colonel Clinch, which was to march to Fort Scott, and to destroy the Indian fort if it opposed the passage of the river. The gunboats from New Orleans, under Sailing-master Loomis, accordingly ascended the Appalachicola without asking permission from Spain or from the Indian fort, or giving any notice whatever of their designs, whether pacific or hostile. Nothing is more clear than that we had no right to ascend or navigate the Appalachicola

river, where the territory on both sides belongs to another nation, without its consent. The right to navigate all rivers, bays, and inland seas, belongs only to the nation whose territories encompass them. Some gentlemen have taken great pains to reconcile the conflicting sovereignties of the Indian tribes, and that of the nations within whose nominal jurisdiction they are situated. In the present case it is immaterial whether the sovereignty of the river belonged to Spain, or to the Seminoles who inhabited its borders. It did not belong to the United States. If a mere unarmed or American boat or vessel had passed up the river, it could have been no cause of war on the part of the Indians, even though no leave had been asked. It would in that case have been a mere trespass. But no one can pretend that the garrison in the fort, and the Indian towns, and the exiles depending on it for protection, had not good reason to consider the simultaneous approach of these two armaments as hostile to themselves. They did so consider it, and one of the watering parties from the gunboats was fired on, three men were killed, and one was taken prisoner, and most cruelly put to death, according to the savage mode of warfare. Shortly after, the detachment by land and the gunboats approached the Indian fort, with the evident intention to attack it. They are fired on, and in return they attack and blow up the fort. Of three hundred persons, including women and children, two hundred and seventy perished in this terrible explosion, and most of the others are mortally wounded. Terrible revenge! If we had been the aggrieved party instead of being manifestly the aggressors, surely this awful sacrifice would have been sufficient to atone for our four seamen slain. Not so thought the man who commanded the expedition. Of the three wretches who had miraculously escaped the explosion, he delivered two over to instant butchery. Who can read this deed of cruelty without shame and horror? The savages themselves would scarce have done the savage deed. The most hardened chief of them all would have relented. This was in July, 1816.

Notwithstanding this invasion of the Indian territory, and destruction of their only strong hold, we hear of no considerable Indian irruption into our territory for more than a year. Several predatory incursions, and one or two murders, were committed within our frontiers; and, on the other hand, the Indians complained that a party of Americans had murdered several Indians, and driven off many of their cattle. Our worthy Indian agent, Governor Mitchell, was diligently exerting himself to give and obtain satisfaction, and had actually convened the chiefs of the Indian towns, with a fair prospect of having peace and harmony restored by mutual justice; when, on the 20th of November, 1817, a party, under Major Twiggs, surprised the Indian village of Fowltown, killed four or five men and one woman, drove all the inhabitants from their houses, and destroyed the village. The atrocity of this deed deserves our utmost indignation, especially when we are informed by Governor Mitchell himself, in his letter of the 14th December, communicated with the President's Message of the 25th of March last, that the Indians of Fowltown were inclined to be friendly, and had offered to unite with the other friendly tribes. Ten days after this most infamous transaction, on the 30th of November, 1817, the boat sent by Major Muhlenburg, under Lieutenant Scott, with forty persons, including sick, and women, and children, was attacked, and all on board were killed but six. The fate of these hapless and innocent persons is truly lamentable—it was the inevitable consequence of the recent massacre and pillage of Fowltown.

Let us pause a moment, and retrace the facts. Is it not manifest that we have been the aggressors in this war—very much the aggressors? That the Indians have been assailed, and, even when assailed, have fallen short of their invaders in acts of savage cruelty? That all the petty depredations and murders, except these which have now been more particularly detailed, would easily but for these, have been adjusted by our agent, and reciprocal justice rendered?

Another consideration of no small moment here presents itself. We have called loudly on Spain for the fulfilment of her treaty stipulation, to restrain the Indians within her limits from engaging in hostilities against us. This however can only mean *offensive* hostilities. It can never be pretended that Spain is bound by treaty to disarm the Indians in Florida, and preclude them from the common privilege of all nations and all beings—the right of defending themselves when attacked—much less can Spain in such a war be obliged to join the assailants in the sanguinary work of Indian extermination.

The attack and destruction of Scott's party, and the perilous situation of Major Muhlenburgh, excited universal apprehension for the safety of the latter. Few were informed of the origin of the Indian hostility; few made inquiry, or, if they did, could obtain any satisfactory answer. It is but candid to presume, that the Government was very imperfectly apprized of the true state of the late most wanton destruction of the Indian village, or of the friendly or neutral disposition of its suffering inhabitants. Unconnected with this previous provocation, the destruction of Scott's party must have been deemed the signal for decisive measures. Accordingly, General Jackson, commanding the division of the South, was summoned to the field, and invested with the supreme command. The letter from the Department of War, dated the 25th December, 1817, is cited by the advocates of his subsequent measures, as containing unlimited power to manage the war at his discretion. He accordingly ordered out the militia of Tennessee, to meet those of Georgia and the regular forces; repaired himself to the theatre of action; took the necessary measures to provide supplies; and by the latter part of March he was prepared, with a powerful force, to enter Florida. Nothing could resist his march. The Indians fled before him; their villages, the Mickasukian towns, were

ravaged and destroyed, and their population dispersed through the swamps and morasses to perish with hunger, unless they were so fortunate as to find a speedier death under the tomahawk of General McIntosh and his friendly Indians.

From these scenes of devastation our army marched rapidly on St. Marks, a Spanish fortress; and General Jackson was informed that the Indians had frequently resorted there; had been protected; furnished with ammunition; and their consultations held with the knowledge of the commandant, who had confessed his fears that the Indians would take advantage of his weakness, and occupy the post in defiance of his authority. He therefore demanded the surrender of the post to himself. The commander denied most of the allegations against him, and utterly refused to surrender. Our General therefore with very little delay, entered the fort "by violence," lowered the Spanish ensign, and erected ours in its place. Previous to this however Suwanee, another Indian village on the river of that name, had been plundered and burnt in the same manner with those of Mickasuky, and their fields desolated. Arbuthnot, an English trader, was captured in the family and under the protection of the Spanish commandant; and Ambrister, an English lieutenant of marines in or near Suwanee, where he had led a body of negroes and Indians. The General now appeared to think the war at an end, and professed to intend shortly to return to Nashville. Early in May however he was informed that from four to five hundred Indians were in Pensacola or its neighborhood. He immediately despatched a detachment under Major Young, to whom after some explanations eighty-seven Indians, including women and children, were surrendered to be escorted to a safe distance. Not satisfied with this humiliating concession, and the assurances of the Governor of Pensacola that no Indians were or had been harbored there, except such as had long been and then were employed in furnishing wood and other supplies to the garrison and inhabitants, General Jackson resolutely demands the surrender of the town and the fortress of St. Carlos de Barancas. This demand was peremptorily refused by the Governor, who protested against the occupation of Florida by our army, and threatened, if General Jackson persisted, to repel force by force. This threat was disregarded; our army shortly after entered the city, and prepared to attack the fort, which was at last surrendered by capitulation, and the Governor and garrison sent out of the province. The execution of the two Indian chiefs who had been decoyed into our power, and the trial by court martial and execution of Arbuthnot and Ambrister, had taken place several weeks previous to the seizure of Pensacola.

This concise narrative of the prominent events of the campaign was necessary, before considering the points in controversy. Let us now advance from the origin of the war to its progress and conduct under General Jackson. It is proper to remark here, that he was not authorized by a strict adherence to his orders, including those previously given to General Gaines, to enter the Spanish or Indian territory. By the letter of the Secretary of War of the 9th of December, 1817, General Gaines was ordered to enter Florida, only if the Indians persevered in committing hostilities "within the limits of the United States." No such hostilities were committed. Even the attack on Scott's party, provoked, as has been stated, by the previous destruction of Fowltown, was within the boundary of Florida. By the letter of the Secretary, dated the 16th December, General Gaines is authorized to march across the Florida line, should the Indians still refuse reparation for depredations "on our citizens; and to attack them, unless sheltered under a Spanish fort," and in the last event to notify the War Department. The documents sent us give us no information what depredations are intended by this expression in the letter, nor does it appear that any reparation was demanded of the Indians or refused by them; unless the efforts of our Indian agent for mutual reparation is referred to, which we have already mentioned, and which were in a fair train, till the wanton attack on their town put an end to pacific overtures. Where, then, is found the authority of General Jackson to march into Florida? His advocates find it in the unlimited power, conferred on him by the letter of the Secretary of the 26th of December, before mentioned. Suppose, then, the order was broad enough to warrant him in marching to Florida, and attacking the Indians, without regarding the conditions to which General Jackson had been restricted; in other words, without the necessity of pursuing invaders or punishing depredation. This is conceding much to a liberal construction of the General's military powers.

But it now becomes necessary to inquire into the validity of the ground assumed for the seizure of the Spanish posts. The gentleman from Pennsylvania (Mr. HOPKINSON) has drawn a very nice and attenuated distinction between the capture of St. Marks and that of Pensacola. He thinks the former may be justified on the ground of necessity, while he admits that no sufficient justification is shown for the occupation of the latter. It requires great confidence in the rectitude of my principles to encourage me in differing from that gentleman. In the present case, I hope such a disagreement will be pardoned. He denies the validity of all General Jackson's reasons for seizing St. Marks, except the imminent danger of its falling into the hands of the Indians, and of its guns and bulwarks being thus employed against our army. Suppose, says he, two combatants see a man approaching them with a drawn sword—either of them has a right to seize it by force, if he perceives that his antagonist is about to do so. The trespass on this stranger by forcibly taking the sword, is justified by extreme necessity, as his life must be sacrificed if his antagonist should obtain possession of it. This example shows that only extreme necessity ought to be alleged to excuse the trespass; but, when it is compared with the case of St. Marks, the

analogy wholly fails. Two circumstances must concur to justify the seizure, on the ground of necessity—a moral certainty that the enemy would seize the fort, in case we did not; and an equal certainty, that in the enemy's possession it would be fatal or extremely injurious to us. In both these points, the gentleman's case is a fair illustration of his argument; but in neither of them does the occupation of St. Marks coincide. The Indians were, indeed, admitted freely into the place, and even supplied with ammunition occasionally, in the same manner, for aught which appears, and as is alleged by the commandant, as had been customary in time of peace; but there is no indication of any intention on their part to seize the guns and turn out the garrison, notwithstanding the commandant had expressed some fears of that sort long before. But, on the other hand, will it be asserted that such a seizure by such an enemy could have been fatal, or even a serious annoyance to our army? In the possession of a Spanish garrison, who well understood the management of its defences, it was taken, and taken "by violence," almost as soon as summoned. If, therefore, the untaught savages had actually obtained exclusive possession, it would not have delayed the march of our army a single day, scarcely an hour, in its reduction. Where, then, is the extreme necessity, on which the gentleman has thought proper to justify the unwarrantable aggression on a neutral nation?

The capture of Pensacola and the Barancas, and the expulsion of the Governor and His Catholic Majesty's garrison, are placed on a basis still more tottering and untenable. The harboring, and even supplying the Indians, cannot, with any shadow of sound argument, be alleged as a pretext for immediate attack on our part. If all which was asserted by our commander, and much more, were admitted to be true, for the sake of the argument, though it is in a great measure denied or explained by Don Masot, it ought to have been reported by the General to the War Department, agreeably to the tenor of General Gaines's orders. The Executive could then have decided what course comported with the alleged necessity of seizure, as well as with our relations with Spain, and, above all, with its own Constitutional powers. Since necessity and self-defence are the alleged ground of seizure, let us see how far "defence," or any other useful purpose, has been effected by it. No Indians were captured in Pensacola or the Barancas, the aged Alabama chief only excepted; none were killed or destroyed in consequence of the occupation of those places. The four or five hundred, mentioned in the General's letter, made their escape, and cannot be the less hostile, by seeing Pensacola in possession of the American forces. Their expulsion from the place had been completely effected by Major Young, to whom all that remained had been surrendered. What advantage, then, was gained in the war by capturing the place? None, certainly. To say that a measure was dictated by the necessity of self-defence, when so far from being necessary, it was not even useful, or in any respect conducive to the end, is palpably absurd. So sensible are the advocates of the measure of this, that a gentleman from Virginia (Mr. H. NELSON) had declared, that if he would withhold his thanks from General Jackson, it should be, because he had not also occupied St. Augustine! And this, sir, on the principles assumed by the General and his friends, is a just view of his conduct; if the seizure of St. Marks and Pensacola were necessary, that of St. Augustine was at least equally so. By leaving the strongest Spanish fortress untouched, all advantage was lost, which would have resulted from taking the other posts. The Indians escaped, and, if protected by the Spanish authorities, they still have shelter under a strong post occupied by their friends. All this reasoning, however, goes to prove merely that no advantage was gained, and that anything like necessity was altogether out of the question. But the gentleman last mentioned has found in his learned researches in the pages of Grotius and Puffendorf, a very ingenious escape from the difficulty under which his hero labors, in a definition of the term, necessity. Besides the ordinary meaning of the word, he finds that there is also mentioned a necessity of safety and a necessity of convenience. There was, indeed, an "extreme necessity" for the advocates of the General to make this most convenient discovery. In this sense the "necessity," so often resorted to as an excuse for outrage and injustice, will always be the most convenient talisman imaginable. No possible violation of the Constitution, no violence, no crime, will ever want a justification. To state the gentleman's argument fairly, however, he thinks the "necessity of safety" is the ground to be assumed in General Jackson's vindication in the present case. It is easy to show that this phrase is as flexible in its application as the necessity of convenience. What is safety? While Indians exist, while Spain holds fortresses on this continent, we can never be properly safe. Spain must be dispossessed, the savages exterminated from the Atlantic to the Mississippi, to the Stony Mountains, to Columbia river, from the Isthmus of Darien to the Yellow Stone river, and the northern extreme of the polar region. The necessity of safety, therefore, will vie the necessity of convenience in affording a broad canopy for the shelter of every assailant of liberty, or of the rights of peaceful nations on our frontiers.

Let us examine, however, the grounds on which the General himself has thought proper to justify the captures. "The immutable principle of self-defence" is again and again resorted to; in his letters to the Governor and commander of the fortresses; in his official letters to the Department of War; in the general orders to the army. The immutable principle of self-defence! A powerful army pursuing a fugitive race of half armed and unresisting savages; not once encountered by those timid foes, whose half-starved families were unable even to escape by the most precipitate flight. Such an army seizes the posts and garrisons of a nation with whom we are at peace, to enable itself to make a "defence"

against such an enemy or phantom of an enemy. Oh, strange perversion of language! Never let us listen to such a subterfuge. Far better is it to speak out and exhibit to the world the true reasons, which in those same documents sufficiently appear. Whilst the miserable subterfuge of self-defence is so often repeated, we see by its side the real motives, by which the commander was evidently actuated in the whole campaign. In his letter to the Secretary of the 5th of May, 1818, the General states, that while Spain has not the power or will to preserve her Indians at peace with us, "no security can be given to our southern frontier without occupying a cordon of posts along the seashore." This must mean Pensacola, St. Marks, St. Augustine, and any other convenient places for forts. In his letter of the 8th of April preceding, besides the other reasons, he says, "St. Marks was necessary as a depot to 'insure success to my operations; these consid-'erations determined me to occupy it with an 'American force." After the occupation of Pensacola and the expulsion of the Spanish garrison, he seems much gratified with the acquisitions he has made, and speaks of them as conquered territory. In his letter to the Secretary of the 2d of June, 1818, he says, "the articles," between himself and the Spanish Governor, "with but 'one condition, amount to a complete cession to 'the United States of that portion of the Floridas 'hitherto under the government of Don Jose 'Masot." Afterwards, in the same letter, he states that Captain Gadsden is instructed to report, among other things, "what new works should be erected to give permanent security to this important territorial addition to our Republic." Such open avowals lead us unavoidably to the conclusion, that the object of the General was conquest, and conquest alone; that he merely sought pretexts for acts of hostility in allegations of unfriendly acts or weakness on the part of the Spanish commanders.

Sir, I have perfect confidence in the integrity and magnanimous principles of the Executive and his Constitutional counsellors. I do not believe that any orders were given to the General, except those which are disclosed to Congress and to the world—no others are mentioned or hinted at by himself, or by those who undertake his defence. To my mind this is perfectly satisfactory. But, sir, let us remember that the eyes of European nations are upon all our measures. Republican America must expect a strict scrutiny of her policy and her principles; she ought to be prepared for such a scrutiny; she ought to invite it. To pass this ordeal with honor to our Republican character, for the sake of general freedom, and to disappoint the calumniators of Republics, should be pre-eminently the object of our enlightened Government. In this view I cannot but think the Seminole campaign, and especially the seizure of the Spanish posts, as peculiarly unfortunate. Acquitting, as I do, our Government from all participation in the occupation of those posts, I cannot expect foreign nations will view it with the same eye. They are well apprized of our constant efforts for years past to acquire the Floridas. We have not attempted to conceal them. Our negotiations with Spain have been made public from time to time, and our construction of the treaty, by which Louisiana was ceded, our consequent occupation of a great part of West Florida, our recent seizure of Amelia Island, on its coast, and many other circumstances connected with this territory, have all been attentively watched by European sovereigns. They have seen in them, or have affected to see, no faint imitation of the ambitious and unprincipled cupidity, which characterizes the policy of monarchical Governments. They have scarcely abstained from reproach, though our diplomatists have most ably vindicated our principles in those measures. But now, when we have seized the remainder of West and East Florida, with the single exception of St. Augustine, with no other justification than such miserable pretexts as have been adverted to, what diplomatic skill, what eloquence, can interpose its brazen shield, and repel the bitter taunts and indignant reproaches of all the civilized world? Under such a load of contumely the proudest Republican must have sunk with shame. Mr. Chairman, I rejoice to say that our Executive was not insensible to the situation of our country's honor, to the imperative claim of principle, and the insignificance of any acquisition of territory, compared with national character. The places were ordered to be restored, and the restoration is a disavowal of the acts of the General in their seizure. As far as our national character is concerned, let us hope that the disavowal and restoration will be deemed a sufficient ablution from the stain of injustice. I am well aware, that it has been attempted to involve the Executive in the odium, and it is not without great satisfaction I am able to declare that I think the attempt has been unsuccessful. If it were otherwise, however, I trust I should not shrink from my duty, or labor to palliate a series of aggression on a neighboring nation, which the impartial world could not but condemn.

Those who would identify the Executive with General Jackson, in the censurable acts of the campaign, in their anxiety to prove their case are scarcely discreet in some of their arguments. They begin with the letter of the Secretary of War of the 26th December, 1817, to the General, in which he is first ordered to take the field. They find unlimited power conveyed to him in the closing sentence—"With this view, you may 'be prepared to concentrate your force, and to 'adopt the necessary measures to terminate a 'conflict which it has ever been the desire of the 'President, from considerations of humanity to 'avoid." &c. "The necessary measures," are, by these reasoners, interpreted to mean all or any measures, at the General's discretion, which might have a tendency to terminate the war. An honorable gentleman from New York (Mr. TALLMADGE) attributed the broad terms of this order to the news then recently received at Washington, of the destruction of Lieutenant Scott's party by the Indians; but could an attack by

the Indians be any reason for issuing an order to the General, which could authorize him to attack a Spanish fort? Nothing can be more groundless. From the whole letter it is evident that the Secretary has in view a war with the Indians only; they alone are mentioned, and the orders to General Gaines to penetrate to the Seminole towns, through Florida, immediately precedes the expression above cited. The war with the Indians being, then, the subject matter, it must be straining a point very hard indeed to wrest the expression to any other meaning, than to take such warlike measures against the Indians themselves, as would most effectually subdue them. But, in truth, the Secretary never intended by this expression, after having given General Jackson particular orders, by referring to those already given to General Gaines, and which were copied for his use, to give any additional power whatever. It was merely saying—"You have your particular orders, march into 'Florida, attack the Indians; if they take shelter 'under a Spanish fortress abstain from attack, 'and inform the Executive—concentrate your 'force, and with these limitations finish the war 'as speedily as possible." This interpretation conclusively appears to be that of the Executive himself, in his Message to Congress of the 25th of March last. The President there assures Congress that orders "were issued to the General in com-'mand not to enter Florida unless it be in pursuit 'of an enemy, and in that case to respect the 'Spanish authority, wherever it is maintained." This being three months subsequent to the unlimited order so much relied on, of the 26th of December, sufficiently shows that the unbounded sense contended for was never once suspected by him to be couched under the expression in the letter, and it shows, further, that it was not intended to authorize our army to enter Florida, except in "pursuit of the enemy;" a contingency that never happened.

But, say the gentlemen, whatever may have been the orders to General Jackson, the Executive has assumed that responsibility, by approving his conduct. To prove their position, they direct our attention to the President's Message, at the commencement of the present session, and with still more exultation to the letter of the Secretary of State to our Minister at Madrid, dated the 28th of November last, which has appeared in the newspapers. From the former, however, I apprehend it would be difficult to glean anything like approbation of the acts in question. The language of the President is very guarded, when he touches on the subject, and the most favorable expression to the General's occupation of the posts is merely hypothetical, and seems rather intended to prevent a premature impression against him: that Congress might consider and determine the important question between unauthorized military assumption on the one hand, and the Constitution and laws of the country on the other, with minds unbiassed by Executive influence. The great services of the individual concerned, in the former war, entitled him to the utmost indulgence on the part of the Government; and there is no appearance that the same consideration will not have its full weight in the decision of this House. The Secretary's letter would seem, indeed, at first sight, to intend not only a justification of the hostile acts committed against Spain, but an eulogy on the General no less than on the Government, for their magnanimity in forbearing so long. It is indeed an eloquent appeal to the Spanish Government and to the world, on the subjects of difference between the two nations. But it ought to be considered, that it is addressed to the Spanish Government, not to our own country; and it was proper, as an advocate representing this country, to enumerate the catalogue of grievances and provocations on the part of Spain, which led to the occupation of their provinces, and to place them in their strongest light. Though these might not, on a cool examination, amount to a complete justification for us as a nation, they may approach so near it as to authorize the rhetorical license of the vindicator of his country, in considering them as such. In adjusting a long train of mutual grievances, it is right to show that Spain can be entitled, after the prompt restoration of the posts, to only nominal damages for their seizure. If Spain insists that the seizure is not justified, and requires indemnity for her wounded dignity, as well as actual damage, the reply is, that the prompt disavowal and restitution sufficiently heals the former, and the latter ought fairly to be set off against the irregularities of the Spanish governors and commandants, which led to the aggression. But, sir, this leaves the charge against General Jackson for his violation of his orders and of the Constitution of his country, by assuming the war-making power, altogether untouched. With this controversy Spain has no concern, and the Secretary can by no means be understood to have expressed any opinion respecting it, in this letter. It would have been altogether irrelevant and extra-judicial. Not a word or syllable in the letter has any bearing on these points. These, however, are the points exclusively submitted by the resolutions before us; and these are to be decided between General Jackson and his country. Our differences with Spain, the proper and only object of the letter for the instruction of our Minister, are not, and cannot, be submitted to Congress, until the Executive shall have laid the subject before us in the form of a ratified treaty, or to enable us to determine on hostile measures, for the purpose of redress. Let it not be attempted, therefor, to screen the military officer under the cloak of the Executive. As his hostile aggressions against Spain were not authorized by his orders, so they have never been adopted and assumed by the Executive; and if they had been so assumed, it would merely transfer a portion of the responsibility, without diminishing the injury and affront to our violated Constitution.

The Military Committee have only disapproved the trial and execution of Arbuthnot and Ambrister, and have not animadverted on the

execution without trial, without necessity, and almost without pretext, of the unfortunate Indian chiefs Hemathlemico and Francis, or Hillis Hajo. It is my intention, before the question is taken, to move an amendment of the resolution, by the insertion of a disapprobation of their execution likewise. I am here constrained to dissent from the opinion of the gentleman from Pennsylvania, (Mr. Hopkinson,) and from one or two others, who have endeavored to show that the strict right, by the laws of war, existed in the commander, to put those savages to death, although they reprehend the exercise of the right, in the most pointed language. Sir, I deny the right altogether, and I think it susceptible of demonstration, that it does not exist in the circumstances supposed.

The "unmodified law of war," says the gentleman, authorizes the destruction of all enemies, and the relaxation in favor of prisoners is merely by compact among civilized nations. But, he inquires, have the Indian tribes in any way become entitled to the benefit of this compact, which they have never adopted? And he concludes they have not become so, either by adoption on their part, or by general usage of civilized nations in their favor, when at war with them. But these premises, Mr. Chairman, are inadmissible in themselves, and the inference must, therefore, be equally so. Admitting the right of an injured nation, whether civilized or savage, to seek redress by war, the injury and suffering to be inflicted on the enemy cannot be lawfully extended further than is conducive to the object of the war. The object is to conquer the enemy, and compel him to do justice. The usages of savage nations, to murder all prisoners, even women and children, seem to have led to the erroneous opinion that indiscrimate slaughter is the unmodified state of war, by right. But the rightful laws of war are immutable; they are the same between the most ferocious as between the most humane nations. In all cases the evils of war must be limited to a reasonable probability of effecting the purpose for which war was commenced. The lawfulness of war itself, in the nature of self-defence, for redress of injuries, cannot well be doubted; but that its desolation and carnage ought not to be strictly limited to the attainment of the objects, is a doctrine which would legalize wanton cruelty and useless bloodshed. The murder of women and children—of decrepit old men—of unarmed peasantry, and of prisoners who surrender their arms, and can be prevented from further opposition by imprisonment, is evidently unnecessary, as in no degree tending to overcome the enemy; and is, therefore, exploded by civilized nations as an intolerable barbarity. To prove, therefore, that the Indian chiefs ought not to have suffered death, it is immaterial whether the savage tribes have become parties to any compact relaxing the severity of war, or not; a nation at war with them is bound, by the paramount laws of immutable right, to inflict no useless cruelty. It is easy to show that no advantage could be obtained by cruelty in the present case. The Indians fear not death: when taken prisoners they are armed against its terrors. Their friends and countrymen never attempt to save them by exchange, but consider them as already dead. To kill them can have no tendency to intimidate or restrain their countrymen from barbarity to those who fall into their hands. It is more like to exasperate, and to increase the torments of their victims. For this reason even retaliation on savages is wanton cruelty—for retaliation in war falls not on the offender, but on those who had no participation in the wrong. The innocent man in our power must suffer to deter our enemy from the repetition of his enormities. If the principle advanced by the gentleman is correct; if unmodified war authorizes the unlimited destruction of the enemy, General Jackson would have been within the pale of strict right even if he had put to death all the women and children who fell into his hands, amounting to several hundred. It is not to be admitted, for a moment, that such useless slaughter can be sanctioned by the broadest construction of any code of warfare; nor will I believe that gentlemen would have contended, in behalf of the General, even for the strict right, had he committed such a barbarity. They would have shrunk with horror from such atrocity; and I will do the General himself the justice to believe that he would have repelled the suggestion with indignation. On this ground, then, the execution of the chiefs cannot be supported. No other reason can be offered, of a sounder character; and, when it is remembered that one of them, at the entreaty of his daughter, spared from death the Georgian soldier, and restored him to his friends, it is impossible to restrain our pity for his unmerited fate, and our strong reprehension of the doom awarded him. Hitherto, however, we have proceeded on the ground that the Indians never spare their prisoners; but it is universally known that they take many captives, who are kindly treated, and who afterwards return to their homes in safety. The wars between the early settlers and the natives in the Eastern States, are, in many cases, detailed with great minuteness by the writers of those times; and it appears that the savages often surprised considerable settlements, and, after the violence of the first assault had ceased, whole families of women and children were taken into captivity, and, after the termination of the war, were restored to their friends. Nor was it usual to execute savages taken by the colonists, as the gentleman from Pennsylvania supposes, except for imputed treachery, and sometimes for extreme barbarity. No plausible inducement for this act of severity can therefore be found in any view which can be suggested. Retaliation, punishment, and strict right, are equally untenable.

Permit me here, Mr. Chairman, to express the strong sensations of regret and sorrow, with which every American bosom must be penetrated, when it is seen that our commanders incline to exercise the extreme rights of war, instead of leaning to the side of mercy. We all remember the mode-

ration and clemency exhibited by our heroic naval officers and seamen, in the late conflict with Great Britain. Our enemy was justly chargeable, in very many instances, with extreme severity and wanton cruelty. The brave tars captured in our private armed ships, and sometimes in our national vessels, were purposely exposed, to perish by hunger and cold, in the rigors of Winter, on board their captors. It seemed to be a part of the naval system of that nation, which boasts so loudly of her empire on the ocean, to break the spirits of our seamen, and to crush our rising prowess by unheard of barbarity to their prisoners. The hundreds or thousands who perished under this horrid treatment can never be fully exhibited to their country's eye; but the names of the sufferers, and the fiend-like enormities of their murderers, are registered in heaven. Retaliation might have been resorted to by the laws of war; but the sufferings of the innocent, who would perish for the guilty, and the doubtful benefits of the retaliatory system, where particular acts of atrocity could not easily have been substantiated, prevented the adoption of such a course. Our naval character was beginning to attract the attention of Europe, and it would have been unfortunate to have drawn in question the humanity more than the prowess of our arms. The moderation in victory; the humanity to the conquered; the sympathy for the victims of the conflict, displayed in every situation by our commanders and seamen, are, in my judgment, a prouder pledge of our national glory than all their victories. These are beheld and pointed out by foreign nations as tokens of future triumph—as emblems of republican virtue—infallible omens of speedy ascendency over the naval tyranny of our enemy. It well becomes our great Republic, and should be cultivated as a precious germ of our national character, to mitigate the horrors of war. Though yet in her infancy, America has exerted her influence among the nations, in behalf of insulted and oppressed humanity, in several prominent instances. She has powerfully resisted the assumption, by European sovereigns, of perpetual allegiance; she has contended for the inviolability of neutral rights against belligerent search and paper blockades. Let her never shrink from her great duty of asserting the rights of humanity. Many barbarous practices are still allowed in war, which are not conducive to effect its objects, and are, therefore, mere abuses of military power. A garrison taken by assault may be put to the sword; a city taken by storm may be pillaged, and its inhabitants consigned to the fury of an unbridled soldiery. Nothing can be more abominable in the sight of God and man—nothing more completely wanton and unnecessary. It is not yet settled, that a commander of a fortress, who bravely defends it to the last extremity, may not be put to death by his conquerors, for his courage and fidelity. The execution of spies is universally admitted in the code of civilized war. The case of Andre is in point; none have ventured to censure his execution, who have admitted that he was a spy. Our great and humane commander gave him over to execution, no doubt, with great reluctance, in consideration of his uncommonly interesting character; but he seemed to consider the sacrifice of the victim as necessary for the preservation of the army. I must be permitted to say, Mr. Chairman, that I deeply regret the execution of Andre. If he had been an ordinary man, I should still have regretted it. The preservation of any army cannot in any degree depend on the punishment of spies; for the danger of this fate will never deter officers and soldiers, and even those of the most established courage and honor, from engaging in this service. It is not considered immoral or dishonorable, and therefore the extreme danger incurred increases the merit, and the honor, and the reward of success. Hence, it is demonstrable that, to treat captured spies like ordinary prisoners of war would not increase their number, nor the danger of an army from their enterprises. Let us then examine, without fear, any existing practice which militates against the rights of humanity, and, whenever it shall be found substantially unnecessary, let us boldly explode it, and not doubt that our example will be approved and adopted by other nations.

If, then, in waging war with civilized nations, it is the part of America, in fulfilling the high duties of a nation pre-eminently free, and who aims at the distinction of being pre-eminently virtuous and enlightened, to meliorate the evils of war, how much more, in her wars with the hapless aboriginals, should she adopt, and strictly enforce, a system of mildness and forbearance? Their rapid decline and approaching extinction have excited the commiseration of all nations. Our treatment of them in acquiring their lands—in the relations of peace, and especially in our frequent wars, is narrowly scrutinized. With an overwhelming population, and irresistible force, it ill-becomes us to allege the necessity of retaliation, or self-defence, in vindication of acts of severity and cruelty—of the desolation of towns, and the slaughter of prisoners. Such reasons will be heard with indignation by the impartial, and repelled with horror by the humane. While we send our missionaries to carry the sacred scriptures, and establish schools of piety and morality among them, as the gentleman from Kentucky (Mr. JOHNSON) has mentioned, let us not frustrate these efforts by our example—by the practical exhibition of the effects of religion on its professors. With that holy and peaceful religion ill accord the grasping of their territory, and the ravage and extermination which they have lately witnessed, and so fatally felt, on our southern frontier. The execution of the two Englishmen, Arbuthnot and Ambrister, remains to be considered. The former had been, for several years, among them, employed in a gainful traffic. To increase his influence and his profits, he appears to have endeavored to acquire political consequence, by becoming the organ of their complaints and of their wishes, to the British Government. The expulsion of the Creeks from their lands, by General Jackson's treaty, or "ca-

pitulation," and the application of the Treaty of Ghent to the land ceded by that capitulation, were subjects about which they consulted him. He advised them "not to go to war with the United States,"* foreseeing it must eventually be their ruin; but at the same time he was active in making a representation of their case to Governor Cameron, of the Bahamas, and to the British Minister at Washington. This was the proper advice to give them, to obtain redress of their grievances by negotiation, if any existed. England was a party to the treaty, and had a right to be informed of its execution or violation. British subjects, or even American citizens, ought in duty to refer the Indians to that mode of seeking a remedy. Instead of instigating a war, this conduct of Arbuthnot tended to prevent it. Not a word can be found in the printed documents, containing his private papers, seized by our army, that has any tendency to excite a war, or exasperate the Indians, but all show a spirit of moderation; sometimes applying, in the most amicable spirit, to our Indian agent, Governor Mitchell; sometimes to the British, and sometimes to the Spanish authorities. If these attempts at peaceful adjustment had been duly attended to, and had the pacific measures of our Indian agent been pursued, this disastrous war upon the injured natives, upon a nation with whom we are at peace, and upon our own Constitution, waged by a popular commander, and apparently prosecuted on the strength of his popularity, would never have happened. In the whole evidence against Arbuthnot, I can discern little to censure—nothing to merit the punishment awarded. Ambrister came to Florida to assist the patriot armament, under McGregor, to conquer that province from Spain. He appears to have had no view hostile to the United States, till he found that the Indians and negroes, whom he expected to enlist under his banner against the Spaniards, were invaded and driven from their homes by our arms. He evidently considered them as acting on the defensive, and, in the moment of surprise, on being informed of the approach of our army, he imprudently put himself at the head of a body of Indians and negroes, for the purpose of resistance. It does not appear that he actually encountered our troops, or led his forces to combat; this, however, is immaterial, for in either case he could only be treated, not as a "pirate and outlaw," but as a common prisoner of war. It is conceding too much to say, that this momentary union with the Indians divested him of his right to be treated as the prisoners of civilized nations are treated. It does not appear that he participated in any act of savage ferocity; if he had acted longer with the Indians, he might even have restrained *their* ferocity. His knowledge of their comparative weakness, in contending with us, would have made such forbearance the most manifest policy on their part, which would have been more obvious to him than to the unenlightened savages.

* Documents (65) page 156—157. Arbuthnot's letter to Governor Mitchell.

But with respect to both Arbuthnot and Ambrister, if the former had been the *sole* instigator of the war, and if both had led the savages to battle, and had fought and been taken by their side, no part of which is true in fact, they could not have been justly put to death on any principles assumed by the General, nor on any which have been discovered by the ability and ingenuity of his advocates in this House. That Indians themselves cannot justly be put to death when taken prisoners of war, has been already most fully demonstrated. It is no less evident, that officers and soldiers of civilized nations, who fight by the side of savages, engaged in the same cause, but not themselves adopting or abetting the savage cruelties, cannot be justly put to death. The utmost extent to which this right has been asserted in the present debate, assumes, that Indian prisoners may be put to death, and, therefore, their civilized associates may be treated in the same manner. The premises being disproved, the inference follows of course. Suppose, however, officers or soldiers of civilized nations may be put to death, when taken prisoners, by the laws of war, what would have been the fate of the American armies, and their British antagonists, in the last war, on our northern frontier? Large bodies of Indians engaged with both parties, and made common cause with them. The barbarities of the Indians were sometimes committed in the presence of British officers, without being restrained. However inhuman such connivance might be, it was never contended that we had a right to put British prisoners to death because the savages were in their ranks, nor to avenge their cruelties; nor did the British assume such a right against us. Even in the Seminole war a corps of Indians co-operated with our army, and actually engaged in the work of desolation and carnage. With what color, then, can the advocates of these executions pretend that these victims deserved their fate by the laws of war, because they were identified with the savages; when the same argument would prove, that the General and all his officers and soldiers were justly liable to the same fate? When this consequence is perceived, the argument, I trust, will be abandoned.

Indian alliance and Indian hostility is almost equally to be deprecated. In our Revolutionary war, Great Britain was severely censured by some of her greatest men and best patriots for exciting the savages against us. Would to Heaven our country had never tarnished her history by arming the savages against her adversaries! All the convenience and advantage can never justify the unhallowed consequences. To our enemies alone belongs the first example, to them should have forever been left the guilt of such alliances, and of the innocent blood it has caused to flow.

I agree with several gentlemen, who have clearly shown that the court which tried Arbuthnot and Ambrister was considered by the General, and was in fact a general court martial. Nor shall I attempt to make the point clearer than it

has been made by them. But I will take the liberty to propose a dilemma, from which the advocates of the commander are desired to extricate themselves, whether they deny or admit the court to have been such a court martial as our laws provide. If it was a court martial, legally organized, the General by whom it was ordered had no alternative but to execute its sentence, or to remit it. To change or increase the punishment fixed by the sentence was arbitrary and despotic. On the other hand, if it was not a court martial, clothed with legal powers, then it was the duty of the General himself to have examined the evidence, to have questioned the witnesses, and to have heard the accused in their own defence. This was not done; but the prisoners ordered to execution on grounds which neither the facts alleged, nor the law applicable in the case, would warrant. In either case the defence of the General is wholly deficient. Though his advocates have generally chosen to put his defence on the ground that he possessed the right to inflict death on the prisoners without trial, yet it is evident that he did so intend to act; but that he founded all his own proceedings, including the final order for execution, on the validity and power of the court martial. "These individuals," (Arbuthnot and Ambrister,) he says, in his letter to the Secretary of War, "were tried, legally convicted, legally condemned, and justly punished." Yet this military chief, whom the gentleman from Kentucky (Mr. JOHNSON) affirms to be equal or superior to any in this legislative body, in his knowledge of law, has presumed to change the sentence of Ambrister, which subjected him to stripes and labor, and to order him to suffer death. It has not been attempted by any one in this debate to justify this act, under the pretext of the former intention of the court, which the General calls the "first sentence;" the mere novice in legal proceedings well knows that the final sentence supersedes all others, and, in fact, is the only sentence of the court; totally annulling any previous intentions or opinions, which, therefore, cannot with any propriety be called sentences, any more than the opinion of any member of the court martial, expressed in discussing the subject, could be called his vote, though his final vote might have been the reverse of the opinion first entertained and expressed by him.

The great services of General Jackson in defence of New Orleans have entitled him to the respect and gratitude of the American people. As a member of the community, I exulted at the signal victory which our arms there achieved. The glory and renown of the 8th of January, 1815, were shared by a grateful people, and the illustrious commander and his brave compatriots were hailed with admiration. But, sir, the danger of the various acts of which we now complain, is the greater in proportion to the high character of him who is the author of them. Had they been the acts of almost any other officer, they would have been received with almost universal disapprobation and severe censure. This House would have been early called, with unanimous accord, to have sanctioned the expression of the public voice in defence of our laws and Constitution. Let me earnestly entreat gentlemen to discard from their bosoms such considerations—to *forget* that the "hero of New Orleans" is the officer concerned. If we hope to see clearly and judge rightly, we must banish all partiality and "the fear" and love "of man, which bringeth a snare." I will do myself the justice to aver that, in the part I have taken in this debate, I have no personal feelings or party views to gratify. The seizure of the Spanish fortresses I at first thought defensible. A more rigid investigation has changed my opinion, against my wishes. My duty shall ever be paramount to my feelings. And I trust that, in the decision of these great questions, we shall witness many magnanimous sacrifices of personal and local partiality on the altar of our country. It is only by such sacrifices that we can hope to establish our Constitution and perpetuate our liberty.

WEDNESDAY, February 3.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill providing additional penalties for false entries for the benefit of drawback or bounty on exportation; also a bill for the relief of Ambrose Vasse.

Mr. ROBERTSON, from the Committee on Private Land Claims, made a report on the petition of James Hughes, accompanied by a bill for his relief; all of which bills were severally twice read, and committed.

On motion of Mr. ROBERTSON, the Committee on Private Land Claims were discharged from the further consideration of the petition of Michael McElroy.

SEMINOLE WAR.

The House then again resolved itself into a Committee of the Whole, (Mr. SMITH, of Maryland, in the chair,) on the subject of the Seminole war.

Mr. FULLER, of Massachusetts, occupied the floor nearly two hours, in conclusion of the speech which he yesterday commenced in support of the resolutions of censure, as given entire in preceding pages.

Mr. WALKER, of Kentucky, rose and said: Mr. Chairman, I do not rise to enter into a discussion upon a subject that has called forth the wisdom, learning, and eloquence of this Committee; I only wish to express my reasons for the vote which I am about to give upon this question, and to show that I have no fears for any future consequences which may arise from that vote to my country.

If it were possible for me to be persuaded that the friends to the mode of prosecuting and terminating the Seminolian war were less solicitous for the honor and dignity of our country, or less anxious for its future prosperity and happiness, than those gentlemen who disapprove of our General's conduct in that war, from the solemn dignity of the manner, from the deservedly high standing of the man, and the immense impor-

tance Mr. Speaker has attached to the matter, I might be persuaded that I was in error, and might give a different vote on the subject; I might be convinced that I was as far beneath him in common sense and mere love of country, as he is above me in elevation of station, or in the omnipotent powers of eloquence. But, sir, there are some subjects on which good common sense, years of experience and observation, may shed as clear a light as all the pages of ancient or modern history, and may so anchor the judgment that learning, eloquence, and acknowledged merit, all combined, cannot weigh the anchor, or drag it from its moorings; and this, sir, in my poor opinion, is one of those deep-rooted subjects. I will not attempt to speak of Grotius, Puffendorff, Vattel, Martens, or any other writers on the law of nations, or of our own Constitution, nor yet will I attempt to lead this Committee to believe that I have a correct knowledge of the ancient Republics of Greece or Rome; but, from the little light I have received upon the history of those republics, I will endeavor to show that we have no cause of fear from some future Philip, Cæsar, Cromwell, or Bonaparte; we, to be sure, resemble them in some leading characteristics, and in name, but not in everything; they knew nothing of a fair representative council, such as ours, which is certainly the chain cable of our political ship; a fair representative Government they never had an idea of, or if they had, like some of my unfortunate friends, too, in South America, they were afraid to try the experiment.* Their laws, I am told, were enacted by universal suffrage, or, more properly speaking, by that portion of the people that casualty or design might have convened at the time they were under consideration; it is, therefore, reasonable to suppose that the citizens who lived remote from the metropolitan cities had but little share in their legislation; hence one great cause of their decline. In populous countries and large cities, where the greater portion of the people are wretchedly poor, profoundly ignorant, and darkly superstitious, where the sum of their knowledge was acquired from the mouths of their public speakers, it is perfectly rational to believe that an ingenious, eloquent orator could catch them by the ears, and a successful splendid hero could lead them to the sacrifice of all that should be held most dear to man; nor is it matter of astonishment to the reflecting mind, that our late republican sister, now poor bleeding France, should have followed the fate of the old republics; emerging, as she did, from the darkness of chaos, suddenly into the bright blaze of heaven-born liberty, her eyes were dazzled with the brilliance, her brain was intoxicated with the multiplicity of novel ideas that burst upon it, and before she could recover her sober senses, before her legislators could establish the plan for the permanent security of her rights, the demon of discord erected his crest and diffused his poison among her counsellors, who had also to conquer the habits of ages before her people were capable of enjoying rational liberty; the lands of the country, too, from which true independence always sprouts, were in the hands of the aristocratic few, to whom the great body of the people had, for centuries, been bound by the iron hand of necessity or of power. Thus situated, it is not wonderful that the successful hero, the ambitious, artful statesman, should have prostrated all their rights. Quite the reverse from this situation was our happy Republic at the commencement of her existence; the soil of the country was apportioned among her numerous hardy sons, whose arms were able to defend it. Religious and civil liberty was the contemplation of our European fathers when they first came to America; it was the darling theme of their sons until the day they unfurled the banner, and proclaimed to the astonished world that they were free. Free we are, and free we will be, until land monopolies shall have swallowed up the soil as the banks are about to swallow our portable treasure; we must be ground down to extreme poverty, ignorance, its concomitant, and to cap the climax superstition, too, must give her detested aid, before we can lose our liberties. In fact, Mr. Chairman, we must be reduced to the miserable, abject state of the poor subjects of monarchs, before we can lose our liberties. If ever our rights are lost, moneyed aristocracies and land monopolies will be the corner stones on which the edifice will be erected that will sweep them all. My fears from them are, in truth, much greater than from the sound discretion in our commander in the execution of an order given him by our beloved Chief Magistrate, and which order, if not executed in the manner it was, the objects of the campaign would have been infallibly lost. Certainly it was our President's intentions, when he gave the orders, to put our women and children at rest from the apprehension of being scalped and burnt. If General Jackson had returned from the Florida line, is there a woman in Georgia, or a child in Alabama, that does not know that Arbuthnot and Ambrister would have excited their myrmidons to the repetition of those deeds, at thought of which the blood curdles and runs cold with horror. Much has been said, many dreadful apprehensions have been suggested, from the consequence of our full approbation of our General's conduct; for my poor part, I hope I shall never be afraid of giving to merit its due meed. From my own reading of our Constitution, as well as the sound arguments I have heard, I am most perfectly convinced that the President's orders were strictly Constitutional, and that their execution was perfectly reconcileable with the laws of nations, as was shown by the gentleman from Virginia, and by my friend and colleague,* and produced the most desirable effects to our distressed frontier settlers.

If General Wayne, in 1794, had had force suf-

* Mr. Clay, upon this subject, took occasion to mention his "poor friends in South America."

* Colonel Johnson, from Kentucky, by all beloved for his humane attention to our soldiers' claims and their widows' applications for pensions.

ficient when he defeated the Indians on the Miami of the Lakes, and had have exercised his sound discretion, as General Jackson has done, our Owens and Daviess, our Allen and Simpson, my friend Captain Lewis, and the gallant, generous Hart, might this day have been living monuments of their country's genius, greatness, and goodness, and thousands of our dear disconsolate widowed sisters would now be pressing their newborn babes to their breasts, and receiving the benign smiles of their affectionate husbands, instead of making humble application here, through their benevolent friend, my soldier colleague, (Colonel JOHNSON,) for some poor pittance wherewith to raise their fatherless children; for we should have had no war; no soldiers would have fallen. Yes, sir, if General Wayne had caught the British incendiaries that were with the Indian army, (which he could have done with the assistance of cannon,) and given them to the tree; demolished Major Campbell's fort, and in the ruins buried every British officer and soldier, he would have done a praiseworthy deed, without an infraction of the laws of nations;* the blood-stained British lion would roar, but he would not fight; the conscious murderers of our wives and dear smiling babes would have shrunk appalled when they saw their husbands, sons, and brothers, determined on just revenge.

No war would we have had; our honest, generous, and brave sailors would never have been impressed and ignominiously whipped to try to make them fight against their country's friends; nor would our merchants have been despoiled of their pelf; we would have had no war, no apprehensions of the necessity of an armed force to guard against the efforts of British intrigue, no blue lights or Hartford conventions; the table of your Committee of Claims would never have groaned under the weight of petitions for relief of officers from the pressure of heavy judgments given against them, by what is called courts of justice, too, for the faithful execution of a legal military order; and, what is more to be deplored than all, the shameful capitulation of Alexandria we never should have heard of, nor the conflagration of our Capitol in this city, which bears the name of the illustrious WASHINGTON. Oh, Genius of History, if from thy chaste page thou would'st wipe those foul blots from our character, the laurels of the late British war, like those of the Seminole war, would forever bloom upon thy records without an adverse shade!

Mr. Chairman, until I am convinced that sound sense, some little reading, and close attention to the sound, learned, and eloquent arguments I have heard, will not qualify me to give a just opinion upon the subject, I shall be most decidedly opposed to the resolutions under discussion, and make free to say that the Military Committee has made a most unmilitary report.

Sir, until I am persuaded that I should be reprehensible in hot pursuit to follow the murderers of wife and children to the house of their accessaries, on whosesoever ground it might stand, and drag them forth to instant punishment, I shall continue to thank and praise the man who has saved their lives or revenged their deaths.

Mr. Chairman, I felicitate myself, I congratulate my country, that our people better understand their rights than those of the old Republics, and have a more equal distribution of property than they had; that this honorable House is composed of, if not brighter, at least stronger materials than the legislative councils of Greece and Rome; if it was not, this day we might be led to record a vote at which the crowned heads in Europe indeed might chuckle; more cause would they have to chuckle than when they heard of Jackson's Creek treaty.* Much greater cause would our friends in Europe have of wo and bitter lamentation, to fold their desponding arms, and droop the melancholy head, than when they heard of our extinguishing the Indian title to a little slip of land.

To see us sacrifice our General, who shamefully defeated old England's chosen glorious bands, would make the Prince Regent's Ministers rejoice: To sacrifice our General would quiet the manes of the execrable Ambrister, and no doubt please Arbuthnot's honorable correspondent in this city:† to dismiss our General, who pursued the nurtured robbers of our people and murderers of our innocent children into Pensacola, would no doubt excite a grin from His Catholic Majesty's Minister near this metropolis. The sacrifice that we should make to a mistaken idea of patriotism and humanity, would be by him attributed to our fears of foreign force, for the poor soul knows nothing about the milk of human kindness that so abundantly flows in every freeman's breast. Deprived of our General, (for he thinks we have got but one,) he will again renew the Spanish claim to all the lands from the head to the mouth of the Mississippi; and if we did not forthwith surrender them, he would threaten us with the vengeance dire of his potent royal master. These, sir, will be the valuable results of our agreement with the honorable committee on military matters; this sacrifice, the honorable committee shows, will be made upon very slight presumption, that the General had, in the execution of a military order, a little exceeded a strictly literal construction. I think it conceded by all the honorable speakers upon this question, that, in their various opinions of necessity consists alone their discordant opinions upon this subject. Then, let us ask, who is the better judge of an important military movement? The gentleman at home, in peace and safety, feasting on all the luxuries of every clime, his children,

* Colonel Johnson's construction of Vattel, upon the laws of nations, is in perfect accordance with the laws of nature and of nature's God.

* Mr. Clay said, the crowned heads of Europe chuckled when they heard of Jackson's Treaty with the Creeks; and our friends folded their melancholy arms, hung the dejected head, when they found that we had acquired Indian land.

† The British Minister in Washington.

like blessed seraphs, playing about him, his wife, too, sweet, soft, intelligent, all-accomplished, and beautiful too, as much as his fond wishes could have, whose humane ear was never pierced with the distant sound of the dreadful savage yell; whose charitable heart never had occasion to extend her munificent hand to the relief of woes inflicted by a barbarian band of ruthless sons of the wood, or the hardy weather-beaten General in the field, combating all the difficulties necessarily accompanying savage warfare; is that all, sir? No—subsisting himself and all his army on kind nature's spontaneous gifts, an all-important object to his country before his eye, which must be effected by a given day, or himself and army starves. Who is the best judge in such a case, the brave, aged, experienced General, at the head of the army, or the young, sweet-smelling, powered beau of a drawing room? No doubt here. Then why not, in the name of propriety, leave to your General's own discretion the exercise of open orders, and not attempt to find fault where we cannot, from our situations, form a correct judgment of the necessities that lead to certain acts?

A word to my dear, good old mother, Virginia, and then I am done. With heart-felt pleasure did I see one of her favored sons, (Mr. Tyler,) of the younger brood, exhibit upon this occasion the true patriot soul; from his firm, expressive countenance and bright, intelligent eye, I read the triumph of his soul, I saw that his devotion to his country had obtained a conquest over his filial affections. I thought I saw his heart weep blood, when his eye said, behold my country, here is your Brutus; like the elder Brutus, I would condemn my own son for breach of public law—like the younger, I would stab my father to save my country. I envy such feelings; they are almost too exalted for mortal man; yet I am sure he had them. But I implore my friend to recollect, that if there had been a hook on which to hang a doubt of the guilt of the son of the elder Brutus, that his act would have been thought most horrid. That if it was not well known that Cæsar was indeed ambitious, the younger Brutus would have committed a most detested crime. I hope his reflections on the subject will guard him against passing sentence against his brother, without the most incontestable proofs, that his country is thereby to be relieved from most imminent danger. Let not this ardent zeal for the preservation of our Constitution impel him to leap over its sacred walls, and horribly trespass upon its most valuable provisions. Is not the security of our reputation among the greatest objects of the Constitution? If we condemn our General's conduct because indeed we cannot exactly think like him, will we not severely trespass on his feelings. You all do know what Shakspeare says about the value of a good name: "Reputation dear, my lord, is the immediate jewel of the soul," &c. Every member of this House, every lady in the gallery, and gentleman too, I hope, have read and highly approve his sentiments.

If reputation be so dear to every one among us, how high indeed must it be rated by him, whose bread, whose meat, whose life itself, hangs upon his fair won fame. I am happy, sir, to tell my friend, the honorable member from Philadelphia, that I shall never fear that the keen prying sense of squint-eyed suspicion will ever find a spider's egg among the leaves, much less, a serpent, entwined about the branches of the full-grown wreath of laurels that adorns my General's brow. No, sir; Jackson's laurels can never scatter the seed that may hatch some future Tarquin, to wound the tender breast of some chaste Lucretia.

Mr. Harrison, of Ohio, said, that no question had been brought before the House since he had the honor of a seat in it, where his feelings and his sense of duty were so much opposed, as that which was now before the Committee. He had for some time determined to take no part in the discussion; and, indeed, would gladly have been excused from voting, at least upon two of the resolutions, had there been any honorable mode of avoiding it. But, as the rules of the House obliged him to vote, justice to himself required that he should explain the reasons upon which the opinions he entertained on the resolutions were founded. But, before he proceeded to discuss the two resolutions which had principally engaged the attention of the gentlemen who had preceded him in the debate, he asked to be permitted to make a few observations in reply to those who had denied the right of the House to pass these resolutions.

Several gentlemen, said Mr. H., have distinctly declared that the House could pass no resolution which either directly or indirectly would censure the conduct of a military officer. It is not necessary to give an opinion as to the power of direct censure; no one has, I believe, thought of such a thing in the present case. But I must confess, Mr. Chairman, that I did not expect to hear the other opinion maintained on this floor. What, sir! the immediate representatives of the people, to whom the army and the revenue belong, have no right to enter into an investigation to ascertain whether they have or have not been employed in a manner warranted by law! Whether the public force has been directed, and the public money expended in the manner which they have authorized! Yes, say gentlemen; investigate if you choose; but express no opinion which may imply censure upon the agents of the Government. That is, if I understand the doctrine, that you are to investigate until you are at the point of arriving at the only object for which investigation would be useful, and then you are to stop. Are gentlemen aware of the length to which this doctrine would carry them? That you might appropriate money and authorize an army to be raised for the conquest of Florida, and the Executive or a commanding General may use them in an enterprise againt Canada? And, that, in such an event, your inquiry must go no farther than to ascertain that something has been done, but you are not to say when or where, lest it should imply a censure on some one. The Constitution has been read, and we are asked to point out the clause which gives the right to censure, di-

rect or consequential. I can show no such clause, but I can show the section and the article which gives to Congress the sole power of raising armies, of raising a revenue, and declaring the object in which those armies and that revenue shall be employed; and does it not follow, as a necessary consequence, that they have a right to satisfy themselves whether they have or have not been so employed, and, if they find they have not, to say so? An individual places his money and his servants at the disposal of an agent, to accomplish some specified object. Has he not a right at all times to oblige the agent to give an account of his conduct, and, if he finds that he has misapplied the means that have been put in his hands, to declare that he has done so? It is, sir, a self-evident proposition.

But, sir, we are told that we have the right to impeach the President. Granted: But could we with the least propriety, even if it were our object, pursue that course, until we had ascertained that he had either committed a wrong himself, or permitted a wrong to be done by another? In the present case no one has dreamed of such a step; the only object is to express an opinion upon the Constitutional powers of Congress, and the right of this House to guard those powers from being innovated upon by the other branches of the Government. Sir, it is a sacred right, and it should be maintained with firmness, as one of the great republican features of the Constitution, necessary, not only for the preservation of liberty, but for ordinary correct legislation. How, without this power to investigate, and to pursue the investigation, until the blame shall rest upon the person who deserves it, shall the Legislature be ever able to ascertain the cause of any misconduct in our military and naval operations, which may produce an event requiring legislative provision? The case of General St. Clair, alluded to by the honorable gentleman from Mississippi, (Mr. POINDEXTER,) is one in point. In the Fall of 1791 a great national calamity was announced by the President to Congress—the loss of an army. This disaster might have arisen from three causes; from a combination of the three, or any two of them. It might have arisen from incompetent provision of men and money, in which case Congress would have been to blame; from the improper management of the Executive, or from the misconduct of the General. If, upon the investigation, it should appear that the means put in the hands of the Executive were entirely inadequate to the object, it followed that a more ample provision was to be made; but if it appeared that the supply of men and money were sufficient, then the disaster was to be attributed to the misconduct of the Executive or of the General. It followed that a repetition of the same appropriations was all that was required. Now, to come at these results, a thorough investigation was necessary; but, according to the doctrine now contended for, this could not be done lest it should imply censure upon the General. This right of investigation has always been claimed by, and never denied to, the British House of Commons, at least since the expulsion of the Stuarts. They not only investigate, but they point out the individuals who have in their opinion been guilty of misconduct, and require of the King that they should be brought to punishment. [Here Mr. H. read, from McArthur's "Principles and Practice of Naval and Military Courts Martial," the case of Admiral Matthews, who, in the year 1745, was, in pursuance of a resolution of the House of Commons, brought to trial by order of the King, and dismissed from the service.] The case of Admiral Matthews is one of a hundred that might be produced of naval and military officers being brought to trial in consequence of an investigation into their conduct, commenced by the House of Commons. And yet, sir, the House of Commons have not, as we have, any agency in declaring war. That is the exclusive prerogative of the Crown. But, holding the purse-strings of the nation, they claim and exercise the power upon all occasions to satisfy themselves that the public revenue has been expended, and the public force directed, in the manner best calculated to secure the honor and interest of the nation. But, sir, the power of investigation, and of deciding upon the conduct of a general officer, is not only important as a republican principle and for correct legislation, but important also for the protection of the officers themselves. How often may it happen, in time of war, that a Minister or even a President himself, may attempt to shield their own misconduct by imputing undeserved blame to a commanding General, and where is he to look for protection for his fame and his character? To a court of inquiry, designated by the very persons who are interested to convict him? No, sir; but in this House, the immediate representatives of his fellow citizens, and the representatives, I trust, of their virtue and their justice, as well as their political opinions. A reference to your journals will show an instance in which intimations, not only against the military conduct of a commanding General, but against his moral character, were completely removed by an inquiry, prosecuted under the direction of this House. Nor can I see, sir, the least objection that a military commander could have to such an investigation. I must confess that I was much surprised that the personal friends of General Jackson should have made any objection to having the inquiry into his conduct put upon as broad a basis as possible. I have constantly advised the contrary course. Perhaps some of them may say to me, "*timeo Danaos et dona ferentes.*" I hope not, sir; for if General Jackson's friends are Trojans, it will I believe be manifest, before I conclude, that I am not altogether Greek.

I shall now, sir, proceed to consider the two resolutions upon which the discussion has principally turned. In examining that which relates to the trial and execution of Ambrister and Arbuthnot, I shall inquire—

1st. As to the right of the nation to punish them.

2dly. If the right to punish them existed in the

nation, did it appertain, under existing laws, to the military authority? and,

3dly. If it did appertain to the military authority, was it properly exercised, both as to form and principle?

There is, I think, no question more clearly established than the right of a nation, in time of war, to punish upon its antagonist any violation of those rules which have been adopted by common consent, and which form the code of international law. I can see no reason why these rules should not apply to a war with savages. Indeed, the writers upon this subject seem to allow something beyond the ordinary course of retaliation, in a war of this kind. A rule particularly applicable to this case has been read from Vattel, by an honorable gentleman from Virginia, (Mr. Barbour.) If it applies to the savages themselves, it will apply with equal force to those unprincipled white men who identify themselves with the savages, and stimulate them to their barbarous warfare. And if, sir, any additional force can be given to the right, by the great benefits which will result from its exercise, there never was a case where it could be used with more propriety than in the punishment of Arbuthnot and Ambrister.

Upon recurring to the events upon the Northwestern frontier, since the war of the Revolution, and examining the documents which I have furnished to the Executive, I do not hesitate to say that all the wars, and almost all the difficulties which we have experienced on that frontier, have been produced by the agency of British emissaries. Pending the long negotiations with Great Britain before the late war, although placed upon the Wabash, I was enabled to tell the state of the British feeling towards us—the ebbings and flowings of their hostile sentiments—as correctly as those who conducted the negotiation. The increased or suspended activity of their agents afforded an infallible index to point out the reigning politics of their Court as it regarded peace or war with America.

I was fortunate enough, in the year 1813, to take the correspondence of the British Indian Department with the Governor and Lieutenant Governor of Canada. A part of it has been published, and the originals are either in my own possession, or in the Department of War. From these, it will unequivocally appear that, when the United States and Great Britain were at peace, their agents were constantly stimulating the Indians to war, and supplying them with the means of carrying it on, and that they acted even as allies to them in the field.

In the defeat of General St. Clair's army, in 1791, a British officer assisted the savages with his counsel, if not with his arms. In the action between a detachment of General Wayne's army and the Indians, fought at Fort Recovery, on the 30th of June, 1794, not only the British Indian agents were present, but a captain in their army, and six matrosses. In the general action which was fought on the 20th August following, two full companies of white men, the greater part British subjects, assisted the Indians. The peace which was concluded the following Summer at Greenville, was opposed by every exertion of British influence. Nor did it end here. It was still exerted to keep alive the spirit of hostility against the United States; and the establishment at Tippecanoe, and the plan of the celebrated confederacy which was to have been headed by Tecumseh and the Prophet, had their origin in British councils. And here, sir, permit me to observe, that the conduct of the Government of the United States towards the Indians has been universally humane, liberal, and just; and in this remark I mean to include, also, the negotiations for the extinguishment of their title to lands. I have no doubt but the gentleman from Pennsylvania, (Mr. Hopkinson,) has received some information which induced him to make the observation which fell from him on this subject; but, as far as it applies to the treaties which I negotiated, (and I was the sole commissioner on that frontier for thirteen years, and extinguished the title to upwards of sixty millions of acres,) it is totally without foundation. I claim no merit for this conduct; had I acted otherwise, it would have been in direct opposition to the orders of the Executive. In the handwriting of Mr. Jefferson himself, I received an order never, in my conduct toward the Indians, to suffer the dictates of policy to subvert the principles of justice. There can be no more sublime spectacle than a course of conduct like this, from a great nation towards petty bands of savages. If it be asked why this conduct was not successful in producing a correspondent sentiment of friendship from the Indians to us, and why they took part with our enemies in the late war, I can answer, because the United States disdained to employ them until the enemy set the example, and they had then been seduced by the hundreds of Ambristers and Arbuthnots which were to be found upon that frontier. But, sir, it may be said that these events are all past; that there is now no war with the Indians, nor any probability of one. True, we have no war at present; but, permit me to ask if our relative situation, as it regards the Indian tribes, or of those tribes in relation to the British, is changed for the better? I think not, sir. Let gentlemen who have taken up this opinion, cast their eyes upon a map of the Northwestern part of our country, and see the vast tract which is inhabited by Indians, with a line of British trading posts immediately in their rear, from whence they can be supplied with everything necessary to annoy us. I do most sincerely believe, that a war is hanging over us from that quarter, of more difficulty and danger than we have ever yet waged with Indians. Between the Lakes and the Mississippi, and the Mississippi and Missouri, we have come in contact with tribes formidable for their numbers, for their valor, and still more so for the character of the country they inhabit. It is the Scythia of America, and, depend upon it, we shall, before long, receive the symbols of defiance—if not the bird, the mouse, the frog, and the arrows, some that are equally significant.

These warriors do not, indeed, compared with the tribes we have formerly engaged,

"With tougher sinew bend the bow;
Nor flies the tomahawk swifter to its mark,
Launch'd from the vigor of a Puant's arm."

But the warriors of these tribes are proverbially braves. Flight is admitted as a principle of their tactics, never as the effect of fear. Their prejudices and feelings are not in our favor. In short, the materials are all provided—the train is laid—it requires only the touch of that master Power which has wielded, with so much address, the torch of discord both in Europe and America to produce the explosion.

With this impression, whatever may be my opinion with regard to the circumstances under which one of the individuals was executed, I am persuaded that their punishment will do much good: it will make others of their character more cautious, and may prevent the British traders from involving us in a war before the policy of their nation shall authorize it. Shall I be told, sir, that we shall derive future security from Indian wars, from the altered character of the British councils? Where is the evidence of this alteration? Is it to be found in the treatment of that great but unfortunate man whom they have made the object of their vengeance, when he can be no longer the object of their fears? They have chained him to a rock! No vulture indeed feasts upon the liver of their victim; that perhaps would have been mercy. Their efforts are directed to wound and lacerate his feelings—to humble and debase that lofty spirit whose "awe did bend the" European world, and caused the monstrous system of legitimacy to totter to its foundation.

I come now, sir, to consider my second proposition, viz: Did the right to punish Ambrister and Arbuthnot appertain to the military authority, under existing laws?

I have no doubt it did. To determine this question, it will be necessary to inquire what is the military code of this country. The few pages which I hold in my hand, and which are called the Articles of War, cannot be supposed to contain this code, or to provide for those numerous contingencies which are forever happening in an army, growing out of the relations which the soldier bears to the officer—the officers to each other—the commanding General to his Government, to his army, and to those whom the fortune of war places in his power.

The deficiencies in our statute laws are provided for by an unwritten common law, as extensive perhaps as the civil common law, and founded upon the same principle of reason. This unwritten code is recognised by our statute, under the denomination of "custom of war;" "rules and discipline of war." To this unwritten code military men are obliged so constantly to refer, that an army could not exist a day without it. This must be evident from the single fact that the rank or command attached to each grade of commission is nowhere to be found in the statute law, but is only ascertained by reference to the custom of war. The legality of an order, for the disobedience of which the life and honor of an officer may be endangered, is to be tested only by a similar reference. A general officer sees a platoon officer, with a command of men, in a situation wich he deems ineligible, and directs him to change it. The officer refuses, alleging that he commands a camp guard. At a little distance further the same General meets with another platoon officer at the head of a detachment, to whom also he gives an order, which is likewise disobeyed, upon the ground that the detachment was acting under an order coming immediately from the Commander-in-chief. Both these officers are arrested, and brought to trial. There is nothing in the written law to distinguish the two cases; but under the custom of war the first will be acquitted with honor, upon the principle that an officer on guard receives orders only from the officer of the day; whilst the latter may be cashiered or shot for not obeying an order which even countermanded one coming from the Commander-in-chief, upon the principle that the last order, coming from a superior on the spot, countermands or repeals those which may have been previously received. The case of the officer on guard is an exception to this general rule. The custom of war then being established as the law by which our armies are governed, except where it is not controlled by statute, it remains only to show what that custom is, in relation to persons situated as Ambrister and Arbuthnot, and that there is no statute law which puts their case out of the military jurisdiction. It may however be necessary to say a few words as to the manner of ascertaining what is the custom of war. It is ascertained by the precedents which are to be found in our own army and other civilized nations, and the military principles which are to be found in military authors, and those which are kept alive in our own army, by being daily acted upon. If an objection is made to precedents, drawn from other nations, whose forms of Government are so different from ours, and where the sovereign authority and that of commanders-in-chief are frequently found in the same person; I answer that the military common law, like the civil common law, is to be tested by reason, and that those principles which are incompatible with our form of Government are of course rejected.

The precedents which justify the punishment of the two individuals to whom the resolution refers, by the military authority, are so numerous as to put the matter beyond dispute, and have been so often referred to as to make it unnecessary to repeat them. An additional evidence, however, of the light in which the subject was viewed by our Revolutionary Army, will be found in an address to General Greene, by the officers of the Southern army, of the 20th August, 1781, published in the appendix to Ramsay's History of the Revolution in South Carolina.

But, sir, a law, passed under the Administra-

tration of Mr. Adams, and another in the Spring of 1813, have been brought forward to show that, in the opinion of Congress, a law was necessary to authorize retaliation; but a stricter examination of these laws will show that they contain no evidence of such an opinion, as the first law provides for retaliation before a declaration of war, and the latter for one case in which the military had certainly no power to act, and for another case where the authority was very equivocal. The first was intended to give authority to the Executive to retaliate for the punishment, by the civil courts of Great Britain, of persons taken in arms against them, and who were born in that country, upon their principle of perpetual allegiance; and the second section of the bill authorizes retaliation upon the subjects of Great Britain, for depredations committed by Indians in their employment.

There can be no question, then, but the right of retaliation, in time of war, is vested in the military authority; and there can, I should suppose, be as little doubt of the propriety of its being so vested. Retaliation, to answer any beneficial purpose, should be prompt and decisive. Indeed, in all the instances that I have heard of, where it was delayed, it was given up; and, if two armies were acting in opposition to each other, the one possessing within itself the right of retaliation for injuries not sanctioned by the laws of war, and the other obliged to recur to a distant Power for authority to retaliate, the first would have great advantages over the other; for, in some cases, a threat of immediate retaliation is of itself sufficient to suspend an unjust execution, and to save a victim over whom the arm of power has already been extended. To complete my examination of the first resolution, it remains for me to consider,

3dly. Whether the punishment of Arbuthnot and Ambrister was right, both as to principle and form.

I have a peculiar opinion upon this subject. My friend from South Carolina thinks that the punishment of Arbuthnot was illegal—that of Ambrister not so. My conclusions are directly the reverse. But, before I proceed to mark the circumstances which discriminate the two cases, I will answer the arguments of those who contend that the punishment of both were legal, upon the ground that the decision of their case depended upon the will of the General alone, or upon that of the President, as Commander-in-chief; that the court which tried them had no power to give an opinion which the General or President might not annul or alter, at their pleasure. Sir, this is not the martial law of this country. The commander of an American army possesses no such power over the lives of his prisoners.

In the preceding argument I have, I think, established that the military code of this country consists of the articles of war and the custom and discipline of war established by the practice of our own armies and those of other civilized nations. But, in searching for precedents from the practice of European armies, regard must be had to a circumstance which gave to some commanders there a power which a General of the United States could never have. It is the case when the Sovereign personally commands his own army, and which gives him, of course, the power to alter the martial law whenever he chooses; a power which, in the United States, can only be exercised by Congress. But in the present case, we have no occasion to travel out of our own country; many precedents having established the mode of punishing persons in the situation of Ambrister and Arbuthnot, to be precisely that which General Jackson used; that is, by trial before a special court or board of officers ordered for the purpose. The gentlemen who have contended for the right of the General to punish these men, of his own authority, have been led into the error by referring for the powers of the General to the law of nations, as explained by *Vattel*, or the law of war, as treated of by *Bynkershoek*. They might as well have examined those authors to discover to which of our courts belong the jurisdiction over piracies. The international law does not, it cannot, define the mode by which a nation may exercise a right which it gives. It is satisfied with giving the right to punish certain crimes, leaving to the nation itself the mode of punishment. Hence, in all the countries of Europe, England excepted, piracy is punished in a court composed of one or more judges, without a jury; but in the United States a jury is necessary. No single nation can change the international law, but every nation is competent to change the mode of punishing any particular offence against that law. The United States have, for instance, changed the mode of ascertaining the guilt of a spy. Contrary to former practice, a statute law has directed that persons charged with being spies shall be tried by a court martial. With respect, therefore, to the two individuals to whom the resolution refers, you are to look first into authors on the laws of nations, to determine whether you can punish them, and then to our own laws to ascertain how to punish them. Our statute law being silent, we are obliged to refer to the mode of punishment which custom has established, and which I have already proved to be the law of this country. An examination of the principles which have been established by this custom will show that the martial law of this country is not such as gentlemen have supposed. If it is severe, it is in cases where severity is necessary; if it is apparently harsh, it is yet discriminating—it leaves as little as possible to the passions of individuals, and it decides that imputed guilt is to be ascertained by careful investigation. In the hour of battle, however, everything bends to the exigency of the moment. The power of a commander over the lives of his prisoners, and even of his own men, has no limit but his opinion of the necessity of sacrificing them. My gallant friend, General Jesup, at the battle of Niagara, then a Major, and acting with a single battalion upon the flank of Scott's brigade, had made

prisoners equal in number to his own command: they were leaving him each moment, and probably returning again to the conflict; in such a case the laws of war would have authorized his destroying them; but, generous as brave, he declined to exercise his right. To prevent the contagion which a single example frequently spreads to a dangerous extent, the recreant who turns from the bayonet of his foe, is arrested by the ball of his comrade. Nay, a regiment, even a whole line, may be directed by a commander to fire upon another who hesitates to advance upon the enemy, or by a shameful flight, to destroy the hopes of victory. But the battle once over, the indiscriminate and furious Mars is banished from the camp; its councils are directed by the more interesting attribute of his warrior sister. No blood is shed but upon the altar of justice, and not until her discriminating and equal eye has passed over the circumstances of the imputed guilt, and she has deliberately pronounced the sentence; punishment is only to follow conviction, and conviction after a thorough examination before a competent tribunal. I will not say, sir, that there is no exception to this rule; but the exceptions are such as most strongly confirm the general principle.

The principle for which I contend is not, that I know of, to be found in any author, but it is as well ascertained by reference to the precedents; and all those warrant me in giving the opinion that, in all cases where the punishment is intended to be inflicted for some crime committed by a man in his individual capacity, that then a trial is necessary, by a special court or board of officers appointed for the purpose. But where the punishment is to be inflicted upon an individual who is himself innocent of any crime, as in the case of Captain Asgill, but who suffers in retaliation for the act of another, no trial is necessary, for no guilt is to be ascertained; no mode or degree of punishment is to be determined upon; because it is already fixed by the act for which he is to atone. In such a case, a selection by lot, in pursuance of an order from the commanding General, is the proper course. In every other case where the punishment of a prisoner is a deliberate act, I challenge gentlemen to show a single precedent occurring in our own army to contradict the opinion I have given. That which appears to be most opposed to it, is the case of false guides, who are instantaneously punished for leading an army in a wrong direction, and very often when they do not deserve it. A remarkable instance of this kind is to be met with as far back as the days of Hannibal. That General directed an Italian to conduct his army to a place called Cassalinum. Pronouncing it with his foreign tongue, the guide misunderstood him, and conducted him to Cossinum, a place surrounded by mountains. His ever watchful antagonist, Fabius, immediately occupied all the passes of the mountains and garnished their summits with his legions. The Carthagenian relieved himself from this *cul de sac*, by the well known stratagem of lighted fagots tied upon the horns of a large number of oxen. But the unfortunate guide was crucified. If the case of Colonel Hayne, who was executed at Charleston, in the Revolutionary war, is quoted against me, I answer, that the Commander-in-chief, Lord Cornwallis, had previously issued an order directing persons taken under the circumstances in which Colonel Hayne was supposed to be in, should be punished with death, and a court of inquiry was held for the purpose of ascertaining the fact. But this precedent will not be relied upon, when it is known how much and how severe censure has been cast upon the perpetrators of that bloody deed, in England as well as in America. Indeed, all the circumstances which attended the case serve to show that a complete trial upon all such occasions is essentially necessary to prevent the shedding of innocent blood. Colonel Hayne was charged with having borne arms against the British, after having taken a protection as a British subject. This is an offence of a similar character to that of breaking a parole, or one's fighting against the nation to whom he is a prisoner of war. The court satisfied themselves of the two facts of his having received a protection, and afterwards being taken in arms. Those facts were, I believe, not denied by the Colonel; but, in an address to Lord Rawdon, after he was sentenced, the Colonel declared that, if he had had a fair trial and allowed to send for witnesses, he would have been able to justify his conduct. This, the historian, Ramsay, admits he might have done, and considers him a victim to British vengeance. In a note to the history of South Carolina, the opinion of a British lawyer upon Colonel Hayne's case is given [Mr. H. here read the following passage: "No 'enemy can be sentenced to death in consequence 'of any military article or any other martial pro-'cess that I know of, without a previous trial, 'except spies, who, by the articles of war, are 'expressly debarred from that right."] I have already shown that the case of Captain Asgill, which was introduced by the gentleman from Kentucky, (Mr. JOHNSON,) and much relied upon by a gentleman from Virginia, (Mr. SMYTH,) does not controvert the principle which I maintain.

In all the cases which have been mentioned in the course of the debate, where an individual enemy was punished, one excepted, which occurred at New Orleans, and which I shall hereafter refer to, it was sanctioned by the opinion of a military court. My friends from Kentucky and Virginia (Messrs. JOHNSON and STROTHER) have very triumphantly introduced two cases in support of their opinion of the omnipotency of a commander. The first is the case of the two British sergeants who, in the Revolutionary war, attempted to seduce the Pennsylvania line; and the latter, of a British officer, who was shot in South Carolina, for a somewhat similar offence. Now, it happens, unfortunately for their argument, that the Drumhead court which tried these men, is to all intents and purposes a court martial; ordered in the same way, and constituted in the same way as

every other court martial. The only difference is, that the process is conducted with more celerity. It is called a Drum-head court, because, being generally in the field where there is no table, the judge advocate writes upon two drums, one placed upon the other; around which the president and members of the court assemble. I have seen two such courts ordered by General Wayne; one for the trial of an American soldier, who was sentenced by it to be shot for cowardice, and the other for the trial of Antoine Lassalle, a Frenchman, who was taken within the lines of our army, after the action of the 20th of August, 1794, and who had fought with the Indians on that day. The better to understand this subject, it may be necessary briefly to name the several tribunals that are acknowledged by our military code. They are, first, the ordinary courts martial of offences committed by our own officers and soldiers, and which are either general courts martial for the trial of capital or other high crimes, or regimental, detachment, or garrison courts, for the trial of inferior offences. Second, courts of inquiry, which report facts only, unless required to give an opinion, but which pronounce no sentence, and is therefore only an intermediate court. Third, boards of war, or special courts martial. And, fourth, councils of war.

The powers and duties of the two first are pointed out in the articles of war. The authority to order the two last, is a prerogative of every commanding General, given to him by the custom of war. Distinctly marked as the powers and duties of the two last are, I was astonished to hear them confounded, not only by other gentlemen, but by the gentleman from Virginia, (Mr. SMYTH) himself a military man, who has given to his country a very valuable compendium of field tactics. The first is a criminal tribunal; the latter exclusively confined to the purpose of advising the General as to the course he is to pursue, with regard to the operations of his army.

It is, as the gentleman has said, in the power of the General to adopt or reject their opinion, either on the whole, or in part, as he chooses. His power over the criminal military tribunals is much more limited. By the articles of war, the sentence of a court martial cannot be carried into effect without the approbation of the General who has ordered the court, and he may disapprove the sentence and direct the prisoner to be discharged, or approve it, and then pardon the criminal. Custom has also given him the power to send back the proceedings and direct the court to re-examine the case, and he may recommend a different sentence—one more severe, if he thinks it a case requiring severity, and point out any error that he conceives they may have committed. But the court are not bound by his recommendation—but are always at liberty to pass the sentence in conformity with their own views of propriety. This sentence he may either execute or not, as he pleases, or he may execute a part and remit the balance, but he cannot change the sentence for one more severe, or even inflict a lighter punishment than that which the sentence of the court directs, if it is a punishment of a different kind. He cannot, for instance, substitute whipping for death, nor cashiering for death; nor can there be any possible reason why he should have any greater power over the special criminal tribunals, ordered by him, than over the ordinary courts. But whether there can be any reason given for it or not, the martial law gives him no other powers, and I defy gentlemen to show a single precedent for their opinion. Adye on Courts Martial, page 38: "Courts martial are 'at present held by the same authority as the 'other courts of judicature of the kingdom, and 'the King and his Generals, (when empowered 'to appoint them,) has the same prerogative of 'moderating the rigor of the law, and pardoning 'and remitting punishment, but he can no more 'add to, nor alter the sentence of a court mar-'tial than he can a judgment given in the courts 'of law. The King has an undoubted right to 'dismiss an officer or soldier from his service, 'without a trial, but this power cannot bias a 'court martial, in a matter left to their decision, 'if men most solemnly sworn to be guided by 'their consciences, and to administer justice 'without partiality, favor, or affection, can be 'trusted."

It is, I understand, a prerogative of the Crown of Great Britain, to order a special court of oyer and terminer. But the King has no authority over the sentence that such courts may pass, which he has not over the sentences of other courts. I anticipate the objection which may be made, that this commission is directed to persons who are already judges. Sir, this is precisely the case with the military tribunals; all the officers of an army are, by law, military judges, and when the ordinary courts are constituted, they are taken indiscriminately by regular detail. In the cases of special courts, the practice is, I believe, to designate, as it is in the civil courts, and as the term *quorum* seems to imply. A reference to the origin of courts martial, as well as the practice, will show that I am correct. All the duties of courts martial were originally performed in England by the court of chivalry, composed of two judges; this continued until the civil wars between the Parliament and Charles I., when a designation of a particular number of officers, by name, was made by act of Parliament, from whom twelve were to be taken to form courts martial. By the subsequent act, called the mutiny bill, passed in 1689, after the Revolution, all the officers were made liable to sit on courts martial, and the practice has been continued in England, and adopted by us, to the present day. From the whole of these premises, I am authorized to draw the following conclusions:

1st. That prisoners of war, in this country, are not at the arbitrary disposal of the commanding General, or the President of the United States, but, that they are under the protection of laws, or of customs having the authority of laws. In addition to the precedents to which I have referred, I find in Adye, p. 5, that the rights of pris-

oners were under the protection of the court of chivalry.

2d. That when a charge is made upon a prisoner, for a crime committed by himself, he is to be allowed a fair trial by a board of officers, constituting a special court.

3d. That over the proceedings of this court, the General has no greater or other authority than he has over the proceedings of ordinary courts martial.

By applying these principles to the trials and execution of Arbuthnot and Ambrister, I am led to the conclusion that the trial of both was correct, but that the execution of Ambrister was wrong, because it was not in accordance to the sentence of the court. It is the first instance, I believe, where any man was punished by death in opposition to the sentence; nor is there, that I know of, but a single instance, where the recommendation of the court did not save the life of the accused. The one to which I allude, is the case of Admiral Byng, who was shot in the year 1745, although the court unanimously recommended him to the mercy of the King. It was a recommendation, too, under circumstances which gave it a claim to more than ordinary attention; indeed, it might almost be considered as a second sentence, as they declared that they did not think he merited death. I justify the execution of Arbuthnot upon the ground that he was sentenced by a legal tribunal. It has been objected to by my friend from South Carolina (Mr. LOWNDES) because he was a non-combatant, taken out of a neutral fort; and by other gentlemen, from defect in the testimony. His being a non combatant, should not have saved him, if it was ascertained, upon his trial, that he stimulated the Indians to their barbarous warfare, which pays no respect to non-combatants; nor should I imagine that his being found in a neutral fort should have prevented his punishment, if the taking the fort could have been justified on other grounds. The court, at least, could know nothing of General Jackson's orders, and must have supposed that he was properly authorized to take it. With regard to the supposed defect in the testimony, as I am no lawyer, I, perhaps, may be likely to form an erroneous opinion, but it does appear to me to be the best that the nature of the case would admit of. I will further add, that, although it appears to be laid down as a general rule, by the writers on the martial law, that the rules of evidence used in civil courts, are applicable to military courts also, yet, from the proceedings of courts martial, which I have either seen or read, it is evident that greater latitude is allowed to obtain the opinions of witnesses than in civil courts. As evidence of this, I beg leave to refer to McArthur's Treatise on Courts Martial, and to his report of the trials of Admiral Keppel, Lord George Sackville, and General Whitelock, in all of which the court sustained the propriety of witnesses giving opinions to an extent unknown, I believe, in civil courts. I am aware, sir, of the objection which may be made to the opinion I have given of the necessity of trying these men, viz., that, as they had identified themselves with the Indians, they were subject to the same summary punishment that was used with the savages themselves. I admit the right to punish these white men to the fullest extent, but, I believe there is no case in which an investigation is more necessary than a charge of this kind; for, should we adopt it as a rule to hang every white man whom, in time of war, we find in the Indian country, or even in arms against us, we shall punish not only innocent, but often very meritorious men. Such are found among the Indians of the northwest, either made prisoners at an early age, or induced, for the sake of traffic, to serve among them. In the long war which was terminated by the peace of Greenville, many of their traders are known to have impoverished themselves by redeeming our captives, some of them from the flames. It is known, too, that many of them were forced to fight in the Indian ranks at the battle of the Rapids. It is not a little remarkable that the gentlemen who have advocated the omnipotency of the commanding General over the lives of his prisoners, should have paid so little respect to the opinion of General Jackson.

It is impossible, after an examination of the documents upon the subject of the trial of Ambrister and Arbuthnot, not to believe that his opinion, as to the necessity of a trial, precisely corresponds with that which I have given. In his despatches to the Secretary of War, he says, that these men were legally tried, legally sentenced, and legally executed. Now, what is a legal trial, but by a court constituted according to law? Nor would the court have suffered itself to be made use of as an illegal instrument to effect any purpose. It was composed of some of the most intelligent officers of the army. They would not have organized themselves as a court, unless they knew that the order under which they assembled was one sanctioned by the martial law. The gentleman from North Carolina (Mr. SAWYER) said (and I believe he only repeated what had been said by several others) that the court could only have been ordered as a court of inquiry. At the time that gentlemen are paying the highest compliments to General Jackson, for his knowledge of the laws of nations, they will not allow to him, and a select number of his officers, a knowledge of the most common principles of their profession. Sir, I have heard opinions given by gentlemen on this floor, with regard to the powers of a General over his prisoners of war, which, I am persuaded, neither General Jackson, nor any of the officers of our army, would sanction. That there are bounds to the law of obedience in the execution of prisoners, gentlemen will find, by referring to the refusal of a division of the French army, in Egypt, to execute a bloody order of General Bonaparte; an order and execution which may have been denied, but, unfortunately for the fame of the General, has never been disproved.

Sir, I am sure General Jackson would never have issued such an order. It gives me pleasure

to state, upon the authority of an honorable gentleman of this House, who was an eye-witness, that no man could have acted with more humanity than the General did to the prisoners, after the battle of the Horse Shoe; that not only every warrior was spared who surrendered himself, but that several of our own men lost their lives in attempting to save some obstinate individuals who refused to surrender; and that, although his own troops were suffering, he would not permit the corn of the Indians to be taken from them, and that the wounded Indians were dressed and taken care of as his own men. But, should any future commander undertake to execute the powers over his prisoners, which gentlemen are disposed to allow him, I am persuaded that instruments for his purpose could not be found in an American army, and he would be answered as a tyrannical French King was answered by a magnanimous officer—"I am the soldier of my country, but not its executioner; you must seek elsewhere for such instruments."

A gentleman from New York (Mr. Tallmadge) in the course of this debate, alluded to an event of the Revolutionary war (for what purpose I did not well understand, as I was not fortunate enough to hear the whole of the gentleman's remarks) in a manner calculated not only to cast a shade over the character of one of our greatest military heroes, but upon that of the country itself. I extremely regret, sir, the absence of the gentleman, as well as the cause of it. If he were in his seat, I am persuaded that his candor would induce him to retract an error into which he has been led by a partial and prejudiced historian of our Revolutionary contest. In speaking of the storming of the fortress of Stony Point, by a detachment of the American army under the command of General Wayne, the gentleman, upon the authority of Gordon, a British historian, said that "on that night retaliation, nay, revenge, drank its fill, that the troops were stimulated to this feeling by the watchword, *Remember the Paoli.*" Sir, I take upon myself to assert that the historian Gordon has totally misrepresented the whole of that transaction; and I would refer the honorable gentleman to the American work written by the Chief Justice of the United States from the most authentic documents, to show that he has done so. It is expressly stated in that history, that no blood was shed after the enemy ceased to resist, and, of course, that revenge had no part in the affair; nor was the watchword such as the gentleman has supposed. "*The fort is our own,*" was the watchword, and was first given by the then Lieutenant Colonel Posey as he mounted the parapet. More fortunate in that particular than the honorable gentleman from New York, I knew General Wayne personally and intimately. The foul passion of revenge never had a place in his noble and generous bosom. It was for his country alone that he fought, and the blood of her enemies was never shed by his order but in lawful and open warfare, or as just and necessary retaliation, in which personal feeling could have no influence. Yes, sir, I well recollect his fine blue eye, as easy to be melted at the soft voice of pity as it was prompt to kindle with martial ardor at the sound of the trumpet.

Understanding, Mr. Chairman, that a gentleman, who is to follow me in the debate, intends to call the attention of the Committee to a correspondence of mine with a British commander during the late war, in which the doctrine of retaliation is placed upon very strong ground, to prevent the necessity of again troubling the Committee, I must request the Clerk to read a letter to General Vincent, in the Fall of 1813.* There is nothing in this letter

*"But, sir, there is another subject upon which I wish an explicit declaration: Will the Indians who still adhere to the cause of His Britannic Majesty be suffered to continue that horrible species of warfare which they have, as heretofore, practised against our troops—and those still more horrible depredations upon the peaceable inhabitants of our frontiers? I have sufficient evidence to show that even the latter has not always been perpetrated by small parties of vagrant Indians, acting at a distance from the British army. Some of the most atrocious instances have occurred under the eyes of the British commander and the head of the Indian department. I shall pass by the tragedy of the river Raisin, and that equally well known scene which was enacted on the Miami, after the defeat of Colonel Dudley, and select three other instances of savage barbarity, committed under the auspices of General Proctor. In the beginning of June a small party of Indians, conducted by an Ottawa chief, who I believe is now with the British army under your command, left Malden, in bark canoes, in which they coasted Lake Erie, to the mouth of Portage river; the canoes were taken across the Portage, to the Sandusky bay, over which the party proceeded to the Cold creek, and from thence, by land, to the settlements upon that river, where they captured three families, consisting of one man and twelve women and children. After taking the prisoners some distance, one of the women was discovered to be unable to keep up with them, in consequence of her advanced state of pregnancy. She was immediately tomahawked, stripped naked, her womb ripped open, and the child taken out. Three or four of the children were successively butchered, as they discovered their inability to keep up with the party. Upon the arrival of the Indians at Malden, two or three of the prisoners were ransomed by Colonel Elliott, and the others by the citizens of Detroit, where they remained until they were taken off by their friends, upon the recovery of that place by our army. I understand that the savage chief received from Colonel Elliott a *reprimand* for his cruelty.

On the 29th and 30th of the same month, a large party of Indians were sent from Malden, on a war expedition, to Lower Sandusky. At a farm-house near that place, they murdered a whole family, consisting of a man, his wife, son, and daughter.

During the last attack upon Fort Meigs, by General Proctor, a party, headed by a Seneca, and intimate friend of Tecumseh, was sent to endeavor to detach from our interest the Shawanese of Wapochanata. In their way thither they murdered several men, and one woman who was working in a cornfield.

I have selected, sir, the above from a long list of similar instances of barbarity, which the history of the

inconsistent with the principles which I have advanced. If it were otherwise, I could shelter myself under an act of Congress, passed at the session before the letter was written, expressly giving the power which it claims. But, as I had much rather that the Committee should have reason to censure my judgment than conceal any part of the transaction, I confess that I did not know, when the letter was written, that any such act had passed. It was my construction of the laws of nations that we had a right to use the Indians who were on our side in the same way that our enemies did with theirs. I knew no other way of putting a stop to the massacre of our citizens, convinced that retaliating upon the Indians would be useless—and that, if the British commanders were insensible to the claims of humanity, the cries of their own subjects would reach the British Throne, and by that means effectual measures would be adopted to restrain their barbarous allies. But, sir, I found it easier to threaten retaliation than to execute it. When the shocking scene acted upon Cold creek was first communicated to me, I not only promised to retaliate by letting loose our Indians upon their settlements, but I made a solemn vow that I would do it. It is needless to say, that, when I entered Canada and saw helpless women collected in a huddle as a sort of protection against the possibility of outrage, and innocent children playing before the doors of their cottages, that I not only forbore to execute the promise to retaliate, but I informed the Indians that, if they offered the least violence to the persons of the inhabitants, I would hang the perpetrator to the first tree; and the order was faithfully obeyed. My vow, sir, remains recorded against me in Heaven, unless, indeed, the angel of mercy shall have dropped upon it a tear and blotted it out forever.

I am now, sir, to consider the resolution in relation to the occupation of the Spanish posts. I agree entirely with those gentlemen who disapprove of it, as the exercise of a power exclusively vested in the National Legislature. The arguments in support of this opinion have been so ably and so recently brought to the view of the Committee, by my friends who have preceded me in the debate, as to leave me little to add upon this part of the subject. I admit the right of General Jackson to follow the Indians into Florida, but I have not been able to discover that military necessity by which alone the seizing of Pensacola and Barancas could be justified under the laws of nations. I beg leave to read to the Committee the opinion of an author of high standing, who has not hitherto been referred to in the course of this debate. Bynkershoek, Laws of War, page 58: "But he who commits hostilities upon the territories of a friend to both parties, makes war upon the sovereign who governs them, and who, by his laws, coerces every violence by whomsoever it may be committed." In page 63 he proceeds: "I do not pretend that the conqueror may not justly pursue the conquered fleet, even though he should be driven to the territory of a neutral.

---

last fifteen months could furnish, because they were perpetrated, if not in the view of the British commander, by parties who came immediately from his camp and returned to it—who even received their daily support from the King's stores—and who, in fact, (as the documents in my possession will show,) form a part of his army.

To retaliate, then, upon the subjects of the King, would have been justified by the laws of war and the usages of the most civilized nations. To do so has most amply been in my power. The tide of fortune has changed in our favor, and an extensive and flourishing province opened to our arms. Nor have the instruments of vengeance been wanting. The savages, who sued to us for mercy, would gladly have shown their claims to it by re-acting upon the Thames the bloody scenes of Sandusky and Cold creek. A single sign of approbation would have been sufficient to pour upon the subjects of the King their whole fury. The future conduct of the British officers will determine the correctness of mine in withholding it. If the savages should be again let loose upon our settlements, I shall, with justness, be accused of having sacrificed the interests and honor of my country, and the lives of our fellow-citizens, to feelings of mistaken humanity. You are a soldier, sir, and, as I sincerely believe, possess all the honorable sentiments which ought always to be found in men who follow the profession of arms. Use, then, I pray you, your authority and influence to stop that dreadful effusion of innocent blood which proceeds from the employment of those savage monsters, whose aid, (as must now be discovered,) is so little to be depended on when most wanted, and which can have so trifling an effect upon the issue of the war. The effect of their barbarities will not be confined to the present generation: ages yet to come will feel the deep-rooted hatred and enmity which they must produce between the two nations. I deprecate most sincerely the dreadful alternative which will be offered to me, should they be continued; but I solemnly declare, that if the Indians that remain under the influence of the British Government are suffered to commit any depredations upon the citizens within the district that is committed to my protection, I will remove the restrictions which have hitherto been imposed upon those who have offered their services to the United States, and direct them to carry on the war in their own way. I have never heard a single excuse for the employment of the savages by your Government, unless we can credit the story of some British officer having dared to assert that, "as we employed the Kentuckians, you had a right to make use of the Indians."

If such injurious sentiments have really prevailed, to the prejudice of a brave, well informed, virtuous people, it will be removed by the representations of your officers who were lately taken upon the river Thames. They will inform you, sir, that so far from offering any violence to the persons of their prisoners, *these savages* would not permit a word to escape them which was calculated to wound or insult their feelings, and this, too, with the sufferings of their friends and relatives, at the river Raisin and Miami, fresh upon their recollection. I have the honor to be, &c.

WILLIAM HENRY HARRISON.

P. S. I pledge myself for the truth of the above statement in relation to the murders committed by the Indians. W. H. H."

'But, I approve the direction of the States General in their decree of the 10th October, 1652, 'to abstain from violence in the port itself, because violence could not be done there without 'danger to the neutral. On this principle, it is 'not lawful to begin an attack on sea near the land 'within shot of the cannon from the fortresses, but 'it is lawful to continue an attack already commenced, and pursue the enemy into a jurisdictional sea, even close to the land, or into a river, 'bay, or creek, provided we spare the fortresses, 'though they should assist the enemy, and provided there be no kind of danger to our friends." In the following page, the same author says: "The law is the same on the land as on the sea." This authority then is conclusive that the taking possession of Pensacola and Barancas by General Jackson was an act of war, which could only be authorized by a declaration of war, and that declaration the Constitution of this country vests in Congress alone. The gentleman from Mississippi has referred to some instances of unauthorized hostilities by a subordinate officer, not being considered by the nation against whom they were directed as cause of war. Wherever this did happen, sir, it is very certain that the aggressing party had thrown the gauntlet, and had put the peace beyond their control if the other had been disposed to war. A few days ago I had the honor to state to the House the circumstances which attended the appearance of the American army before the British posts at the rapids of the Miami, in the year 1794. So perfectly convinced, sir, were the British nation that the attack of that post would have produced war between the two nations, that the merchants of London presented Major Campbell, the commandant of the post, with their thanks, and a service of plate for his forbearance in declining the challenge which General Wayne seemed to have offered.

That the conduct of General Jackson, in relation to the Spanish posts, was unauthorized by the President; that he considered it as an unconstitutional act, is evident from his having agreed to restore them to Spain without the authority of a law of Congress. If these posts were a legal acquisition to the arms of the United States, the President could no more surrender them by his own authority, than he could restore to Great Britain the frigate Macedonian, or any other capture made during the late war. The territory acquired by the arms of the nation in legal warfare is the property of the nation, and cannot be disposed of by the Executive authority alone. But, sir, however strongly confirmed I may be in the opinion, that, in taking the Spanish posts, the General not only exceeded his orders, and that too without the necessity for doing so, which has been made the ground of his defence, I am unwilling to cast any censure upon him but what may be the consequence of the assertion of the rights of this House, the sacred depository of the liberties of the people. Nor can I possibly conceive that the passage of the resolution will do the least injury to General Jackson as a man or as a commander; that there would be less inclination in this House or the nation to intrust an army to his command, than there would have been before this investigation had taken place. The decision of one man or any body of men against the decision of another, when the motives are considered correct, is not supposed to inflict any injury. A superior court pronounces the sentence of an inferior wrong, unconstitutional. Indeed, the Supreme Court of the United States have that power as it regards a law passed by Congress. So has the President, and it has been exercised without, as I am persuaded, a single individual member feeling himself insulted or aggrieved by the decision.

Mr. Chairman, it is always a matter of delicacy to examine the motives of the conduct of an individual. I think however that in the present case such an examination is not only proper for a thorough understanding of the case, but it is so as a matter of justice to General Jackson, and particularly as it relates to the charge of disobedience of orders.

A military officer is frequently in situations of great delicacy and danger, arising from the severity of the general principles of duty, and the undefined nature of those which are sometimes permitted to control them. In the articles of war he finds one which claims from him, in matters of duty, unlimited obedience to his superiors, and he looks in vain for an exception to shelter him from the death or disgrace which is the consequence of his neglect. Exceptions are however admitted to exist, in which disobedience may not only meet with impunity, but become an imperious duty, and from the consequences attending it obtain for him the highest rewards from his country. Singular as it may appear, no man can serve long in an army without being called upon to decide between a plain, written, positive law, denouncing the severest punishment for disobedience, and the unwritten undefined exceptions which he is left to discover by his own sagacity. It is a case full of difficulty and danger. The prudent cautious man pursues the broad track of ordinary rules, adhering to the letter of his instructions, avoiding responsibility, and making his personal safety his principal object. The more generous and enthusiastic spirit will frequently do that which the common principles of duty will not authorize, and rest his justification upon the purity of his motives. These however he is fully aware will not always save him; and indeed such is the necessary rigor of martial law, that his justification must rest almost exclusively upon the result of the course he pursues. It will be in vain for a General who commands the wing of an army, and loses a battle by a disobedience of orders, to shelter himself under the correctness of his intentions. He must show that the thing he did was right, and the best evidence of its being right is the success that attends it. Under this awful responsibility, with the rigor of the law hanging over his head, every military man may not only disobey an order, but in particular situations he may do things which in common cases he would shudder but to think of.

If for instance the second in command at West Point, when Arnold designed to have surrendered it to the enemy, had satisfied himself from the circumstances before him that treachery was meditated by his commander, he should have seized his person and taken the command. But the consequences flowing from such an example are so awful that I do not see, under any circumstances, how a court martial could do otherwise than sentence him to suffer death, to sustain the rigor of discipline. I would do so; and pardon, honor, and promote him, afterwards. It may be said that no person would, under such circumstances, run so great a hazard. I answer that every good officer would do it, as it is the first principle of his profession never to regard personal consequences of any description in the performance of his duty.

Sir, I have no information as to the train of reasoning that led General Jackson to take possession of the Spanish posts, but what is communicated to every member of the Committee; but I have a clue to unravel them, in a knowledge of the principles which governed him in putting New Orleans under martial law in 1814. He well knew that he was violating the laws of his country, and that his justification would depend upon his success; and that success he could not command, although he might deserve it. But he knew that the unfavorable consequences of the act he was about to commit would be personal to himself, and, like a true soldier, he determined to disregard them. Now, sir, I am perfectly confident that under the guidance of the same principles his conduct in relation to Pensacola is to be explained. He knew that we had ample cause of war against Spain; that the nation were not averse to it, if it could be undertaken upon proper principles. Fresh injuries had been received, with which the National Legislature could not be acquainted. He was in the country, in the legal pursuit of an enemy, evidently countenanced and assisted by the Spaniards. If the Legislature were in possession of these facts, would they not immediately authorize him to take possession of those posts? Ought he not to anticipate their wishes? What would be the consequence of his doing it? If the measure should be approved, all would be right; if it should be disapproved, the remedy would be in the power of the Government, by restoring the posts. The consequences at any rate could only be a censure to himself, which he would disregard, if his motives were appreciated.

I cannot but regret, Mr. Chairman, the frequent appeals which have been made, in this discussion, to the distinguished services of General Jackson, by those who entirely approbate his conduct. A proper reference to these might, I suppose, have been safely trusted to their opponents upon this question. If his conduct upon other occasions has been brought to our view, for the purpose of indicating the motives which governed him, in relation to the objects of our inquiry, it was certainly unnecessary, as the purity of his motives has never been questioned. Nor was it, I think, necessary to remind us of the gratitude we owe him. If the important services of General Jackson are already forgotten by the Representatives of the nation, it will, I acknowledge, be a worse indication of the state of the times than some of the doctrines which have been advanced in the course of this discussion. Has my friend from South Carolina (Mr. LOWNDES) forgotten the sentiments with which he introduced the resolution of thanks in an address to this House, which caused all to acknowledge that the orator was worthy of the theme, as the theme was of the orator? And, sir, how short a time has elapsed since the members of this House were perfectly electrified by a burst of eloquence on the same subject from a different source, (Mr. CLAY,) which could never have been produced if the sentiments of the heart had not corresponded with the terms in which they were delivered! And, if, sir, (what I cannot believe,) the services of General Jackson were intended as a set-off against any subsequent misconduct, the motive would be, in my opinion, still more improper. A Republic can commit no greater error than the admission of such a principle. The danger of such a government is always in proportion to the confidence it reposes in individuals.

Fidelity to a nation in a foreign war is not always followed by fidelity to the principles of its government. History furnishes a thousand examples to show that a brilliant career of public service may in the same man be terminated by schemes of unbounded ambition and the perpetration of the most atrocious crimes. Rome, rocked in the cradle of Mars, making war her trade, deprecated, by her prayers and her sacrifices, and provided for by a deposite of treasure sacred to that object alone, one only war. An invasion of northern barbarians had already suspended her fate by a thread, and seemed to mock the prophecy of universal dominion. In the period of her greatest glory, when her fortitude, her perseverance, and her valor, had triumphed over the wealth of Carthage and the genius of Hannibal; when the firmness of the Grecian phalanx had yielded to the pliancy and promptitude of her legions; when her triumphant eagles had already been planted on the shores of Asia, and the successors of Alexander anticipated their fate as the result of a valor of which they knew not the source, and of tactics which they could not understand—at this period of her greatness, a mighty swarm of ferocious barbarians hung upon the summit of the highest Alps. Desolation had marked its progress from the shores of the Baltic. The legions which had ventured to oppose its progress had been swept away as the dew-drops of the morn before the feet of the passenger. Dismay and terror pervaded the provinces of Italy. The Roman people trembled—the Senate itself was confounded. In this moment of extreme distress, every eye was turned—not upon a hero—not upon a WASHINGTON. Marius wanted that elevation of mind, those honorable sentiments, which distinguish the true hero. His talents were equal to the occasion; he saved his country,

but he saved it to prey upon it himself. If the highest services could claim indemnity for crime, then might the conqueror of Platæa have been suffered to continue his usurpations until he had erected a throne upon the ruins of Grecian liberty. Sir, it will not be understood that I mean to compare General Jackson with these men. No; I believe that the principles of the patriot are as firmly fixed in his bosom as those of the soldier.

But a Republican Government should make no distinctions between men, and should never relax its maxims of security for any individual, however distinguished. No man should be allowed to say that he could do that with impunity which another could not do. If the Father of his Country were alive and in the administration of the Government, and had authorized the taking of the Spanish posts, I would declare my disapprobation of it as readily as I do now. Nay, more—because the more distinguished the individual, the more salutary the example. No one can tell how soon such an example would be beneficial. General Jackson will be faithful to his country; but I recollect that the virtues and patriotism of Fabius and Scipio were soon followed by the crimes of Marius and the usurpation of Sylla. I am sure, that it is not the intention of any gentleman upon this floor to rob General Jackson of a single ray of glory, much less to wound his feelings or injure his reputation. And, whilst I thank my friend from Mississippi, (Mr. POINDEXTER.) in the name of those who agree with me that General Jackson has done wrong, I must be permitted to decline the use of the address which he has so obligingly prepared for us, and substitute the following, as more consonant to our views and opinions. If the resolutions pass, I would address him thus: "In the performance of a 'sacred duty imposed by their construction of 'the Constitution, the Representatives of the 'people have found it necessary to disapprove a 'single act of your brilliant career; they have 'done it in the full conviction that the hero who 'has guarded her rights in the field, will bow 'with reverence to the civil institutions of his 'country—that he has admitted as his creed, that 'the character of the soldier can never be complete without eternal reference to the character 'of the citizen. Your country has done for you 'all that a Republic can do for the most favored 'of her sons. The age of deification is past; it 'was an age of tyranny and barbarism; the adoration of man should be addressed to his Creator 'alone. You have been feasted in the Prætanes 'of the cities. Your statue shall be placed in 'the Capitol, and your name be found in the 'songs of the virgins. Go, gallant chief, and 'bear with you the gratitude of your country. 'Go, under the full conviction that as her glory 'is identified with yours, she has nothing more 'dear to her but her laws—nothing more sacred, 'but her Constitution. Even an unintentional 'error shall be sanctified to her service. It will 'teach posterity that the Government which 'could disapprove the conduct of a Marcellus, 'will have the fortitude to crush the vices of a 'Marius."

These sentiments, sir, lead to results in which all must unite. General Jackson will still live in the hearts of his fellow-citizens, and the Constitution of our country will be immortal.

THURSDAY, February 4.

The House met under closed doors, and continued in private session until near four o'clock, when the doors were opened, and the injunction of secrecy having been in part removed from the secret proceedings, it appeared that the amendments proposed by the Senate to the Military Appropriation bill, to carry into effect certain stipulations of the late treaty with the Chickasaw Indians, had been the subject of the private deliberations of the House, which resulted in concurrence with the Senate's amendments.

FRIDAY, February 5.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, who were instructed to inquire into the expediency of authorizing the appointment of an agent, in each of the counties of the several States, to receive the tax due to the General Government on lands, which are or may be sold for the non-payment of the taxes, made a report thereon; which was read, and the resolution therein contained was concurred in by the House, as follows:

Resolved, That it is, in their opinion, inexpedient to authorize the appointment of such agent.

Mr. SMITH, of Maryland, laid before the House a letter addressed to him by the Secretary of the Treasury, transmitting statements of the gross amount of duties upon merchandise and tonnage, which accrued during the two first quarters of the year 1817 and 1818.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, reported a bill concerning invalid pensioners; which was read twice, and committed to a Committee of the Whole.

Mr. R., from the same committee, also reported a bill for the relief of James Price; which was read twice, and committed to the Committee of the Whole, to which is committed the bill for the relief of Elbert Herring.

Mr. R. also reported a bill to authorize the Secretary of War to appoint an additional agent, for paying pensioners of the United States, in the State of Tennessee; which was read twice, and ordered to be engrossed and read a third time tomorrow.

The Committee on Military Affairs were discharged from a further consideration of the petition of General James Wilkinson, and it was referred to the Committee on the Judiciary.

Mr. NEWTON, from the Committee of Commerce and Manufactures, reported a bill further to establish the compensation of the officers employed in the collection of the duties on imports and tonnage, and for other purposes; which was read the first and second time, and committed to

the Committee of the Whole, to which is committed the bill in addition to an act, entitled "An act to regulate the collection of duties on imports and tonnage," passed the second day of March, 1799.

The SPEAKER laid before the House a letter from Joseph Lancaster, containing an expression of the gratitude with which he is penetrated for the honor conferred upon him in admitting him to a seat within the Hall; which letter was read, and ordered to lie on the table.

The House took up and proceeded to consider the report of the Committee of Ways and Means, made at the last session, on the petition of Lawrence Muse; whereupon, it was ordered that the said report and petition be recommitted to the Committee of Ways and Means.

On motion of Mr. GARNETT, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of extending the privilege of franking to agricultural societies, which are or may hereafter be incorporated in any of the United States, through their presidents or secretaries, as may be most expedient, and of limiting the privilege to the correspondence of such societies with each other.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: "An act to regulate passenger ships and vessels;" "An act authorizing the election of a Delegate from the Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory," with amendments. They have also passed bills of the following titles, to wit: "An act for the relief of James H. Clark;" "An act for adjusting the claims to land and establishing land offices in the districts east of the island of New Orleans;" and "An act to continue in force an act regulating the currency within the United States, of the gold coins of Great Britain, France, Portugal, and Spain, and the crowns of France and five franc pieces;" also, "A resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of Representatives in the Congress of the United States;" in which amendments, bills, and resolution they ask the concurrence of this House.

The amendments proposed by the Senate to the bill, entitled "An act to regulate passenger ships and vessels," were read, and referred to the Committee of Commerce and Manufactures.

The amendments proposed by the Senate to the bill, entitled "An act authorizing the election of a Delegate from the Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory," were read, and concurred in by the House.

The bill from the Senate, entitled "An act for the relief of James H. Clark," was read twice, and referred to the Committee of Claims.

The bill from the Senate, entitled "An act for adjusting the claims to land and establishing land offices in the district east of the island of New Orleans," was read twice, and referred to the Committee on the Public Lands.

The bill from the Senate, entitled "An act to continue in force an act regulating the currency, within the United States, of the gold coins of Great Britain, France, Portugal, and Spain, and the crowns of France, and five franc pieces," was read twice, and committed to the Committee of the Whole, to which is committed the bill of this House continuing for a limited time the currency of the crowns and five franc pieces of France.

The resolution from the Senate, "proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of Representatives in the Congress of the United States," was read twice, and committed to the Committee of the Whole on the state of the Union.

An engrossed bill, entitled "An act providing additional penalties for false entries, for the benefit of drawback or bounty on exportation," was read the third time, and passed.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the House of Representatives of the United States:

I communicate to Congress copies of applications received from the Minister of Great Britain, in behalf of certain British subjects, who have suffered in their property by proceedings to which the United States, by their military and judicial officers, have been parties. These inquiries have been sustained under circumstances which appear to recommend strongly, to the attention of Congress, the claim to indemnity for the losses occasioned by them, which the Legislative authority is alone competent to provide.

JAMES MONROE.

WASHINGTON, *Feb.* 3, 1819.

The Message was read, and, together with the documents accompanying the same, referred to the Committee of Claims.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a statement of moneys transferred, during the recess of Congress, from one branch of expenditure to another branch of expenditure, in the same Department; which was read, and ordered to lie on the table.

SEMINOLE WAR.

The House then again resolved itself into a Committee of the Whole, (Mr. SMITH, of Maryland, in the chair,) on the subject of the Seminole war.

Mr. HARRISON concluded the speech which he commenced on Thursday, as given entire in preceding pages.

Mr. BALDWIN, of Penn., observed, that, in entering into the investigation of this subject, he should not inquire whether motives of feeling and compassion should induce us to palliate and excuse the conduct of General Jackson and the President, and whether it were right or wrong. If innocent blood had been shed, or the laws and Constitution of the country grossly violated, neither the exalted character or eminent services of the persons implicated ought to exempt them from the cen-

sure of this House. But, on a careful examination of all the evidence and documents submitted to us, he was fully of the opinion expressed by his friend from Kentucky, the chairman of the Military Committee, (Mr. JOHNSON,) that General Jackson, in the wilds of Florida, better understood the laws of nations, and the constitution of his country, than gentlemen in this House, who had been so long discussing the propriety of his conduct.

To come to a correct conclusion on the trial and execution of Arbuthnot and Ambrister it would be well to inquire who they were, and their business and employment in Florida. Arbuthnot was the agent of Nicholls and Woodbine, to excite dissensions among the Indians, to make them dissatisfied with the treaty of Fort Jackson, induce them by force to reclaim the lands ceded to us by that treaty, and the British and Spanish Governments to become parties. By a special power of attorney he became the general agent of all the Indians hostile to us, and was the instigator of all their inroads upon our Southern border. He pretended to be there for trade, but this was a mere pretence. Examine his letter to Governor Cameron "I beg leave to represent to your excellency the necessity of my again returning to the Indian nation, with the deputies from the chiefs, and as my trouble and expense can only be defrayed by permission to take goods to dispose among them, I pray your excellency will be pleased to grant such a letter or license as prevents me being captured in case of meeting any Spanish cruiser on the coast of Florida." He was not the advocate for peaceful measures; his letter to General Mitchell justifies the murders of the frontier inhabitants. Speaking of the Indians, he says, "If, in the height of their rage, they committed any excesses, you will overlook them, as the just ebullitions of an indignant spirit against an invading foe." To further ascertain his true character, and that of his agency and trade, I beg the Committee to examine his letter to Mr. Bagot. The bill of goods that this humane trader and innocent and injured man ordered to be sent to him, was "2,000 knives, blades from six to nine inches in length, of a good quality—1,000 tomahawks." This was Arbuthnot; and these facts appear from letters in *his* own handwriting.

Ambrister was a pretended patriot; the agent of McGregor and Woodbine. He came to Florida to command the runaway negroes of Georgia, slaves who had absconded from their masters, and were organized by him to return to our country, and visit it with all the horrors of a savage negro war. He came to Florida on their business, and to see them righted. According to the testimony of John J. Arbuthnot, "about the 3d of March the prisoner Ambrister came with a body of negroes, partly armed, to his father's store on Suwanee river, and told the witness that he had come to do justice to the country, by taking the goods, and distributing them among the negroes and Indians, which the witness saw the prisoner do; and that the prisoner said to him, that he had come to the country on Woodbine's business, to see the negroes righted. The witness has further known the prisoner to give orders to the negroes; and that, at his suggestion, a party was sent from Suwanee to meet the Americans, to give them battle." Peter B. Cook testified, that, "some time in March, the prisoner Ambrister took Arbuthnot's schooner, and with an armed party of negroes, twenty-four in number, set out to take Arbuthnot's goods, &c. The prisoner was sent by Woodbine to Tampa, to see about those negroes he had left there." Ambrister, in a letter to Nicholls, says, "There is about three hundred blacks at this place, a few of our Bluff people, (alluding to the negro fort on Prospect Bluff;) they beg me to say they depend on your promises, and expect you all on the way out. They have stuck to the cause, and will always depend on the faith of you," &c. The prisoner, Ambrister, according to the testimony of Jacob Hannon, "took possession of the schooner Chance, with an armed party of negroes, and stated his intention of taking St. Marks. While the prisoner was on board, he had complete command of the negroes, who considered him as their captain."

He boasts that three hundred negroes have stuck to the cause—the cause of Indians attacking the defenceless inhabitants of our frontiers; negroes fighting against their masters; and all joining in horrid butchery and murder; Ambrister leading them in the field, Arbuthnot their agent, adviser, commissary, quartermaster, storekeeper—secure in a Spanish post, concerting all their plans, and directing all their operations.

Gentlemen may differ as to the manner in which we consider Indians, whether as a nation, or as occupants of the soil, with a qualified right of ownership; but, as to negroes, there can be but one opinion. In Georgia they are slaves, property not merely personal but political, property of the highest description, which we are bound by the Constitution to protect, and to restore to their owners. These negroes could acquire no new right by absconding into Florida, and, however numerous their assemblage may be, we cannot acknowledge them as thus acquiring any national character. As between them and us they were still slaves; and their owners, the Georgia militia, who were with General Jackson, had a right to consider and treat them not as a nation entitled to the protection of the rules of civilized warfare. They were, in fact suppressing an insurrection of slaves, aided by an Indian force, all assembled and armed for purposes hostile to the country. One white man is found at their head, fighting and leading them on; another exciting, and supplying them with the means of destruction. These men cannot complain if they are put on a footing with those with whom they thus associate. They cannot expect to raise this compound mass to their own level, but must be satisfied to sink to theirs. Arbuthnot's own opinion of himself is entitled to some weight. In his letter of 3d March, 1817, he says: "The Lower Creeks seem to wish to live peaceably, and quietly and in good friendship with the others,

'but there are some designing and ill-minded per-'sons, self-interested, who are endeavoring to 'create quarrels between the Upper and Lower 'Creek Indians, contrary to their interests, their 'happiness, and welfare. Such people belong to 'no nation, and ought not to be countenanced by 'any government." He did excite this war, and thus, by his own account, belongs to no nation. What then is he, but an outlaw and a pirate, placed beyond the protection of civilized society? Thus we find General Jackson and Arbuthnot agree as to him, and, as to Ambrister, I will willingly leave it to be decided whether he was less an outlaw than the runaway brigands whom he commanded.

The greater part of the hostile Indians were the Creeks, who had been outlawed by their own people. To call a gregarious collection of this kind, composed of outlawed Indians and runaway negroes a nation, and give them national attributes, is idle. Neither mass was so by themselves, and their union for a common object could not change the character of the constituent parts. A better or more appropriate name could not be given to them as a mass, or as individuals, than outlaws and pirates. They were so in fact, and, whatever rights we had against any, we had against all, whether black, white or red.

Arbuthnot was near the scene of operations, aiding and abetting, an accessary before the fact. An attempt is made to distinguish his case from Ambrister's, because he was a non-combatant. But to me it seems, that the man who, as the agent, commissary, and quartermaster, directed and planned the operations of this assemblage, and directly supplied them with the means, is as much a combatant as one who actually bore arms in the field. Thus were these men completely identified with the Indians and negroes, and, being found in this situation by General Jackson, he practised towards them not the right of retaliation, which is punishing the innocent for the guilty, but applied to them what is admitted and conceded to be the established law of nations: to treat those with whom we are at war as they treat us. Indians put their prisoners to death, and in this war they did not spare women and children; the brains of the latter were dashed out on the sides of the boat, after the massacre of Lieutenant Scott and party, and I think it can hardly be contended that we were bound to extend to these savages, to runaway slaves, or white incendiaries, the humane rules of modern civilized warfare. Their execution was only the exercise of an acknowledged right in us.

In distinguishing between the moral depravity of the ignorant Indian, who, in roasting his prisoner and murdering the mother and the infant, follows the customs of his fathers, and as he thinks, the dictates of his religion; and the white man, who, forgetting the mild customs of his nation, and deaf to the benignant dictates of the Christian religion, instigates, aids, and abets the Indian and negro to the horrid butchery of innocence, I think all must agree that the one who sins against light and knowledge is infinitely more criminal. The guilt is in the heart that plots and not the hand that executes, as was most forcibly expressed by a gentleman from Virginia. Not in the musket, but in him who directs it. If ——, who was present and assisted at the burning of the unfortunate Colonel Crawford, had been taken by our troops, and executed; if, on that day, so proud and yet so fatal for Kentucky, when, after the battle of the river Raisin, there was a barbarous massacre of her captive soldiers, it had been true, as was alleged, that a British officer, high in command, abetted and connived at the murders, and he had been taken and executed, would his fate have been more lamented than that of the poor savage, whom they encouraged? In executing Arbuthnot and Ambrister, it is not charged against General Jackson that he has shed innocent blood. The facts were admitted; their guilt was established; one threw himself on the mercy of the court, the other rested his defence on the rules of evidence. The charge is, that the guilty have not been punished according to the forms of law, and that the Constitution and laws of the country have been violated in their trial and execution. I think that neither have any bearing on the case of these men. They were found and executed out of the territorial limits of the United States, where our laws or Constitution have no operation, except as between us and our own citizens, and where none other could claim their benefit and protection. If the rights of an American citizen had been violated by an American officer, he must answer to our laws for an abuse of an authority which he derived under them. These men were not our citizens, not bound by our laws; they owed us no allegiance, and were entitled to no protection. The General claimed no power to punish them under our laws. He knew that legislation was necessarily confined to the boundary of the Sovereign; that, on the ocean, where each nation has concurrent jurisdiction, or in the territory of any other where it is exclusive, our laws could not give us any power over the citizens of other Governments or within their boundaries. All that we could claim or exercise, in either case, is by the laws and usages of nations. Our legislation cannot extend or annul this code. We may, indeed, prescribe the mode in which our officers shall execute the powers which the laws of nations give us over the persons, territory, or property of others, but cannot extend our jurisdiction over either or give it in cases where those laws are silent. In advocating the resolution which requires some legislative rule on this subject, gentlemen seem to forget these principles—we have no power—we should encroach on the rights of other nations. As we cannot, therefore, give ourselves any new powers by any act of legislation, I trust gentlemen will see the bad policy and the injustice we should do ourselves by adopting any rule not to be found in national law. If we take from our officers the powers which that law gives them, we go to war on unequal terms, with our hands tied, so that we shall not be at liberty to treat our enemy as they treat us. Our officers could neither retal-

iate nor punish for the most atrocious outrages on humanity. Innocent blood would forever flow. Indian wars would never cease. Foreign emissaries would always hang on our borders, and escape with impunity. The law of nations and of war gives the General power over his prisoners. The old practice was to put them to death; and that still exists, when the consent of the belligerents has not adopted a different rule. Civilized nations govern themselves by the laws of humanity; but our savages have not yet learned them. War, with them, has lost none of its horrors or cruelties. It surely cannot be pretended that we are bound by a rule which they do not respect; that we cannot, by retaliation or by just punishment, revenge for past or prevent future murders; or that where we take white men who have served in civilized armies and know their usages, and yet aid and instigate the most dreadful savage war, we may not treat them as we might the savages or negroes whom they command and lead on. By the laws and uniform practice of civilized nations, this power is in the commanding General. In the case of Captain Asgill, the old Congress resolved that it was in every commander of a detachment. This was a strong case. He was about to be executed for the crimes of another. We have never, by any law, prohibited to a commanding officer the exercise of this power, and it therefore remains with him.

The honorable Speaker relies on our uniform usage in all our Indian wars, which is said to have been not to put an Indian prisoner to death; and insists on this use as conclusive evidence that our officers do not possess this power. This argument, if true in fact, might lead to correct conclusions: provided the power exercised in this case by General Jackson had not been one clearly vested in him by national law. There is a great difference between the assumption of a power growing merely out of usage and justifiable only on the ground of precedent, and one which has been from time immemorial a part of the code of nations. In the latter case, it is matter of discretion and policy, and not right, whether the power shall be used. I presume gentlemen would hardly think that this argument, drawn from usage, would be a safe one by which to test the powers of this Government. We have had insurrections which have endangered its existence. Traitors have been tried and condemned to death, but no one has ever been executed; it has been the uniform practice to pardon. Would gentlemen now say, that the President who would sign a death warrant for the execution of a traitor would be guilty of murder or other crime?—Though I may be disposed to admit, for argument sake, that in our Indian wars we had abstained from the exercise of acknowledged rights, yet I think that fatal experience must convince us that the safety of our frontiers imperiously demanded that this policy should be changed. Foreign incendiaries have for years caused our new settlements to be desolated by the sacrifice of innocence. Past impunity has emboldened to future crimes. Mercy to such miscreants is cruelty to ourselves. And, when the chance of war places in our power those who excite and direct these ravages, and not content with ordering one thousand tomahawks and two thousand scalping knives for the murder of the helpless, must prescribe their quality and length, to make the butchery more inhuman, I trust the nation will think it is time to hang them up as an example to others, and to insure peace on our borders. In ordering their execution, General Jackson was fully authorized by national law, by humanity to our own citizens, and the orders of the War Department. "The honor of the United States," says the Secretary of War in his letter of the 16th January, 1818, "requires, that the war with the Seminoles should be terminated speedily, and with exemplary punishment for hostilities so unprovoked." Exemplary punishment means to make an example of force, and the order would be otherwise disobeyed. In inflicting this exemplary punishment, he has violated no Constitutional provision. It was not made to protect such men; they are no parties to it; owe it no obedience, and can claim no protection from it. The fate of war placed them in his hands; the laws of nations gave him power over their lives, and they had justly forfeited them by their crimes. The General was to decide between their punishment by that law, or their absolute impunity. They were never in our territory; our laws could not reach them; our civil courts could not try; but, on application, must discharge and leave them at liberty to foment new wars and commit new murders. He could not hesitate; he pursued the only course which the safety of our country could justify; he assumed no power, violated no rights, and punished the guilty only.

I think this nation ought not to be agitated by an inquiry whether their execution was according to the strict and technical forms of law, when the proceedings are justifiable by the only laws and usage which would apply to the case. The General had the undoubted power over them; he might execute it on his own responsibility or refer it to the opinion of a board of officers or a special court for their advice and opinion. This reference did not take away his inherent power, as the commanding officer, or make their opinion binding on him. If the court misapprehended or exceeded their powers, it could not affect his, and if, in their proceedings, they committed any other errors, it could not purge the fault of the prisoners. Many gentlemen seem to think that the General ought to have executed them on his own authority, without convening any court or giving them any trial. I think that the course which this investigation has taken clearly shows his prudence in adopting this mode of proceeding. He knew the execution would excite much feeling; that he was taking on himself a high responsibility. To justify himself to the nation, it was necessary that the evidence should be taken under the sanction of an oath, and recorded to us, to be in authentic form, that all might judge of their guilt and the propriety of his pro-

ceedings. It was due to the prisoners that they should be confronted with the witnesses, and have an opportunity of cross examination; that they should see the letters and papers produced against them, that they were genuine; to tell their own story and make their defence. Had the General first executed these men, and then taken the evidence, what would not have been said? That papers had been forged, and witnesses suborned for the purpose, and that the unfortunate men had had no opportunity of defence, but had lost their lives without trial. His prudence has left no ground for reflections of this kind; he allowed them counsel, and they had a fair hearing. It is not to be credited that those who make this a ground of accusation would have withheld their strong censure if they had been put to death without a hearing.

The proceedings of the court had been commented on in terms of strong reprobation. My colleague says, the evidence was inconceivably slight, and the whole proceedings a mockery of justice; that the hearsay evidence of negroes and Indians, who were not legal witnesses, if present, were admitted, and legal evidence excluded. On this point, no gentleman, in this long debate, has undertaken to justify the court, and all seem to admit the correctness of these charges. Here I must repeat that the rules of law and evidence were better understood in the wilds of Florida than in this House. The evidence alluded to was admissible, according to the strict rules of the common law, and would be received in any criminal court on a trial of life and death. I beg the Committee to examine the charges. They were for exciting, stirring up, and encouraging the Indians and negroes to war and murder; aiding, abetting, counselling, advising, and supplying them with arms and ammunition. Though there is no formal and technical indictment, and the words "combine, confederate, and conspire," are not inserted, yet, it was, in substance, a charge of a treasonable and murderous conspiracy to wage war against the United States, and commit murders on our frontiers. Arbuthnot was the promoter of the Indians and negroes, the instrument to effect the objects of the confederacy. It was clearly proved, by the letters of Arbuthnot, by several witnesses, and the power of attorney produced at the trial, before any questions were put to Hambly, that Arbuthnot was not only the confederate, but the agent of all the Indians, by a special power which he accepted and acted under; that they were all acting in concert to further the objects of the confederacy, of which he and the negroes and Indians were parties. Now, there is no rule of law better established than that, where a confederacy is once proved, the acts and declarations of one confederate, in relation to the objects of the confederacy, is good evidence against another. This was a stronger case, because there was here the further relation between them of principal and agent. It is immaterial whether the confederate would be a competent witness if offered in court—he may be a convicted felon, yet, as a confederate, his declarations are evidence against his associates, on account of the connexion between them. This is not a place to produce authorities, and examine from the books a rule of evidence, but I will refer gentlemen to the trials of Hardy, Tooke, &c., in which the rules of evidence, in criminal cases, were discussed by the most eminent counsel, and settled by the ablest judges in England. In those trials, it was conceded by Mr. Erskine as settled law, that the declarations of one conspirator were good evidence against another. In the trial of Jackson and Stone, for a treasonable conspiracy, the rule was extended still further. On the trial of Jackson, a paper had been proved against him; it related to the object of the conspiracy, which was proved, and that Stone was a party. The same paper was admitted in evidence against him: without further proof it was held to be sufficient that it was proved against his confederate.

The contents of the letter to the Little Prince were properly admitted to be proved by a person who had seen it in his possession and read it. It was proved to have been in the handwriting of Arbuthnot, and sent by him to the Prince. It related to the charges, was penned by him, and was in his possession at the time of the trial. He was not within the jurisdiction of the court; was an open enemy, then actually in arms against us. Evidence of the contents—was this not only the best, but the only evidence in the power of the court—as the original was in possession of one of the parties to the conspiracy? The sending it was an overt act, and unless evidence of this kind was admissible, it would be impossible ever to convict a conspirator. If gentlemen will take the trouble to look into McNally, and search, they will find these principles clearly settled by adjudged cases; and by applying them to the case now under consideration, they will find them fully supporting the proceedings of the special court, in the reception of the evidence complained of. I do admit the court erred in rejecting Ambrister: he was a competent though not a credible witness, and, in strict right, the prisoner was entitled to his testimony; yet, under the circumstances in which he appeared before the court, his evidence could not have benefited the prisoner, for no court or jury would believe him. There is no subject on which lawyers and judges differ more, than whether objections to a witness shall apply to his competency or credibility; the general rules are well settled, but their application to particular cases, as they occur, are attended with great difficulty. Surely on such a subject some allowance ought to be made for the situation of this court, not composed of professional men—sitting in a wilderness, without an opportunity of referring to authorities.

No evidence which Ambrister could have given could have disproved the facts proved against Arbuthnot. Though he was defended by counsel, he did not question the authenticity of the papers produced, or deny the facts in evidence. His counsel rested his defence on objections to the evidence, and yet did not complain of the rejection of Ambrister. I think, then, this error

may pass without our censure, since it did not excite the notice of the prisoner or his counsel.

In the case of Ambrister, the strong objection is, that he was executed contrary to the sentence of the court. It has been urged with much force by the gentleman from Ohio, whose military talents and experience give great weight to his opinions on a question of military law. It may be presumptuous in me to differ from him on such a subject; and I should not venture to do so, if a careful examination had not led me to a strong conviction that he was mistaken in thinking that the special court had any legal jurisdiction of this case by the rules and articles of war, or any power to give an opinion or sentence by which the General was bound. On this I rest his defence, and freely admit that the execution of Ambrister is not justifiable if the court had a legal jurisdiction of his case, or power to acquit, or to pass a sentence inflicting a capital or other punishment. The only law to which Ambrister was amenable, which subjected him to punishment, was the law of nations; the only power to punish or retaliate, known to that law, is in the commanding General. It recognises no court martial, or other military court, as having the power to punish or try offences against it. Such courts are the creatures of the municipal laws of each nation, and derive all their powers from positive statutes. They cannot exercise any jurisdiction over cases not prescribed by persons not subject to the laws which create them—it is in all cases accurately defined in the jurisdiction of civil courts. The one is to the Army what the others are to the nation.

The act of Congress enacting the rules and articles of war creates two kinds of courts; one a court of inquiry, to examine and report facts and opinions merely; the other, a court martial, to try and punish. The cases where either court may sit are accurately defined, and their jurisdiction given only in those specified. These are the only military courts known to our laws; and the first among the rules and articles of war which create these courts confines them to the Army, with the solitary exception of the case of a spy, and their jurisdiction in breaches of these rules. In a treatise on the law of courts martial, compiled by one of the most distinguished military officers in our service, and approved by the most eminent officers then in the Army, (*Macomb on Courts Martial,*) the persons subject to military law and to trial by courts martial are declared to be the officers and soldiers of the Army, or directly connected with it, as defined in the sixtieth, ninety-sixth, and ninety-seventh articles of war; and the jurisdiction of these courts is thus stated: "Although no crimes or offences are cognizable ' by a court martial, unless what are either spe- ' cially declared to be such by the rules and arti- ' cles of war, or fall under the general description ' of disorder and neglect, to the prejudice of mil- ' itary discipline." If their jurisdiction could be extended beyond this class of offences, no limits could be assigned to it; it might extend to all persons, and the powers of the civil courts be completely usurped. There would be no rule by which to test their respective jurisdiction, and every litigant would be liable to be tried by a civil or military court, or both, as they might choose to claim or exercise the power. Gentlemen who are so alive to the fears of military usurpation will hardly contend for this doctrine.

The case of Ambrister is not mentioned in any of the rules and articles of war; and no military court whose jurisdiction is derived from, and confined to branches of them, could legally exercise any over him. This conclusion irresistibly follows from the act of Congress. It defines who shall be considered as a spy, and directs that he shall be tried by a court martial. This would have been unnecessary if the court had jurisdiction over a spy before this act passed. It surely will not be contended that a commanding officer had not, by the laws and usages of nations, full power to execute a spy without the intervention of a court martial, and that he would not have the power still, if the act of Congress had not directed one. Had Congress intended that a court martial should have jurisdiction of any other offences against the laws of nations, they would have provided for it, as they have done in the case of a spy; not having done so, the conclusion is inevitable that they intended the power to punish, in all other cases, should remain where national law had placed it, in the commanding General. It requires express legislation to give this power to any other tribunal. Having, then, no legal cognizance of this case, an acquittal of the prisoner by this special court would not save him from punishment, much less would a sentence by them of a lesser punishment supersede the power of the General to punish according to the law of nations. Even admitting, then, that the General considered this as a court martial, and that they considered themselves as having full power to mitigate the punishment of the prisoner; yet, when it appears that they were all mistaken, that the court had no jurisdiction, and the General had full power, we ought not to censure him when he has, in fact, violated no law, and not exceeded his authority. If there was a case when it was necessary, for the justification of the General, that it should appear that this court had legal jurisdiction, I think gentlemen opposed to him would have clearly convinced this House that the power to punish was expressly in him, and must be exercised on his own responsibility. It cannot be contended that both had jurisdiction. If the General had it, the court had not; and if the court had it, it was not optional in him to act without submitting it to them.

It was certainly the opinion of the General, that this special court was not a court martial, and had no legal power to try and punish the prisoners. This clearly appears from his order for convening the court: "The following detail ' will compose a special court, to convene at this ' post, at the hour of 12 o'clock A. M., for the ' purpose of investigating the charges against A. ' Arbuthnot, Robert Christie Ambrister, and ' such others similarly situated as may be brought

'before it. The court will record all the docu-
'ments and testimony in the several cases, and
'their opinion as to the guilt or innocence of the
'prisoners, and what punishment ought to be in-
'flicted." When it is intended to organize a court martial, it is called so in the order, as in the case of General Hull, "A general court martial, for the trial of Brigadier General Hull, will convene," &c. And this form is invariably pursued. In this case the order was not for a general court martial to try, but for a special court to investigate the charges and record the evidence; not to pass a sentence or to punish, but to report an opinion as to guilt or innocence, and what punishment, if any, should be inflicted. It was, in fact, and so intended, a court merely advisory to the General—a board or council of officers—such as are convened for advice and an opinion about any military operations, but whose proceedings are not binding on him. If he concurs with them, it relieves and perhaps may exonerate him from responsibility: if he differs from them, increases it. But it is a tribunal unknown to any law; it cannot take from him any power which was inherent in him. His infliction of a punishment different from that fixed by the court only increases his responsibility; and we must judge of the case as if there had been no court. If he had power to do what he did without a court, it is conclusive that they had none to control him. He had good reasons for differing in opinion with them: Ambrister had confessed the charges, and threw himself on the mercy of the court. The only punishment known to the law of nations for his offence was death; the court had no right to inflict any other. The ball and chain is one unknown to that code; and there was no good reason to discriminate between him and Arbuthnot. It is, indeed, admitted by all, that the case of the former was one of the greatest atrocity.

The proceedings of these trials bear a striking analogy to those on the trial of Major Andre. He was taken as a spy. There was then no act of Congress directing a court martial for his trial; it was an offence known only to the laws of nations; and that it was so considered by General Washington, appears from his letter to General Clinton, September 30, 1780. "I am to inform
'you that Major Andre was taken under such cir-
'cumstances as would have justified the most
'summary proceedings against him. I determin-
'ed, however, to refer his case to the examination
'and decision of a board of general officers." Such, too, was the opinion of the board of general officers. "The board report that Major Andre
'ought to be considered a spy from the enemy,
'and that, agreeably to the law and the usage of
'nations, it is their opinion he ought to suffer
'death." They were not a court martial. The order for convening them was in substance the same as in the present case. "Gentlemen, Major
'Andre, adjutant general of the British army,
'will be brought before you for your examina-
'tion. After a careful examination, you will be
'pleased, as speedily as possible, to report a pre-
'cise state of his case, together with your *opi-*
'nion of the light in which he ought to be con-
'sidered, and the punishment that ought to be
'inflicted. They passed no sentence, but merely gave an opinion. The General expressly claimed the power to be in himself, but referred it to the opinion of a board of officers. Yet, in his letter to Congress announcing the execution of Major Andre, he says it was in pursuance *of the sentence* of the board. "I have the honor," says he, "to enclose to Congress a copy of the pro-
'ceedings of a board of general officers, in the case
'of Major Andre, adjutant general of the British
'army. The officer was executed in *pursuance*
'of the sentence of the board." If we are disposed to investigate the proceedings of the board as critically as we do those on the trial of Arbuthnot, we shall find that the rules of evidence were stretched quite as far. The board interrogated Andre, and a letter from General Arnold to General Washington was read in evidence against him.

Great stress has been laid on General Jackson calling this a court martial, and speaking of their proceedings as a sentence. It is not to be expected that, in drawing up proceedings of this kind, some errors would not have crept in. We are not to expect a record to be so drawn up as to stand the test of a legal and technical examination in a court of error. And the General could not have expected that this great national tribunal would lose sight of the great principles of Constitutional law, and deem it worthy of themselves to examine technically every word he uses, and to condemn him for defects of form, and because some expressions had been used which might afford ground for criticism.

The opinion of the General and the character of the court can be best understood by examining the order for their convening. The court had no other authority than what was given to them by the order of the General—when their proceedings exceed it, they are void. Had they conformed themselves to the order, and given no sentence, but an opinion merely, and the word sentence not been introduced into the proceedings, there would have been no room even for cavil. The using these words cannot give power to the court or the General, nor their omission take it away. That is to be tested by a reference to the act of Congress and the law of nations, and not by the expressions which the court or General introduces into their proceedings. It would, indeed, be a new way of ascertaining the jurisdiction of courts, not by the laws creating them, but a critical and technical construction of the words they use. If the defence of the General rested on this being a general court martial, I think gentlemen would hardly be contented to permit us to consider it so because he had inadvertently called it one. I think it hard that we should be forced so to consider it, when it must be admitted that our laws do not make it so. The gentleman from Ohio deduces the jurisdiction of this court from the common law, and usage of the army, and of courts martial. I admit there is such common law and usage; but,

like the usages of the civil common law, it only extends to the practice, forms, and mode of proceedings, but not to give them jurisdiction. Courts are created by positive laws, and the boundaries of their jurisdiction always defined. It is not left to them to assume and extend it at pleasure.

Thus considering this court as having neither by the order of the General, nor the laws of the country, any other than advisory powers, he was not bound by their opinion; has violated no law, and is fully justified in the execution of these men. The errors which have crept into the consideration of this case have arisen from considering this as a regular court martial, having full and complete jurisdiction. This being clearly otherwise, leaves nothing substantially wrong; and the only errors those of form, in drawing up and referring to the proceedings of the court—errors which might possibly be available to make a flaw in an indictment, but are certainly unworthy of the interference of this House, whose power of censure should be reserved for great occasions, when our liberties are in danger.

We have heard much of military usurpation; and military genius has been said to be dangerous to our liberties. For myself, I am free to say, that such are among the least of my fears, and least of all others from the General whose conduct we are now investigating. I will not dwell on his military achievements; but, for a moment, call the attention of the House to his greatest and brightest triumph—over himself. When intrusted with the defence of Orleans—the safety of the nation demanded it—he proclaimed martial law, and disobeyed the writ of Habeas Corpus. When the danger had ceased, he was called upon by judicial process to answer for the offence. Though surrounded by a victorious army, and a people whom he had saved, who followed him to the court-house, rending the air with acclamations of praise, the enthusiasm of the people could not be restrained even in the presence of the judge, who, alarmed, declared he was not safe in the execution of his duty. The General declared he would protect the court. He silenced the crowd, received his sentence, and paid the penalty. From such a man I have no fears; and I am sure the nation was not alarmed, because, in the hour of danger, and, for the common safety, he dared to violate the laws, when they found him, after danger had ceased, voluntarily submitting to their sentence. Far from thinking military genius dangerous to the country, I think it has saved it. The last war presented to the world a brilliant display, which afforded safety and tranquillity; but, I believe, excited no fears. Twice have our armies, flushed with victory, and commanded by the first talents of the age, been disbanded without a murmur. And, though led and inspired by military genius, it was a genius excited to save, protect, and bless our country. Last year you took from the most gallant officers of the army their brevet pay; they made no complaint. Experience like this should convince us that we are in no danger from this power. And, at this moment, when such fears are entertained from the army, they are anxiously waiting for an appropriation for their food and raiment. It seems, indeed, that such fears are chimerical. We have ten thousand men scattered almost over infinite space. How contemptible would be their efforts to enslave a nation which has fifteen hundred thousand militia freemen, able and willing to maintain their rights.

In the history of ancient Republics, gentlemen have dwelt on one instance of a military usurpation, though that Republic had been so distracted by mobs, factions, and seditions, that even a military despotism was a blessing. But, in dwelling on the danger from military chiefs, they do not mention the men who, by their genius and talents, have saved their country, and, so far from repressing their liberties, could not protect themselves, and were sacrificed by their countrymen to that spirit of ostracism which gratified the passions and jealousy of those who were tired of hearing them called the great, the good, and the just. Modern history teaches us that the reign of princes, of military genius, has been the one when the arts and sciences have flourished and been protected. In the long list of French Kings, the one most illustrious for his military talents (Henry IV) was no less so for his devotion to the happiness of his people; and the English nation can tell whether their liberties were more secure under William III or Charles II. If there is at this moment a nation in Europe, debased by superstition and enslaved by tyranny, it is the one whose sovereign has never seen a battle. This House has not, on other occasions, and in relation to the conduct of other officers, evinced the same fears of military usurpation. Less alarm has, indeed, been excited when the rights of our own citizens have been violated, than for these foreign incendiaries. In the cases of General Brown and Major Austin, against whom damages had been recovered, by jury trials, for violating the rights of American citizens during the late war, Congress, so far from censuring those officers, indemnified them, and paid the damages. No one thought the Constitution in danger; but all agreed that, inasmuch as they acted from correct motives, and from a sense of duty, the Government was bound to indemnify them.

It is, perhaps, not asking too much in favor of General Jackson, to apply the same principles to his conduct, and not to censure him for conduct similar to that which we approve in others.

In considering whether the conduct of General Jackson in crossing the Florida line, and taking St. Marks and Pensacola, be right or wrong, gentlemen on neither side seem to agree in their reasons. Those disposed to censure, have taken much pains to invent or give such reasons for his conduct, as will give them the pleasure of exposing their futility; others have labored to justify him on some minor subjects, on grounds which leave him defenceless on his important operations. I shall not take up the time of the

House in examining whether he can be defended on any of the grounds assumed; but think it but common justice to the General to inquire whether he can be defended on his own. In his own words, I rest his defence "on the immutable 'principles of self-defence, authorized by the law 'of nature and of nations;" "on this principle he 'bottoms all his operations;" "on the fact that 'the Spanish officers had aided and abetted the 'Indian enemy, and therefore became a party in 'hostilities against us, does he justify his occu-'pying the Spanish fortresses. Spain had disre-'garded the treaties existing with the American 'Government, or had not power to enforce them. 'The Indian tribes within her territory, and 'which she was bound to keep at peace, had vis-'ited our citizens with all the horrors of savage 'war. Negro brigands were establishing them-'selves when and where they pleased, and foreign 'agents were openly and knowingly practising 'their intrigues in this neutral territory. The 'immutable principles of self-defence justified, 'therefore, the occupancy of the Floridas, and 'the same principles will warrant the American 'Government in holding it until such time as 'Spain can guarantee, by an adequate military 'force, the maintaining of her authority within 'the colony."—(Letter to the Secretary of War, June 2d.)

It must be recollected that all the Indians opposed to us resided on the Florida side of the line, and, with the exception of isolated spots, Pensacola and St. Marks, the whole country was in their exclusive possession. They had the sovereignty in fact; Spain only nominally; its authority was not respected or even maintained in appearance. It was Indian territory in their occupation, and all the rights of sovereignty which were seen or felt were theirs. Although there may be some difference of opinion as to how we consider the Indians, there is none as to Spain: she does not recognise them as having any attributes of a national character, or acknowledge them as having any rights in the soil. She holds no treaties with them, and only permits them to occupy the lands till her convenience requires them. Then, her uniform policy has been extermination. If she thus considers the Indians, and permits them and our runaway negroes to usurp and exercise the rights of sovereignty within her nominal jurisdiction; if the possession and power of the country be thus in our enemy, and they be suffered to use it for our annoyance; if, within the line, they prepare and organize their attacks, and pass it for ravage and murder, we, in self-defence, may cross it, and pursue our enemy to his own ground, his residence, depots, and fortresses. The General would not have done his duty, and would have received the censure of this Government, if, in repelling an incursion, he should consider a mathematical line as a barrier beyond which he would not pass, and suffer the enemy to protect themselves behind it, and gain time to rally, organize, and prepare for a new one. The war would be endless if he was bound to respect an authority that did not exist—a sovereignty that was not asserted or exercised—and rights that were suffered to be usurped for the purposes of the most cruel hostilities on our frontiers. We have not so considered it; but a few days since, this House, if not unanimously, at least without a dissenting voice, awarded to Sailingmaster Loomis $5,000 for blowing up the Negro Fort, containing three hundred negroes, on the Appalachicola, within the Spanish line. In Mr. Loomis this conduct has thus met our approbation, and receives our reward; yet, he deserved our censure and punishment, if General Jackson was wrong in crossing the line in pursuit of our enemies, a remnant of the same negroes and their Indian allies.

In inquiring into the occupation of St. Marks and Pensacola, I have not referred to any writers on national law. In the history of civilized nations, we find nothing analogous to the situation of the Indians inhabiting this country, and cannot expect to find, in their usages or intercourse with each other, any principles adopted, which will apply to this case, which is strictly one *sui generis*, and to be governed by its own rules. I consider it as a question of fact and evidence. If, from the documents before us, it shall clearly appear that the officers commanding the forts did suffer them to be used as depots for our enemies; if they were there supplied with arms and ammunition; if the Indians had free egress and ingress, and in all respects were suffered to use them for purposes hostile to us; if the Spanish flag were used only as a cover for enemy's property, and her officers became auxiliaries and allies to the Indians and negroes, I think it cannot well be doubted that General Jackson was authorized to consider them as they were in fact, and was not bound to respect them, as they were only in name. Had these facts been in the exclusive possession of our enemies, they could not have been more benefitted, nor we more injured. I consider them as, in substance and in fact, Indian forts, attempted to be protected by the Spanish flag, and that the evidence is such as cannot afford a reasonable doubt. From the nature of the case it cannot be expected to be perfectly positive and definite. Let it be recollected that most of it is to be drawn from persons over whom we have no control—our open enemies, or their allies. Examine the letter of the Governor of St. Marks to Arbuthnot:

"Affairs having assumed a serious aspect between the savages and Americans, and not doubting that the storm will pass this way, I entertain apprehensions for the safety of your little objects, and believe it to be for your interest not to lose a moment in removing them from hence. I shall be happy to see you, that I may have the pleasure of embracing you, and an opportunity of conversing with you on the politics of the day, which, under existent circumstances, it is improper to commit to paper. In the expectation of this pleasure, I am, with my little family,

"Sir, your most affectionate servant and friend,

"FRANCISCO C. LUENGO."

When such caution is observed, we ought to be surprised, not that the testimony is so weak,

but that it is so strong. From one of the documents it appears that in this fort this war was devised; the power of attorney from the Indians to Arbuthnot, was not only executed there, and in the presence of the commandant, but it is countersigned, "approved, F. C. Luengo, commandant St. Marks." In this post the Indian supplies were deposited, and, when they failed, the Government stores were at their disposal, and sold by them. This place was a mere dependency. In Pensacola the commandant was under the orders of the Governor of the latter place, and he was of course responsible for his conduct. In this place the Indians not only received shelter, but succor. Three parties, who had been supplied there with means, were escorted by the Spanish officers in an expedition into our territory; and, from the testimony of numerous witnesses, it is clearly proved that all the resources and stores of that post were at their command, and the Governor giving them, privately, every aid in his power. It would be tedious to read them to the House; but gentlemen who will take the trouble to examine must feel that these various depositions present a mass of evidence conclusive of the fact.

In applying these facts to the laws of nations, I apprehend we shall find that Spain has no cause of complaint. We are bound to respect her rights if she is neutral: but, if her officers assume a belligerent attitude; if they give positive and affirmative assistance to the Indians and negroes, they are no longer neutral: there is, in fact, no neutrality to respect. General Jackson not only had a right, but was bound, to decide who was his enemy. If, in marching to meet the Indians, he had faced them flanked by a Spanish company, regiment, fort, or ship, and all was excited as one mass, and its force brought to bear hostilely on him, and in aid of the Indians, no one would say that he was bound to write to the Department of War for orders. He would not have done his duty, and would have defied the censure of this House and nation, if he had waited for orders or come away and have left an enemy in fact, in the field or in garrison. Wherever, therefore, he found Spanish soil, Spanish soldiers, or Spanish posts, in the possession of the enemy, and brought to operate on us, he was bound to attack it. It is not for Spain to say we violated her neutral rights—she had none. The case put by my colleague fully illustrates this position. He says, my house is my castle, but another may enter it in self-defence, and from necessity. This is true—but this rule applies to another case. My house is my castle, and shall protect me and mine, but not my neighbors. In it I am safe from process; but if I suffer another to enter it, he shall have no protection, and the lowest officer of the peace may break open the doors to arrest him or seize his property. None can doubt this rule of the common law—it is also a rule of national law. A neutral fort or neutral ship shall protect neutrals and neutral property. If a neutral ship forfeits its neutrality or does an act of a belligerent character, its flag does not protect it. If private property, it is forfeited; if a public ship, it may be taken. An American frigate is engaged with an English one, and a Spanish frigate comes and supplies the latter with arms, ammunition, and men—can any one doubt that the American would be justified in taking her? She is not neutral. She assumes an hostile attitude and gives our enemy the actual use and benefit of her whole power. It would be indeed strange, if a ship could be protected while in actual hostilities, merely because she bore a neutral flag. If a company or regiment of Spanish soldiers were found fighting by the side of the Indians, it could not be said that the General was bound to consider and respect them as neutrals: he is bound to decide from the evidence before him; he acts on his responsibility, and rests himself for his defence on the fact of their direct participation in the war, and on this I rest his defence. Spain herself has not contradicted this principle, and we are all in this singular situation, that, in this House, those opposed to General Jackson deny the principle, while Spain only denies the fact; conscious that the one results from the other. Though there has been much correspondence on this subject, and conducted by the Spanish Minister with much spirit, yet we do not find him once complain of the execution of Arbuthnot or Ambrister; neither is it mentioned in any letter of Mr. Pizarro to Mr. Erving. The former, indeed, in his manifesto, published at Hamburg, does advert to it, but we may fairly presume that this was done to meet the views and perhaps the dictation of another Power. In such a paper as this, it is indeed to be expected, that, according to the rules of diplomatic etiquette, he would complain of anything, and in strong language; but it was evidently not intended for our Government. No such complaint was ever made to us. My colleague says, that military etiquette required Don Mazot to write a threatening letter to General Jackson, that he would drive him out of Florida. Let the same rule be applied to the manifesto of Mr. Pizarro. If Spain, therefore, does not complain of the execution of these men, surely we need not.

It is said that no notice was given to the Spanish Government of the hostile acts of the governors of the forts. The reverse appears from the documents. And here again gentlemen make an excuse for Spain, which she disclaims. In his letter to Mr. Pizarro, of the 12th of July, Mr. Erving says, he renews his reclamations on the subject of the conduct of the Spanish authorities in Florida, and Mr. Pizarro does not, in his reply, deny the fact of notice. Governor Coppinger, in his letter of December, 1817, speaks of the complaints of the American Government. When the negro fort was built, and a direct notice given to the Governor of Pensacola of the fact, and a demand for its destruction, he admits the fact, says he will write to the Governor of the Havana, that when he considers of it, and makes up his mind, and sends him a sufficient force to do it, he will, at a convenient time, drive the negroes from the fort.

Will gentlemen seriously contend that Government, or General Jackson, were bound to permit our frontiers to be suffering under all the horrors of an Indian and negro war, until it should suit the leisure and convenience of one Spanish officer to consult another, and he a third, and to take their own time to do us what ought to be done at once, and which we were bound in common justice to arm our own citizens to do, if Spain did not? We were not bound to give notice to the Spanish Court. The danger was imminent; we had given notice to the local authorities; they did not act; the emergency required immediate action. The Spanish officers not only did not check, but encouraged the depredations. They were parties in the war, and it is idle to talk of notice to our actual enemies, to respect our rights, and cause them to be respected by those with whom they were acting. Spain knows and feels this: she does not pretend to respect her neutrality. To appease a great Power she protests, but she does nothing more. She refused to resume possession of the country, though offered unconditionally, conscious of her inability to retain it, and pursue a neutral course; thus admitting that the occupation of these posts was justified by our situation, and the conduct of her commanders. In truth, we have invaded no rights of hers; they had been usurped by the Indians and negroes, who had the benefit of all the resources of the country. We were justified and bound, in the assertion of the principles of self-defence, to take it from their possession, and thus deprive them of the means of annoyance. These are the grounds on which the General has placed it, and on which all his conduct is clearly defensible, as it respects Spain.

The last subject of inquiry is, whether our Constitution has been violated, by an assumption by the General or the President of the war-directing power, which all admit to be in Congress, and not in the Executive. So far as this is an ordinary Indian war, there can be no doubt that the uniform practice of our Government, since its organization, has been to conduct it without any declaration of war by Congress. It is certain the President does not consider it a war with Spain. In his Message to us at the opening of this session, he expressly says, that our operations were not intended as acts of hostility to Spain, but were perfectly consistent with our neutral relations, which he declares himself incompetent to change. Spain does not consider our conduct as war. Neither Don Onis nor Mr. Pizarro complain of it as such. They remonstrate and protest, but there they stop. Don Onis does not even suspend his diplomatic intercourse with our Government, and it is at this moment actively continued. The Spanish Minister is still here; we see him in company with the President and Heads of Department, and anxiously attending on this debate. Our commercial intercourse is uninterrupted, and this singular aspect is presented: Both Governments say they are at peace, and, in fact, all our intercourse, on both sides, is most peaceful; and yet, in this House, gentlemen are endeavoring to convince us and the nation that we are, and have been, actually at war with Spain. For, if there has been war, it still continues; there has been no peace, treaty, or compact.

I think it hard that thus, in despite of the solemn asseverations and the conduct of both parties, we should insist they are at war, while the President and Spanish Court declare they are at peace; and when we learnt that a negotiation for the cession of the country that we are said to have taken in war is now actually on foot in this place. If we are really at war, gentlemen do not go far enough; they ought to arraign the President for giving up Florida without a treaty, ratified by the Senate; for its acquisition by conquest makes it a part of the national domain, which can only be alienated by treaty. But I think it hard that the complaint should come from this House; if the President has transcended his Constitutional powers, the fault is ours. On the 25th of March last, he, by a special Message, transmitted to us a candid and full statement of all the information in his possession in relation to the Seminole war; and stated, most explicitly, that our troops had orders to enter Florida in pursuit of the enemy, and plainly intimated that the Spanish authority would not be respected where it was not maintained. We knew the war would be carried on in the Spanish territory; that collisions would arise with the Spanish authorities, and yet we did not interfere. We did not declare war; did not attempt to say that he had done wrong; on the contrary, made large and liberal appropriations to conduct the war with the Seminoles, and in fact made it his duty to proceed. What could he do otherwise? He had stated the case to the Legislative branch of the Government; it did not think its powers usurped or in danger. Had he stopped, would he not have been justly liable to censure? We had, by giving money, put a practical construction on the case. He had no alternative left. I beg gentlemen to examine this Message carefully, and say whether the Executive has not conducted with great deference and respect to us and our powers. If we thought them in danger, then was the time to have interposed the proper guards; as we did not think this necessary, he was bound to consider our silence as an acquiescence in the measures, which we could not but foresee would inevitably follow the entrance of an army in Florida.

The capture of St. Marks and Pensacola were, as is said, in themselves acts of war, and thus violations of the Constitution. War is the collision of nation with nation. An act of war is when the force of a nation is employed to repel an injury, or act done by another nation. If force is applied to the unauthorized act of an officer of another Government, it is not war. His nation is not responsible for his conduct, unless it was done in pursuance of previous orders, or has been subsequently approved. It would, indeed, be hard that, when the Government disavows the act of its officer, it should be called the act of the nation. An act may be war or not, accordingly as it is approved or disapproved of by the Government

As in the case of the Leopard and Chesapeake. If the attack on our frigate was authorized by the British Government, it was war; but it was disavowed, and we agreed it was not war. So as to the Spanish Governors; their conduct was direct war, if done under orders. But the Spanish Minister and Government solemnly disavowed it; they deny the fact, and we do not attempt to say it was authorized. And, on that principle, both Governments still observe their neutral relations. Would this House declare war against Spain for an act which she had never authorized and plainly disavowed? This is the test by which the correctness of the principle must be tried. If the unauthorized act of the Spanish officers was not an act of war by Spain, it was not an act of war in General Jackson to repel those acts of aggression. He did not war against Spain, but repelled the wanton and disavowed hostilities of her officers. He opposed them as the auxiliaries of our enemy, and took forts intrusted to their command, because they had ceased to be neutral, and were, in fact, and as to all purposes to us, Indian forts. To again recur to the case of the Chesapeake. If she had returned to port, and the President ordered her commander, if again attacked, to take the Leopard and bring her in, and had done so, it would have been no act of war against England, unless the British Government should say it was by her orders, or she approved the act.

These principles it seems to me cannot be controverted, and most clearly show that there has been no act of war, and no violation of our Constitution. A General in conducting a campaign would have but limited powers if he could not repel hostilities wherever he met them. He must judge who, what, and where, his enemy is. He wars not against the nation, but the force, the the country, and the forts, which assume an attitude and are suffered to be used for purposes hostile to his Government. If used by authority of the Government to which he belongs, it is war; but if not only without, but contrary to orders, it is no war, but only the application of the principle of self-defence against an unauthorized aggression, and the hostile acts of the officers, who would be punished by their own Government. So was the occupation of these forts considered, and, acting on that principle, the President ordered their restoration. And so the General considered it; for in the capitulation he expressly agreed to surrender Pensacola, whenever the Spanish Government had the ability or manifested a disposition to respect its neutrality.

And thus it seems to me that General Jackson, the President, this House, and the Spanish Government, all agree in considering the operations in Florida as neither war nor acts of war, and that the principles of the Constitution remain untouched.

It has been objected to the conduct of the General that he violated his orders; that the order to General Gaines to report to the Department of War, in case he found the Indians sheltered under the guns of a Spanish fort, was binding on him. Admit it to be so; still, that case never occurred. The Indians were not sheltered under the guns of the fort, but within it. The forts were the depots for their stores. The Indians were supplied with ammunition from the public stores. The war was devised in the forts. The Governors were parties. Spanish officers escorted Indians to our frontier. There was no order from the War Department to meet this state of things. It was never supposed that such acts could have been committed; had it been, it is certain there would have been orders to take these posts. For we find that, when the facts became known, the President has most fully approved of all that the General has done. On this subject his Message is clear and explicit.

Some say the President has disapproved the General's conduct by ordering the restoration of these posts. They seem to forget that the General had promised to do so by an express stipulation in the capitulation. He is charged with having established a civil government, and excluded the Spanish authorities. This was provided for in the capitulation. The Spanish commander required that all the officers of Government—civil and military—and all the papers and archives, should be sent to the Havana; and these terms were not demanded by General Jackson, but agreed to on the demand of the Governor.

But the war is said to have been over, and the letter of the General is referred to as evidence of it. I presume that no one here will be disposed to censure Governor Bibb. By his letter of the 19th of May, 1818, it seems it was not over; that murders were still committed.

An Indian war is like no other. It is not a war on the nation, but individuals. Their object is murder and plunder. In guarding against the attacks of a civilized force, you watch the movements of their armies; but in terminating an Indian war, the incursions of individuals must be stopped. If Arbuthnot was to be believed, the Indian force was three thousand five hundred, and there were one thousand in arms. Their force was unbroken. They would not meet our army in battle, and thus end the war. They were scattered through the whole country in small parties. They were on the frontiers of the Alabama, committing new murders, and were supplied in Pensacola. The war was not ended in fact, and never could be while this continued their depot, and they were furnished with supplies by the Governor. There was therefore no alternative but to occupy it or have a protracted, if not an endless war.

I shall not examine any minor points in this case. I am abundantly satisfied it is not one of those great cases alone worthy the interference of this House; that the conduct of the General is not only undeserving of censure, but has been correct and proper; that his conduct is no violation of the laws or Constitution of the country, but consistent with and justified by their plain principles. I have not defended him by any appeal to your sympathy, and will rest the case, not on his distinguished character and eminent services—I lay these out of mind, and test his con-

duct by the principles of national and Constitutional law. I have defended him on his own reasons, and thought that it was due, in justice to him, that one member of this House should examine his own principles. I think they place him on the strong ground of the law and Constitution, and, thinking so, I am not willing to see him a supplicant for your charity.

Mr. REED, of Maryland, addressed the Chair as follows:

Mr. Chairman, it is with no small degree of difficulty that I have been able to prevail on myself to rise for the purpose of addressing you at this late hour, when I am persuaded the patience of this honorable Committee must be very much exhausted by the discussion that we have already heard to-day; and my unwillingness is not a little increased by some personal indisposition; nor do I know that I should have troubled the Committee with any remarks, were it not that, being a member of the Military Committee, it might be expected that I should assign the reasons that influenced my mind in concurring in the report presented to the House.

Before I proceed to remark on the subject under consideration, permit me, sir, to ask the indulgence of the Committee for a few moments, while I explain a transaction in which I was concerned during the war of the Revolution, near forty years ago, and which, I trust, I shall be able to do to the satisfaction of this honorable Committee, to the satisfaction of the nation, and the world. I will be as brief as possible, but must beg leave to run a little into detail. The affair to which I refer is to the execution of a deserter from our army to the enemy. It has been drawn into the discussion of this question by my honorable friend from New York, who is not now in his seat, and whose absence I regret the more on account of the very afflicting circumstance that has occasioned it.* I am perfectly convinced that, in noticing the transaction, my honorable friend was governed alone by his known regard for truth and justice. He believed, no doubt, it would have a favorable bearing on the side of the question which he thinks it his duty to support. The honorable gentleman, indeed, intimated his intention to me before he spoke. I believe, sir, I shall be able to show, in proper time, that the execution of the deserter by the detachment under my command, bears no analogy to the execution of Arbuthnot and Ambrister, by order of General Jackson. With these remarks, I will proceed to state the transaction as it occurred.

At the opening of the campaign of 1792, Sir Henry Clinton passed up the North river, with the British army, and landed upon either side of the river, at Stony and Verplanck's Points. General Washington broke up his Winter quarters, concentrated and marched an army towards the same destination. At this time a detachment was ordered from the Maryland line, to join Major Lee's cavalry; I had the honor to be a lieutenant in that detachment. It was the more immediate duty of this corps to hover upon the lines of the enemy, to watch and report his motions, to restrain his foraging parties, and to cut off all communication with the country, &c. The main army had during this time reached the bank of the river, and lay with his right upon Sandy Beach, the left extending towards New Windsor. It was about this period that discontent began to manifest itself in the ranks, desertion followed, and soon increased to such an extent, as, to make use of the words of General Washington, to threaten a dissolution of the army; active and vigorous measures were resorted to, to arrest the disgraceful and ruinous practice; flying parties were instantly sent out in pursuit of soldiers who were missing at roll-calling; all the country hereabouts, as well as that intervening between our main army and the enemy, is so mountainous, and at that time so inaccessible, that when deserters had gotten some start, they were seldom, perhaps never overtaken. It was under these distressing and alarming circumstances, that General Washington gave orders "that examples should be instantly made upon the spot, of a deserter who might be apprehended in the act of going to the enemy." I had my orders in my pocket. I was instructed to place myself at the head of a detachment, and to march at such an hour of the following night as to enable me to reach the enemy's pickets or out-posts, by the dawn of day of the ensuing morning, so to arrange my command as to cut off the possibility of escape of any deserters from our army. I must here remark, that although we heard daily from our friends at headquarters, of desertions, yet, as every exertion had been made that a sense of duty could suggest, or a knowledge of the country permit, we began to entertain doubts that the reported desertions were greatly magnified, since none had yet fallen into the hands of the troops on the lines. As the morning broke, my cordon of sentinels were formed outside of those of the enemy, and so pushed up to their very teeth as to close, as I believed, every avenue of approach. In this situation things remained until a late hour of the day, when a soldier found means to escape from the enemy and come directly over to me: from this man I learned that ten or twelve deserters had gone in to the enemy in the course of that day, and that many went in every day. Surprised at, and doubting the information, I desired him to show me the route by which they passed; he pointed me to the high bank above Stony Point, and said, "on the shore under that bank, the deserters passed in that day and every day." I immediately removed my detachment to this point, and placed two sentinels on the shore under the bank; in a short time, three deserters from our army presented themselves. Seeing my soldiers so near in with the enemy, (for we seemed amalgamated,) they at once fell into the error that we were of the enemy; and this delusion was the more natural, as my soldiers had thrown off their regimental coats, (the weather being very hot)—the deserters at once made a full disclosure; and

*Mr. TALLMADGE had been suddenly called home by the death of his son.

said that they were going to make their fortunes by joining the British. My soldiers kept up the delusion, there being three of the deserters with their arms, ammunition, and equipments, and only two of my soldiers. The deserters were informed that they could not pass in to Stony Point until they should be examined by the officer commanding the detachment. They were accordingly conducted to me. Here, the same cause that produced the delusion on the shore, served to keep it up; I had thrown off my coat as well as had the soldiers. I now questioned the deserters; they again made a full and complete disclosure of desertion, alleging, as a reason, that they were badly fed, badly clothed, and badly paid; that there were many desertions, and would be more, if they (the soldiers) could get off; they again said that they were going to the British at Stony Point, to make their fortunes. The confession of guilt being full and complete, they were informed of their mistake, disarmed, and told to prepare for death; for that in an hour I would, in pursuance of my orders, which I then read in presence of the detachment and deserters, execute them all. I most earnestly pressed upon their minds the necessity of employing in the best manner they could, the little time they had left, in supplication to God to forgive them their sins: that this last one, of deserting to join the enemies of their country, was of itself a most heinous offence in the sight of God.

Mr. Chairman, the summary execution of these men, though *indispensable*, was a duty not to be desired. Reflecting, therefore, on the subject, and knowing that it was intended only as an example, I determined to take upon myself the high and dangerous responsibility of executing one only. To this end, I proposed to them to draw lots. This they most firmly resisted, declaring to the last, that, as they were all alike guilty, so they were willing to abide the same fate. Finding them thus determined, I referred the case to my three non-commissioned officers. Two of the deserters were Irishmen, and one an American. Two of the non-commissioned officers were Americans and one an Irishman—each voting for his countryman to suffer, the lot fell on the American—a most just decision. He was accordingly ordered for instant execution. He was shot. After which, conformably to orders, his head was stricken off and sent to the headquarters of the army, (the surviving deserters went, under guard, to the same place,) where it was publicly exposed, and thus a stop was put to desertion, which had before prevailed to an extent unknown in the annals of the war, and which, according to the language of the Commander-in-chief, "threatened a dissolution of the army."

Mr. Chairman, the mere fact of this execution was published in M. Cary's "Museum." I think, a few years after the war, unaccompanied by the particular circumstances upon which it took place. My attention was some years afterwards called to the transaction by a friend, who had seen the statement in the Museum, and who had also seen the same transaction spoken of by Gordon, the historian, without, indeed, mentioning the name of the officer concerned in the particular circumstances connected with the offence. The historian is entirely mistaken in relation to the sentiments of the Commander-in-chief, doubtless for the want of correct information. It is most manifest that no subaltern officer, of any grade, would have taken on himself, in the very face of the Commander-in-chief, a measure of such high responsibility. I did, indeed, take upon myself a measure of high responsibility; but, let it be remembered, that it was a responsibility on the side of benevolence and of mercy; motives that always have, and I trust, ever will, influence my conduct. I knew that I subjected myself to the possibility of a court martial, with all its consequences. I knew, too, that this severe measure of the execution was intended as an example, and I trusted that one execution might produce the desired effect.

I have explained the affair of the deserter, Mr. Chairman, as it happened, whether satisfactorily to this honorable Committee, to the nation, or to the world, is not for me to decide. My own conscience is satisfied. I am glad, indeed, that the transaction has been brought into view at this time by my honorable friend, (Mr. Tallmadge,) as it has afforded me an opportunity, perhaps the last in my life, of explaining it. Sir, the execution of the deserter near Stony Point does not stand alone. It is not the only instance in which Washington was compelled to resort to strong measures. I beg leave to refer gentlemen to *Marshall's* Life of Washington, vol. 4, pp. 404 and 405: "A part of the Jersey brigade had mutinied, and rose in arms on the night of the 20th 'January, 1781. General Washington was determined to bring them to order, and, in pursuance of this determination, he immediately 'ordered a detachment to march against the 'mutineers, and to bring them to unconditional 'submission. General Howe, who commanded 'this detachment, was instructed to make no 'terms with the insurgents, while they had arms 'in their hands, or were in a state of resistance; 'and, as soon as they should surrender, to seize a 'few of the most active leaders, and execute 'them on the spot. These orders being promptly 'and implicitly obeyed, the Jersey mutineers 'were compelled to return to their duty." Here then, sir, is recorded another instance, in the very same language, in which General Washington was compelled to resort to the very same rigorous measures for the army, the orders in both instances being of the same tenor, and growing out of the same emergency at distant periods. These executions, however, bear no analogy whatever to the cases of Arbuthnot and Ambrister: these men were not of our army; they were not subject to our law martial; we had no right over their lives after they were prisoners.

Having disposed of the affair of the deserter, and I trust satisfactorily, I come now, sir, to apply some observations to the subject under consideration. It is matter of no small degree of satisfaction to me to know that, although a differ-

ence of opinion existed among the members of the Military Committee, in relation to the subject referred to them, yet it was not a factitious difference; it was an honest difference, growing out of different views of the same question—a thing common to all men. It has been urged, Mr. Chairman, by honorable gentlemen opposed to the report of the committee, that this House possesses no jurisdiction nor power to examine into the conduct of a military officer. I shall endeavor, sir, to prove, by your own acts, by your own law, (I mean the law of the House,) that you possess this power. Did you not, at the commencement of this session, recognise this very power to inquire, by referring the case of Arbuthnot and Ambrister specially to the Military Committee? How, sir, did the committee get in possession of the subject? Surely, sir, by your own doings; surely it will not be denied that the committee derived their whole authority from the resolution—from the law of the House. Without such an authority the committee could not have acted on the subject at all. Let us see the resolution referred to:

"*Resolved*, That so much of the President's Message as relates to military affairs; so much as relates to the proceedings of the court martial in the trial of Arbuthnot and Ambrister, and to the conduct of the war against the Seminole Indians, be referred to a select committee."

If then, sir, I have been able to show (and I trust I have) that this subject was referred to the Military Committee by a rule or law of this honorable House, then it follows that the committee were to exercise their own opinion over the case; this they have done, and you have been presented with the result. If the House possesses not the power to inquire into the conduct of a military officer, why pass the resolution? Why refer the case at all to the committee?—Why not at once arrest the resolution, the law of the House, in its most incipient stage? Why, I ask again, suffer it to go out to the committee? But it happens that this case does not stand alone; and, as precedents are considered of some value in this honorable House, and I am willing to admit that they should have their due weight, especially when settled in sober times—I beg leave to call the attention of the Committee to the proceedings of the House of Representatives in the case of General St. Clair. The House, on that occasion, believed it possessed, and did exercise jurisdiction, by instituting and carrying on an inquiry into the causes of the failure of the expedition against the Indians. Gentlemen now contend that the President alone is competent to cause an inquiry to be made into the conduct of a military commander, and that it is passing a censure on the President for this House to interfere with what are said to be his Constitutional duties in relation to this subject.

Sir, I have no intention, nor do I think I am passing a censure on the President, by examining into the conduct of General Jackson in relation to the transactions connected with the Seminole war. In the case of General St Clair, to which I have referred, the House of Representatives did not think that they passed a vote of censure on President Washington, and yet the House did, on that occasion negative, by a strong vote, a motion to call on the President to "cause inquiry to be made into the causes of the failure of the expedition," appointed a select committee, and proceeded, themselves, with the inquiry to a final termination. I beg leave to refer honorable gentlemen to the journals of the first sesion second Congress, pages 131, 152, 153, 154, 177, 219; reports, vol, 1, pages 141, 173. Sir, there exists not one solitary doubt on my mind of the power of the House in relation to the question under consideration. It has, I think, been shown by your own act at the commencement of the session, and by the proceedings in the case of General St. Clair, at an early period of the Government, that the House possesses the right contended for.

I will now endeavor to show that if General Jackson possessed the right, which I am not at all disposed to admit, and which I think may be demonstrated he did not possess, to execute Arbuthnot and Ambrister, or either of them, he waived that right, by referring their cases to a military tribunal; a tribunal, to be sure, that possessed competent jurisdiction, and, therefore, these men should have been discharged. The General having made the appeal, he was concluded by it. It was his own act. He put these men upon their trial before an incompetent tribunal; and by that tribunal the case should have been dismissed. But, supposing for a moment that the court had competent jurisdiction to hear and determine the case, the General in that event was bound by the judgment of the court, so far as that he could not alter or change the sentence, so as to order a punishment different from that awarded by the court. He could diminish indeed, but could add not one stripe—not one tittle beyond the sentence of the tribunal.

By what law, or by what authority, let me ask, can a Judge or General add to the punishment, other than what has been decreed by the court? By what law of the land, sir, can you put the life of any man in jeopardy twice for the same charge or offence? You cannot do it. In the case of Ambrister the court had passed a sentence, and, although it possessed no jurisdiction, the General was bound by his own act. He made the appeal, and could not increase the punishment; and yet he did, of his own will, increase and inflict the highest degree of punishment; a punishment not authorized even by an incompetent tribunal; for, surely it cannot be seriously contended that a court martial has no right to reconsider its own proceedings, so long as they remain in their hands. This is the constant practice. But, again, the charges upon which these men were put upon their trial, did not, in my opinion, subject them to our law even before a competent tribunal, except for the charge of being a spy against Arbuthnot, and of that he was acquitted.

I agree with the honorable gentleman from Ohio (Mr. HARRISON) in the view that he pre-

sented of courts martial, &c. That gentleman has correctly stated, that the army too has its common law. The common law of the army, like other common law, is applicable in the rule only to courts, to tribunals properly and legally constituted. The common law of the army gives no such an increased power or application in its principles. This common law applies also to the common routine of military duty. Councils of war, spoken of by an honorable gentleman from Virginia, (Mr. Smyth,) have no reference whatever to the trial of offences or courts martial. Councils of war are called by the General for the purpose of advising him in relation to the general operations of the campaign, or in relation to any particular object of the war. The General may, or he may not, be concluded by the advice of this council. It is very different in relation to the opinion of a court martial.

The whole system of common law of the army, so far, at least, as it relates to the rules of evidence, is the same as in criminal courts, as has already been correctly stated by an honorable gentleman from Virginia, (Mr. T. M. Nelson.) If a witness, in a criminal prosecution, was to attempt to give in evidence his opinion, or what he had heard others say in relation to a particular fact, he would be instantly stopped by the court. It is the practice of every day, known to every man: and yet, this was the kind of evidence given in the case of Arbuthnot—the hearsay of Indians, who could not have been witnesses had they been present. I think it has been shown, that, if the evidence had been legal, yet, as the court possessed no jurisdiction, no cognizance of the charges, these men should have been discharged. It has been said, that this was not a court martial. Gentlemen do not seem to agree among themselves. Some, indeed, have called it a court martial, some have denominated it a court of inquiry, a council, &c. Now, sir, there is not, in my opinion, much weight in these objections. There are only two denominations of courts recognised in the army, courts martial and courts of inquiry. This has been called a special court. But that does not alter the character of the tribunal; it was still, to all intents and purposes, a general court martial. I know that general courts martial are sometimes called special, perhaps from a want of attention in the phrascology of the order making them. I have sometimes heard them called special when ordered to try a particular case; but all this does not alter or change the character of the court; the President has denominated this a court martial; the Secretary of State has called it a court martial; General Jackson himself calls it a court martial. There is, sir, another objection to the execution of these men which, in my opinion, is entitled to much weight, and which has been noticed in the report of the committee. The Seminole war was, indeed, to all intents and purposes, at an end. It is the practice among all civilized nations, when a war is drawing to an end—when no longer any great national object is to be obtained, for the commanders of the adverse armies to restrain their predatory warfare, thereby to spare the effusion and waste of blood.

Permit me, sir, to notice an observation that fell from an honorable gentleman from Massachusetts, (Mr. Holmes.) That gentleman has expressed the "profoundest astonishment, that the Military Committee should have found out that the war was at an end," and then asks, "whether they (the committee) find it in General Jackson's letters of the 20th and 26th of April?" Yes, sir, the committee find it in these letters, and in the facts. The Georgia militia were discharged, the General was about to return home, and two companies were deemed by him a force sufficient to scour the country in search of any Indians that might lay concealed in their coverts. I think, sir, if the honorable gentleman had exercised his usual perspicuity, that he too would have discovered that the "war was to all intents and purposes at an end."

There is another light in which this subject presents itself to my mind. You, sir, claim the right of expatriation—the principle is contended for on the floor of this House. If it be a natural right, as asserted, that the citizens of the United States, or the subjects of any other nation, do possess this right, and a right to associate themselves with any other society or nation—can the nation from whom they have separated themselves prescribe to these people the society or nation to whom they shall attach themselves? I believe not. What right have you to control their will—to tell them whether they shall become the members of civilized or savage society? This would be destroying the very right that you contend for. If an American, an Englishman, or a Frenchman, possesses the right of expatriation, all other necessary rights go along with this. Among these rights will be found the right to elect for themselves the society to which they may choose to attach themselves, and you have no control over their choice. These Englishmen, then, according to your own principles, possessed these rights, and did exercise them. They attached themselves to a savage society; but it will not be denied that the Indians are independent nations; they are recognised as such by the treaties constantly made with them, many of which have been ratified during the present session. Nor will it be pretended that the President can go to war with the Indians without the authority of Congress, unless indeed the Indians had commenced the war. I will not pretend to say who are the aggressors in these wars generally; nor is it necessary in relation to the present inquiry. I think it probable that the frontier inhabitants on both sides are often to blame; aggressions are committed, and the Government is called on for protection, and must carry on the war. Hence it is, that our wars with the Indians have been made without any declaration of war by Congress. An honorable gentleman from Pennsylvania (Mr. Baldwin) has, in my opinion, entirely mistaken the law, when he spoke of "confederacies, conspiracies, and combinations," as applied to the case of Arbuthnot

and Ambrister. These offences can only apply, I believe, to our own citizens or others within the limits or the territories of the United States, who may engage in these or other unlawful acts against the public authority. The law provides for offences of this sort, but it cannot apply to persons out of the limits of the United States, owing no obligations or allegiance to the United States.

Gentlemen seem to rely much on the character of the orders given by the War Department to General Jackson; that, by these orders, he was instructed to bring the war to a speedy conclusion. Now, sir, what do these orders mean? Why, only that General Jackson was to employ the military force intrusted to his command, in such a manner as to bring the war to as prompt and speedy a conclusion as possible, regarding, substantially, the usual method of conducting war against Indian tribes. I appeal to every military gentleman who hears me, if this is not the obvious import and meaning of the orders to General Jackson. In the course of the discussion, honorable gentlemen have adverted to the orders given by General Washington to General Sullivan, on his Indian campaign in the war of the Revolution, and to the orders given by President Washington to General Wayne, on his expedition against the Northwestern Indians: and what do we find in these orders? They are in the usual military style, made use of on such occasions. Not one word about retaliation—no instruction for military execution; and yet, gentlemen will not pretend that upon those occasions there existed less cause for retaliation than there did in the late Seminole war. In the war upon the Susquehanna, whole districts were laid waste and depopulated; men, women, and children, indiscriminately, fell under the savage tomahawk. Every vestige of human improvement was destroyed; yet, not one word is to be found in the orders of General Washington about retaliation. It is true that General Sullivan had orders, if practicable, to take the famous Butler and Brandt. If they had been intended as objects of retaliation, orders would have been given to execute them on the spot. This was not intended—nor were the savage cruelties less extensive on the Northwestern frontier than those wantonly committed on the Southern border. In the war of Wayne, the ferocious savages hesitated not to violate the sanctity of a flag, by killing my friend, the gallant Major Trueman, and his escort; and, yet, sir, we hear of no orders by President Washington, or General Wayne, for retaliation in military execution, even for that monstrous outrage.

Mr. Chairman, the Military Committee did not conceive that the special authority under which they acted extended their jurisdiction to the important operations in Florida. They believed that that part of the subject more properly belonged to the Committee of Foreign Relations; the Military Committee confined their inquiry to the object to which their attention had been particularly pointed by the order of the House. But an honorable gentleman from Georgia (Mr. COBB) having introduced several resolutions amendatory of the report of the committee in relation to the conduct of General Jackson in Florida, these resolutions have formed a part of the subject of discussion. The documents laid on the table of every gentleman, render it unnecessary for me to refer to dates. It will be seen that the orders first given to General Gaines, and those orders afterwards applied to General Jackson, prohibited his entrance into Florida. Afterwards, indeed, when the war had assumed a more hostile and savage aspect, the General had permission to enter Florida, if it became necessary, in his judgment, for the purpose of pursuing and chastising the Indians. The orders enjoined it as a duty on the General, that if the Indians should take shelter under the guns of a Spanish fortress, he was to wait and report the fact to the President. If these orders prohibited General Jackson from attacking the Indians, under the guns of a Spanish fortress, how much more forcibly did they apply, that he should not attack the fortress itself? Sir, the President was not content with barely giving orders that the Spanish fortress should not be attacked, but he went on further, and assigned the reason for these orders, which, in my humble opinion, should have been conclusive with General Jackson, if the orders themselves were not; although this order, in which the principal reason is assigned, is of an earlier date than the order in which permission is given to enter Florida, yet the cause that induced the prohibition still existed in full force. Let us see what the reasons are: "The 'state of our negotiations with Spain, and the 'temper manifested by the principal European 'Powers, make it impolitic, in the opinion of 'the President, to move a force, at this time, into 'the Spanish possessions, for the mere purpose of 'chastising the Seminoles for the depredations 'committed by them." Here, then, we have the order, and the reasons for that order. The President, aware of the "temper manifested by the principal European Powers," was unwilling to afford to them even what they might have deemed cause of complaint; and in my opinion he thought correctly and acted wisely. For, whatever an honorable gentleman from Massachusetts (Mr. HOLMES) may think of "poor, humble, and miserably degraded Spain," yet, my word for it, sir, "the principal European Powers" will not stand by and see you trample her under your feet. "Poor, miserably degraded Spain" is yet one of the great family of European States; nor do I think it prudent to presume too far on the poverty or humiliated condition of any nation. Nations, too, have their pride, and are, indeed, seldom completely overthrown until that pride becomes extinguished. No doubt, sir, in the gloomy periods of our Revolution, that Great Britain thought, and spoke, too, of the United States as "poor and degraded" America; yet, "poor and degraded" as she thought us, we beat and compelled her to give up the contest.

It has been said, if you pass the resolution, you throw a censure on the President. I regret that

the President has been so frequently brought into view during the discussion. I have not been able to perceive any use in it; but, as intimations seem to have been made that those who support the resolutions are unfriendly to the Administration, I will barely state in my place that I can feel no possible hostility to the Administration of the present Chief Magistrate. I know that when he came into power, he found much to do, and he has done much good. It is seen and felt all around us; it is seen and felt in the universal peace and tranquillity that so happily pervades every part of our country. The House, sir, I consider in the exercise of a Constitutional prerogative; the resolutions amount to an expression of this right—of its sense in relation to the conduct of a military commander. But it is said that the President has approved the conduct of General Jackson, and that therefore this House has no right to inquire; and yet the House itself directed the inquiry, by a reference to the very question now the subject of discussion. It is true, sir, that the President refused, at the instance of the Spanish Government, to punish General Jackson for the capture of the Spanish posts, and yet the President ordered the posts of Pensacola and the Barancas to be given up to Spain. I do not conclude that because the President refused to punish General Jackson, that therefore he approved his conduct, in direct violation of his orders. I suppose, sir, that the President refused for a very different reason. Spain had committed many sins against this country that are yet unadjusted; the President did not, therefore, think proper to punish, though he disapproved his conduct; manifested by giving up the posts. In the case of the Leopard and Chesapeake, while the British Government disavowed the act, they refused to punish the officer; and so, I think, in another instance, perhaps at Rhode Island, where the commander of a British ship-of-war had been guilty of some improper conduct, his Government, disavowing the act, refused to punish the offending officer.

It has been repeatedly urged, during this discussion, that General Jackson was compelled, from considerations of necessity, of "self preservation," to take possession of Pensacola and the Barancas. Has the necessity yet been shown? Is it to be sought for in the extension and improvement of the fortifications? Or, in the establishment of a civil government, and the appointment of officers of the revenue?

Gentlemen have said if the House pass the resolutions it will be disgracing General Jackson. I do not think so. I admit, and no one admires more, the distinguished *military* services of the General during the late war; but these services should not prevent this House from inquiring into the transactions now the subject of consideration. I have nothing to do with the General's motives in the discussion of these transactions. It has been said that he is not ambitious; that he has no wish to overturn the Government of this country. I attribute to him no such motives, no such views. If he possessed the will, I know he has not the power. There are two ways by which a Government may be overthrown; one by too much *tone*, the other by too much debility—too much *depletion*. We are told, however, that this country has nothing to fear from *our* military commanders. This, sir, is the language that has been repeated in all countries. If, when Cæsar was carrying on his wars against Britain, the question had been asked at Rome whether Cæsar would overturn the liberties of his country, the answer would have been, (with the exception of Cato,) No; Cæsar is the friend of his country! Had it been asked of an Englishman whether Cromwell would turn the Parliament out of doors, and trample under foot the liberties of his country, the answer, no doubt, would have been, Cromwell is the friend of liberty! Had a Frenchman been asked whether the *saint* who now sits upon the rock of St. Helena, would turn the French Deputies out of doors at the point of the bayonet, the answer would have been, No; Bonaparte is the friend of liberty! But why go abroad for examples? Does our own history, short as it is, furnish no materials? Have we already forgotten the gloomy period at the close of our own Revolution? Have we forgotten the famous Newburgh letters? Have we forgotten that, with all the influence and weight of character of General Washington, it was with infinite difficulty that he could prevent a dreadful explosion in the army under his immediate command? Have we forgotten, sir, that about eighty miserable recruits, "who had seen no service," marched from Lancaster, through the most populous part of Pennsylvania, to the city of Philadelphia, where, joined by some others, about three hundred in all, they marched with fixed bayonets to, and surrounded the Hall of Congress, and the Executive of Pennsylvania, and, after placing sentinels at the doors, a written message was sent in, threatening to let loose an enraged soldiery upon them, if their demands were not gratified in twenty minutes? I refer honorable gentlemen to *Marshall's Life of Washington*, vol. 4, p. 615. And thus, sir, was the sovereign authority of this nation insulted and trodden under foot, and the members of the Government threatened with military execution by a handful of recruits—the soldiers of a day—headed by two ensigns, who had hardly yet learned how to wear their epaulets. And yet, sir, with this important piece of history staring you in the face, you fold your arms, and content yourself with the notion that there is no danger to be apprehended from the military of our country. It will be in the recollection of honorable gentlemen that it was just before the transaction of which I have been speaking, that General Washington had, by his influence, happily quieted and tranquillized the uneasiness in his main army. Suppose, sir, that the General had been capable of participating in the spirit so recently manifested by the army; had provisioned it, and had been seconded by the principal officers; had marched the army to Philadelphia, and had there been met by the veterans from the South, sore with what they, at the time, believed to be

the injustice of their country—the resources of the nation exhausted and prostrate by the effects of a long and calamitous war. Are you, sir, prepared to say, with certainty, what would have been the result, seeing that a handful of the "soldiers of a day" had aleady prostrated the Government, and that Governor Reed, with all his popularity, could not call out a force sufficient to disperse these insurgents, and protect the Government. Upon General Washington receiving information of these outrages, he ordered a detachment of fifteen hundred men to march against the mutineers under General Howe. Before they reached Philadelphia order was restored, it is believed, by Governor Reed making some stipulations with the rioters. But Congress ordered General Howe to continue his march to Pennsylvania, with a view to punish these disorderly soldiers.

An honorable gentleman from Virginia, (Mr. H. NELSON,) has asked whether General Jackson be a modern Cæsar? That, sir, is not now the question, nor have I imputed it to him. The same honorable gentleman has asked, "Where was the vigilance of these Constitutionalists in 1814, at the period of the victory of New Orleans, when the members of this House were *appalled*—when all hearts were *appalled?*" Sir, I had not, at that period, the honor of a seat in this House. I trust the hearts of honorable members were not "appalled;" nay, sir, I would rather believe that the better feelings of the honorable gentleman himself have carried him a little too far on the present occasion than to believe that his heart was "appalled." I do know, sir, that there were hearts in this nation that were not appalled.

One word, sir, in explanation of an observation which fell from my honorable friend from New York, (Mr. TALLMADGE,) in relation to the transaction at Stony Point. The traditionary account has led that honorable gentleman into an error respecting one part of the transaction. It was the Lieutenants Gibbons and Knox that marched at the head of the two columns. This command was decided by lot among the subaltern officers. I was in the supporting column of Colonel Butler, with whom and Fleury I had been that morning reconnoitering the works of the enemy. Content with having performed my duty, I would not, for a moment, wear the laurel earned by another. The traditionary mistake is natural enough, and may be accounted for from the circumstance that I was constantly on duty on the lines in that neighborhood, until nearly to the close of the campaign, and known to every one about the neighborhood.

Having occupied much more of your time than I intended when I rose, permit me, sir, to return to you and this honorable Committee my thanks for your indulgence.

When Mr. REED had concluded, the Committee rose, reported progress, and had leave to sit again; and the House adjourned till to-morrow morning.

SATURDAY, February 6.

Mr. SPENCER presented a petition of John Silsbee, praying for an increase of his pension, and that such increase may commence from the date of the original pension.

Mr. OGDEN presented a petition of Abraham Commissary, an Onondago Indian, son and only child of an Onondago warrior, who was killed in the battle of Chippewa, in the late war with Great Britain, while fighting on the side of the United States, stating that he has embraced the Christian religion, and is desirous of qualifying himself for the ministry of the Gospel; and, as he has no means of support, he prays that provision may be made for his maintenance and education for five years.—Referred to the Committee on Pensions and Revolutionary Claims.

Mr. BLOOMFIELD, from the Committee on Revolutionary Pensions, made a report on the petitions of Sarah Sheppard, Phœbe Champe, and Lois Haskell, widows of deceased officers of the Revolutionary army; which was read, and the resolution therein contained was concurred in by the House, as follows:

Resolved, That it is inexpedient to grant pensions to widows of deceased Revolutionary officers, who were not killed in battle.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to incorporate the Provident Association of Clerks, in the Civil Department of the Government of the United States, in the District of Columbia," with amendments. They have also passed bills of the following titles, to wit: "An act to provide relief for sick and disabled seamen," and "An act authorizing a subscription for the eleventh and twelfth volumes of State Papers;" in which amendments and bills they ask the concurrence of this House.

The amendments proposed by the Senate to the bill, entitled "An act to incorporate the Provident Association of Clerks, in the Civil Department of the Government of the United States, in the District of Columbia," were read, and referred to the Committee for the District of Columbia.

The bill from the Senate, entitled "An act to provide relief for sick and disabled seamen," was read twice, and referred to the Committee on Naval Affairs.

The bill from the Senate, entitled "An act authorizing a subscription for the eleventh and twelfth volumes of State Papers," was read twice, and committed to a Committee of the Whole.

An engrossed bill, entitled "An act to authorize the Secretary of War to appoint an additional agent for paying pensioners of the United States, in the State of Tennessee," was read the third time, and passed.

Mr. ROBERT MOORE offered for consideration the following resolution:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency of authorizing the Secretary of the Treasury to subscribe ——

shares in the stock of the road laid out from Pittsburg, in the county of Alleghany, to Waterford, in the county of Erie, in the State of Pennsylvania.

In offering this resolution, Mr. Moore said, that the Legislature of Pennsylvania had incorporated companies to construct an artificial or turnpike road from Pittsburg to Waterford. That if gentlemen would refer to the map of the country, they would at once see the necessity, in a national point of view, of connecting the waters of the Ohio and Lake Erie by a turnpike road, for the use of the United States and the public generally. That if they would recur to the events of the late war, a doubt could not exist as to its utility, and almost absolute necessity; Erie being a naval station, and the harbor of Presque Isle being one of the safest on the lake, and most advantageously situated for military and naval purposes. The Secretary of War, in his report recently made, had reported in favor of the water communication between Pittsburg and Erie, in which, Mr. M. said, he concurred; but it would be recollected that the navigation of the Alleghany river and French creek was impeded by ice during the Winter months; and frequently, in the latter part of the Summer and Fall, the water was too low for navigation, and hence the obvious necessity of connecting the two important points of Pittsburg and Erie by a good road. He hoped, therefore, the resolution would be adopted, and the object proposed meet the approbation of Congress.

The motion was agreed to.

LETTER FROM GOVERNOR BIBB.

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

To the House of Representatives of the United States:

I transmit to Congress a copy of a letter from Governor Bibb to Major General Jackson, connected with the late military operations in Florida. This letter had been mislaid, or it would have been communicated with the other documents at the commencement of the session.

JAMES MONROE.

February 6, 1819.

Fort Crawford, *May* 9, 1818.

Dear Sir: Proceeding to Georgia for the purpose of bringing my family to this territory, and desirous to provide for the safety of the inhabitants on the frontiers during my absence, I have sought an interview with the officer in command at this place. At Camp Montgomery, I learned that you would probably reach this place in a few days, and indulged the hope of seeing you. An interview with you would have been to me a source of much pleasure, and I regret that my arrangements will not permit me to await your arrival.

The Indians commenced their murderous incursions on the frontier settlements in January last, when two men were killed in this neighborhood. No events occurred afterwards to excite apprehension until the 14th of March, when a house on the Federal road, near the Poplar Spring, was attacked, and eight persons killed. This intelligence reached me at Claiborne, from whence a detachment of mounted riflemen was immediately ordered to the place for one month's service. A few days afterwards, five men, while travelling the road, were fired at, and three killed, from whom fifteen hundred or two thousand dollars were taken. The people, for the most part, were flying for safety in every direction, and all communication, by mail or otherwise, with Georgia, wholly suspended. The Indians were known to be still in that quarter. In this state of things, three posts were established by my order, at which there are, in the whole, about an hundred men, who have instructions to scour the woods from day to day. A fortnight since, they found a camp, but on their approach the enemy fled to a contiguous swamp, from which they fired and killed one man. The commanding officer informs me that he thinks the number of Indians in the neighborhood considerable. I should have mentioned that, in April, a house within fifteen or twenty miles of Claiborne was attacked, the husband killed, and wife and two daughters wounded. Thirty dollars, a quantity of bacon, and every article which could be conveyed away, were taken and carried to Pensacola, where I believe the murderers might still be found.

I yesterday learned that one Indian was killed, and another wounded, near the Poplar Spring

This detail of events, however, was probably unnecessary, as you will receive from Major Youngs every intelligence upon the subject. My principal object is to state that, in my efforts to protect the people over whom I preside, the territorial treasury, being destitute of funds, has afforded me no supplies whatever; nor has it been in the power of the commanding officer here to render the aid which he has uniformly manifested the best disposition to afford. I am desirous that the troops should be considered as in the service of the United States, and the accounts adjusted when their term of service expires. One company rendezvoused at Poplar Spring, for three months' service, on the 10th of April, and a detachment of twenty-five at Sepulga, lately, for the same term of service. The expenditures incurred have been necessarily considerable, and altogether beyond my means of paying. You will readily perceive how unpleasant has been my situation, without the means of affording the protection necessary to keep the inhabitants at their homes. The regular force in this quarter has been insufficient for the defence of the country; the militia I have not had time to organize; and, above all, not a dollar in the treasury. My views of the necessity of forwarding men and money to this section of the country, have been repeatedly stated to Colonel Trimble, but I apprehend it has not been in his power to meet them. Having endeavored in vain, with my limited resources, to arrest the enemy, after their successive murders, and being satisfied that they sought refuge in Florida, I determined to raise a volunteer force, and order them to attack the hostile Indians, without regard to our boundary. A part of the force is now under the command of Major Youngs, and Captain Stull is in possession of my order. Had I been furnished with funds, the enemy would have been driven from that retreat long before this time; persuaded as I am that it is the only effectual method of affording security to this territory.

I have this moment received intelligence which leaves no doubt of your approach to this quarter, and I shall now leave the territory perfectly satisfied that the people will not suffer by my absence. Mr. Henry Hitchcock is appointed territorial secretary, and will act as Governor after I set out from Fort Jackson

which will be the 26th or 27th of the month. I may, however, be detained a few days longer in arranging with the Big Warrior the reception of a party of Indians who have sued for peace, and delivered themselves to Major Youngs. This they did so soon as the Major convinced them, by a well timed and well executed expedition, that they would no longer be permitted to murder our citizens, and find refuge in the Spanish territory.

There are at this place forty volunteers, and the same number of militia at Camp Montgomery. Should you need any additional aid from the territory, it would be promptly furnished, should you notify me at Fort Jackson before my departure.

I enclose to you a letter I have received from the commanding officer of the militia near the Poplar Spring, which will present to you the state of things in that quarter. Excuse this hasty scrawl, and accept the assurances of my regard and esteem.

WM. W. BIBB.

Maj. Gen. ANDREW JACKSON.

SEMINOLE WAR.

The House then again resolved itself into a Committee of the Whole, (Mr. BASSETT in the chair,) on the report of the Military Committee, on the subject of the Seminole war.

Mr. REED, of Maryland, in a speech of two hours, concluded his observations in favor of the report, as given entire in preceding pages.

Mr. WILLIAMS, of Connecticut, addressed the Chair as follows:

Mr. Chairman, it is with reluctance that, in this stage of the debate, I rise to address you, after the talents and the patience of the Committee have both been almost exhausted upon this subject. But, sir, apologies may be necessary for me, but they must be useless to you. I shall, therefore, proceed immediately to the consideration of the subject before us. And I too can with gentlemen say, that I have no private objects to attain, and no passions to gratify, by the decision of this question. The Constitution and laws of my country only do I wish to preserve. It is not my intention, at this stage of the debate, to inquire into the origin of this war; but it ought not to be forgotten that, on the 2d day of December, 1817, the President of the United States, in his Message to Congress, declared to us that "with the Barbary States and the Indian tribes our pacific relations had been preserved." And on the 25th of August, 1817, General Gaines wrote to the Secretary of War, relative to certain complaints against the Indians for killing cattle, stealing, &c.; but says he has not heard of anything like an assemblage of force among the Indians. And yet the murders of which, upon this occasion, we have heard so much, particularly that of Mrs. Garret and her children, happened before this time—Mrs. G.'s on the 24th of February, 1817—and, as the Indians claimed, in retaliation for their murdered friends. They appear at least to have arisen from private, not national quarrels. But, on the 21st of November, General Gaines sent an officer, with two hundred and fifty men, to Fowltown, (the residence of a part of a nation who, in the last Indian war, had been neutral,) "to bring the chief and warriors to him;" and, "in case of resistance, to treat them as enemies." This party, as was probably expected, was fired upon by the Indians. The Indians were put to flight; five warriors, with one woman, said to be not distinguished from the warriors, killed, several wounded, and the remainder driven into a swamp. Nine days after this act of war, Lieutenant Scott and his party, ascending Appalachicola river, were all cut off by the savages. General Jackson was soon after called to the command, and ordered to put an end to the war thus begun. His conduct, while in this command, is now before us; we are called to judge respecting it. But we are told that we have no right to judge, or even make an inquiry on the subject. That the right of declaring war, including the right of judging of its causes, is the peculiar province of Congress, can scarcely be doubted. On this subject we have an authority which will be respected in this House—that of the late President; and, as I may have occasion to advert to it again, I will ask the attention of the Committee while it is read:

"Every just view that can be taken of this subject admonishes the public of the necessity of a rigid adherence to the simple, the received, and the fundamental doctrine of the Constitution; that the power to declare war, including the power of judging of the causes of war, is fully and exclusively vested in the Legislature; that the Executive has no right, in any case, to decide the question whether there is or is not cause for declaring war; that the right of convening and informing Congress whenever such a question seems to call for a decision, is all the right which the Constitution has deemed requisite or proper; and for such, more than any other contingency, this right was specially given to the Executive.

"In no part of the Constitution is more wisdom to be found than in the clause which confides the question of war or peace to the Legislature, and not to the Executive department. Besides the objections to such a mixture of heterogeneous powers, the trust and temptations would be too great for any one man—not such as nature may offer as the prodigy of many centuries, but such as may be expected in the ordinary successions of magistracy. War is, in fact, the true nurse of Executive aggrandizement. In war a physical force is to be created, and it is the Executive will which is to direct it; in war the public treasures are to be unlocked, and it is the Executive hand which is to dispense them; in war the honors and emoluments of office are to be multiplied, and it is the Executive patronage under which they are to be enjoyed; it is in war, finally, that laurels are to be gathered, and it is the Executive brow they are to encircle. The strongest passions and the most dangerous weaknesses of the human breast, ambition, avarice, vanity, the honorable or venal love of fame, are all in conspiracy against the desire and duty of peace. Hence it has grown into an axiom, that the Executive is the department of power most distinguished by its propensity to war; hence it is the practice of all States, in proportion as they are free, to disarm this propensity of its influence.

"As the best praise that can be pronounced on an Executive Magistrate is, that he is the friend of peace—

a praise that rises in its value as there may be a known capacity to shine in war, so it must be one of the first duties of a people to mark the first omen in the society, of principles, that may stimulate the hopes of other magistrates of another propensity, to intrude into questions on which its gratification depends. If a free people be a wise people, they will not forget that the danger of surprise can never be so great as when the advocates for the prerogative of war can sheathe it in a symbol of peace."—*Letters of Helvidius, by Mr. Madison—new edition of Federalist*—626, 627.

If, then, according to the Constitution, Congress only has the power to declare war, and judge of its causes, they must necessarily have the power to secure themselves in the enjoyment of this their exclusive right. At least they must have the privilege of declaring that others have usurped the powers, and thus preserve the advantage of not having acquiesced in it. They surely are not to depend, for the determination of a great Constitutional question, upon the decision of a court martial, selected from officers subordinate to the person accused, upon a question in which their own privileges are deeply involved. Besides, the decision of a court martial might, and perhaps ought, in a great measure, to depend upon the motives which actuated the party on trial. Their decisions, therefore, would not necessarily affect at all the question before us; for here the question is not a question of intention, but the inquiry is, has the Constitution been violated? not what were the views which led to such violation.

Besides, the question as to the right to inquire has been repeatedly decided by the House.

In the case of General St. Clair, alluded to by the gentleman who preceded me (Mr. Reed) in the case of General Wilkinson, I am informed the question was distinctly made, and decided by this House, although no resolution passed in consequence of that inquiry, except to transmit the testimony to the President. So an inquiry was had relative to the destruction of the Capitol during the last war. And in the various instances of thanks which have been passed by Congress, and one in favor of General Jackson himself, the question must necessarily have been decided.

It having then been settled that Congress have the right to inquire, the question to be considered is, had your commanding officer a right, not only to enter the territory of a neutral nation, but to capture the forts of that nation, and treat their garrisons as prisoners of war, without the consent of the Legislature? And here I beg leave to remark, that it has been our policy, and I hope it will ever continue to be the policy of this nation, to remain a pacific nation. It cannot, therefore, be for our interest to extend the rights of belligerents.

Had, then, our officers a right, by the law of nations, to capture the Spanish fortresses of St. Marks, Pensacola, and Barancas, consistently with the neutral relation we were in towards Spain? If they had, it must have been either on the ground of extreme necessity, or because the commanders of those places had given aid and comfort to our enemies.

As to the first—in what cases, consistent with neutral relations, may we capture the fortresses of a Power with whom we are at peace? Puffendorf cites from Grotius the following as the rule: "It is lawful for him who wages a just 'war to possess himself of a place seated in a 'country that is at peace with him, if there be 'certain (not only imaginary) danger that the enemy will otherwise surprise it, and from thence 'annoy him, with irreparable mischief; provided 'he take nothing but what is necessary for his 'own security, as the bare custody of the place, 'leaving both the jurisdiction and the profits to 'the right owner."*

These are the writers who are considered almost as oracles of the law of nations. Is, then, this case within the rule here laid down? Was there *certain*, not merely imaginary danger, that the Indians would capture these fortresses? It is for the friends of this measure to show, that the danger was certain—for an act having been done, not justifiable by the general laws, the party who claims, by virtue of an exception founded upon necessity, is bound to show the existence of that necessity; as, in the case of homicide, it may be justifiable, or excusable; but the party bound must show that it is justifiable or excusable. In the case before us, what is the evidence of this? It is said the Governor of Pensacola himself acknowledged the danger as to St. Marks, and apprehended that it had actualy fallen into the hands of the Indians. If this were actually so, perhaps it might furnish an excuse for our Government to justify themselves in a controversy with the Spanish Government; but, is it, therefore an excuse for an officer of ours, who has acted without orders, and contrary to the Constitution? The fact, as it respects such officer, when examined at the bar of his country, still remains to be proved, and the evidence of the Governor of Pensacola certainly does not prove it. The Governor, according to General Jackson, informed Captain Call "that the Indians 'had demanded arms, ammunition, and provisions, 'or the possession of the garrison of St. Marks, 'and, he presumed, possession had been given, 'from his inability to maintain it."† Again, in his letter to the Governor of St. Marks, he says, the Governor of Pensacola stated "that the Indians 'and negroes had demanded of you large supplies 'of munitions of war, with a threat, in case of refusal, of taking possession of your fortress."‡ The same idea is expressed in a letter of the 5th of May. The admission, therefore, of the Governor of Pensacola was nothing more than an attempt to justify the supplies which might be afforded to the Indians, on account of a supposed inability on the part of the commander of St. Marks, if he should furnish them, or a presumption that that officer would surrender his fort to their threats, rather than grant their demand of succors. But, for us to judge of the probability of the Indians

*Puffendorf, book II. chap. VI.

†General Jackson's letter of 25th March.

‡General Jackson's letter of 6th April.

capturing that fort, we want to know the number of men in the fort, the number of guns, the state of the works, and the means of defence; we also want to know what number of men the Indians had imbodied, whether they had any artillery, or any means of capturing a fortified place. On these subjects we have no information; we have, therefore, a fair right to presume that these savages who wanted to procure from the Spaniards arms and ammunition to defend themselves against our force, had at their command no means of capturing Spanish fortresses. But, again: It appears from General Jackson's own letters, that, before he arrived at St. Marks, a demand had been made by the Indians, of the Governor, to surrender St. Marks, but that St. Marks was not surrendered. "I found (says Gen. J.) that the 'Indians and negroes combined had demanded a 'surrender of that work."* Now, if the commander had refused to surrender the fort upon a demand made, and that demand was followed by no attack upon the part of the Indians, had not General Jackson every right to believe that the fears of the Governor of Pensacola were fictitious, that the Indians were entirely unable to make any attempt, and that the danger was only imaginary?

The same remarks will apply (though in a much stronger degree) to Pensacola: there, however, General Jackson had no intimation from the Governor, that it could not be defended; on the contrary, General Jackson himself tells us that he wrote to the Governor, "that if the force 'you are now disposed wantonly to sacrifice, had 'been ordered against the Seminoles, the enemy's 'troops had never entered the Floridas."† If, then, the force of the Governor was great enough to have prevented the war entirely, surely it was great enough to defend his own fort. In addition to this, Pensacola was captured after General Jackson had declared the war at an end, had dismissed the Georgia militia, and asked leave himself to retire. So far, then, from being certain that this place would fall into the hands of the enemy, there was no probability of it. But, was it otherwise, could they have annoyed us with irreparable mischief? Will it be said, that a company of Indians and negroes, uninstructed in the use of artillery, could have gained to themselves any advantage from being confined in the walls of St. Marks? Or that the strength of this place was such, that they could have defended it against our artillery, when the Spaniards could not defend it even against Indians? How many of these savages were there, and what force could we oppose to them? General Gaines in one of his letters speaks of its being *reported* that 2,700 were imbodied; but he says further, he does not believe it. And in looking over the history of his campaign, it does not appear that General Jackson's army ever found more than 500 Indians imbodied. And, to meet this force, General Jackson had under his command about 900 Kentucky and Tennessee volunteers, about 1,000 Georgia militia, about 360 regular troops, and, as is supposed, (for no estimate is given,) about 1,500 Indian auxiliaries, under the command of General McIntosh. Of this force, only one, it is believed, was killed by the Indians, and four wounded, and of the enemy, 49 warriors were killed and 79 captured, besides 280 women and children.

From these facts it appears that the great difficulty on our part was to find the enemy; we should then suppose that it would have been the wish of our commander that their force should have been concentrated in St. Marks. And when we recollect that at the battle of the Horse Shoe, 450 men drove from their entrenchment and killed more than 1,000 Indians; and when we compare our force with theirs, we cannot believe that the injury they would have done to us, had they captured the Spanish fort, would have been irreparable.

But, even if it were otherwise, General Jackson "ought to have left the jurisdiction and the profits to the right owner." Instead of this, he takes possession, establishes a temporary government, speaks of the garrison as prisoners of war, sends them to Pensacola, and thence to Havana, and treats it as a conquered country.

But, it is said, as the commanding officer would have the right to take the fort of a neutral in case of extreme necessity, he must be the judge of the necessity; and being so, we have no right to censure him, even if he has judged wrong. But in this case he had no right to judge; he had his orders—if he departed from them he assumed the responsibility, and, like all other ministerial officers, is accountable for the consequences. It has, indeed, been denied by one gentleman from Virginia, that he had any such orders. It is admitted that General Gaines had orders, if the Indians took shelter under a Spanish fort, not to attack them, but to notify the War Department. But it is said, there is no evidence that these orders were communicated to General Jackson, and, if they were, they were not binding upon him, because a superior officer cannot be bound by orders given to a petty subaltern. These orders were given to an officer of equal rank with General Jackson himself, and not to a petty subaltern, and were communicated to him for the regulation of his conduct. The Secretary of War, in his letter to General Jackson, of the 26th December, 1817, speaking generally of the orders to General Gaines, says "copies will be furnished to you," and surely they would be furnished for no other purpose than as rules of conduct for the commanding officer; and, lest it should be said that the Secretary did not allude to these orders, but only to the last order, I refer to the letters of the Secretary of State, in his correspondence with the Spanish Minister and Mr. Erving. To the first, after reciting the above order to General Gaines, he says, "You have seen that no instruc-'tions or authority inconsistent with the declara-'tion of the President on the 25th of March last 'to Congress, were ever issued to the commander

* Letter to the Secretary of War, 8th April.
† Letter to Governor of Pensacola, 25th May.

'of the American forces. The possession which 'he took of the fort of St. Marks, and subse-'quently of Pensacola, was upon motives which 'he himself has explained, and upon his own 'responsibility."* To Mr. Erving the Secretary writes, "The officer in command immediately 'before General Jackson, was therefore specially 'instructed to respect, as far as possible, the Span-'ish authority, wherever it was maintained, and 'copies of this order were also forwarded to 'General Jackson, upon his taking command."† General Jackson, therefore, was not to judge as to the danger; and, if he did, he must incur the responsibility.

But it is said by the gentleman from Pennsylvania, (Mr. BALDWIN,) that General Jackson's defence ought not to be placed upon this ground; that we should hear his own defence, and decide upon that. In other words, that he is justified in capturing the Spanish forts because their commanders had given aid and succor to our enemies. That the General has assumed this ground of defence, I agree with the gentleman from Pennsylvania. Not supposing, however, that it would have been admitted, I had endeavored to collect from the letters of General Jackson evidence of the fact. In a letter of the 25th of March, he writes "I shall take possession of the garrison of St. Marks as a depot for my provisions, if in the hands of the Spaniards, they having supplied the Indians." In his letter of the 5th of May, "in the conversation between my Aid-de-'camp, Lieutenant Gadsden, and the Spanish 'commandant, circumstances transpired convict-'ing him of a disposition to favor the Indians, 'and of taking an active part in aiding and abet-'ting them in this war; I hesitated, therefore, no 'longer; as I could not be received in friendship, 'I entered the fort by violence." In his letter of the 2d of June, he says "on the fact that the 'Spanish officers had aided and abetted the In-'dian enemy, and thereby became a party in 'hostilities against us, do I justify my occupancy 'of the Spanish fortresses." It was not, then, from his own account, on the ground of a future danger, but because they actually had, or were supposed to have, aided and abetted the enemy. The question then arises, can this be a justification for General Jackson? The conduct of the Spanish commanders, though wholly unjustified as it respects our country, was not war. Those who contend that entering a neutral country, capturing neutral forts, and seizing the garrisons, did not amount to war, will not contend that the act of supplying an enemy is in itself an act of war. This may be a cause of war, but if, as Mr. Madison has told us, the power of declaring war, including the power of judging of the causes of war, is fully and exclusively vested in the Legislature, and that the Executive has no right to decide the question, surely a commanding officer can have no right to settle this question, or to judge how far we shall overlook or excuse the conduct of these Spanish officers. If aiding and supplying the enemy is an act of war, what is the consequence? Spain claims that privateers are fitted out from our ports, and that arms and ammunition are furnished to their rebellious subjects in South America. Suppose that such is the fact, has a Spanish officer a right to go to the city from whence these supplies are sent, or the privateers were fitted out, and take possession of it, to prevent future supplies? Surely not, because these are not acts of war, though, under certain circumstances, they may be sufficient causes of war. And, after the authorities which were read in the early part of this debate, by the gentleman from Georgia and others, it cannot now be necessary to prove that, admitting the facts stated by General Jackson as to the supplies, it formed no justification, and the ground upon which he chose to stand must fall. The commanding officer may assail and take possession of a neutral fort, not to revenge a past injury, but to prevent a future one; not because an enemy may have been supplied or a treaty broken, but lest his own army should be cut off, or his country be overrun. But when he attempts to redress past injuries, he sets himself in the place of Congress, and assumes that power, which is vested in the Legislative branch of the Government only.

But, it is said, that the capture of fortresses by force does not necessarily imply war; and instances are given where some petty places, such as Turk's Island, have been captured, and no war followed. It is admitted that the injury arising from such acts may be waived by the party injured. But the act itself is an act of war, of open force and violence. The President of the United States has no right to make war, but he may repel it: suppose the Spanish should attack the town of Baltimore, might not the President order our army to attack them? Why? Because the attack is an act of war, without inquiry into the cause. It is open violence which he has the right to repel, and it would not be asked by the President or Congress, whether it was authorized by the Spanish Government or not. No, it would be treated as an act of war.

Again, it is said, we have a standing declaration of war against the Indians. What is it more than that the President has a right to repel invasion, and, when an attack is made upon our towns or forts, he has a right to resist it?

Again, if this is not war within the meaning of the Constitution, then the Executive officer has at all times a right to do those acts which may involve us in war, without the consent of Congress; he may order an officer to attack a neutral town, and, as he has no right to give the order, it will not be war; Congress only having the right to declare war.

The act, then, was an act of war on our part, not justified as it respects the officer, on account of past injuries, and not necessary to prevent future injury. The danger not being certain, only imaginary; the loss not being irreparable, and the jurisdiction and the profits being taken, as well as the fortress.

* Letter to Don Onis, 23d July. † Letter 28th Nov.

I shall now examine the proceedings in the trial and execution of Arbuthnot and Ambrister; and, when inquiring into the legality of their trials and executions, we have nothing to do with the moral character of the men; because, if guilty, they ought to be legally punished. With respect to the guilt of Arbuthnot, I would only remark, that I find no testimony whatever that the memorandums on the back of a letter to Mr. Bagot, respecting muskets, ammunition, knives, and tomahawks, about which so much has been said, was in the handwriting of Arbuthnot; and it would, certainly, be very extraordinary that such a writing, if it really import what is represented, should be on the back of a letter to be sent by mail, especially when it could not be covered, consistently with the saving of postage, which seems to have been proposed. The proceedings of the court, in admitting and rejecting evidence, were so entirely contrary to the principles of law, that they have been generally reprobated. But the gentleman from Pennsylvania (Mr. BALDWIN) contended that at common law, in a prosecution for conspiracy, the confession of one of the conspirators might be admitted against the other; and, therefore, hearsay from the Indians might be admitted before the court martial. It is true that, under certain circumstances, this may be done. But when were the confessions of a person, not charged as a conspirator, ever admitted against another, to prove the conspiracy? When certain persons combine to execute an illegal act, having proved the combination, the acts of one may be considered as the acts of all, and perhaps the declarations of one as the declaration of all. But when did we ever before hear that the confessions of persons who were not, who could not be, charged with a crime, should be admitted to prove that another instigated the act? Besides, it cannot be pretended that a court martial has cognizance of the crime of conspiracy, or that this was a prosecution of that sort. And the gentleman from Pennsylvania admitted that it could not, technically, be so considered. He also admitted that the court martial was not justifiable in refusing to allow the evidence of Ambrister, but says it is of little consequence, because he could not have been credited. Surely we cannot determine, without a hearing, whether this man was worthy of credit or not; and when it appears, from a letter of the Secretary of State, that, although these two men might have been embarked in the same cause, yet they were personal enemies, we have as good a right to suppose the testimony of Ambrister in favor of his personal enemy would be true, as to believe that of Hambly, against him, he being the personal enemy of Arbuthnot. Perhaps, however, these questions are of minor importance, for, if this court had jurisdiction of the offences charged, we are not here to review their judgment, although it might have been erroneous. But what jurisdiction had this court? Whence did they derive it? It was, say the defenders of the proceedings, an offence against the laws of nations, not punishable, however, by the civil tribunals of our country. The Constitution says that Congress may define and punish piracies and felonies on the high seas, and offences against the laws of nations. It is, then, for Congress to give courts martial this power, if they possess it. If this has been done, it is to be found only in the articles of war. Look over that code, you find no power given to courts martial to punish any offence with which these men were charged, except, only, that of a spy; and of this they were not found guilty. But, says the gentleman from Ohio, (Mr. HARRISON,) to be sure the power is not expressly given by the articles of war, but the power must necessarily reside in these courts. Your code, says he, is a very short one, and cannot be supposed to embrace or provide for every case. It is true this code is a short code, but it is a bloody one, (perhaps this may be necessary;) but are laws of this description to be extended by implication? Your Supreme Court have decided that they have no power to punish offences, but what is given them by the laws of the United States, and have no common law jurisdiction; and, if your Supreme Court have not the power to extend their jurisdiction, surely your military courts cannot possess any such power.

Besides, is it to be believed that the Congress of the United States, if they supposed that there dwelt in courts martial under our Government a power to punish all offences which it might be proper to punish by military authority, would have expressly provided for the punishment of a spy? If, in any case, a court martial had the general power contended for, it must have embraced the case of spies, for they are the most obnoxious of all criminals; and if a law of the United States were necessary to provide for their case, how much more necessary is it in a case where the laws and usages of war are much more doubtful? Aware of the difficulty attending this assumption of power, it has been seriously contended that this was not a court martial; and it has been called an advisory council. That the General would have the right to advise with his officers, in cases where he has the right to act upon his own responsibility without advice, cannot be denied. But, in such case, who ever heard that these officers were sworn, that they had a judge advocate, that two-thirds must concur in the sentence, and that a party implicated in their opinion should have the right to object to or challenge the officers thus designated? And yet, in this case, these, with many other incidents of a court martial, are found. Besides, we have the authority of the Secretary of State to prove this. "He gave them," says he, "the benefit of a court martial."* Nay, more; we have it from General Jackson himself, who speaks of "the proceedings of the court martial."†

A court martial, then, did assume the power to try and condemn to death men over whom they had no jurisdiction. These men were not, therefore, legally tried and condemned.

* Letter to Mr. Erving, 28th November, 1818.
† Letter to the Secretary of War, 5th May, 1818.

But we are next told that the commanding officer had a right to put them to death without the intervention of a court martial. If he has, it must either depend upon a general power in an officer to put to death his prisoners, or upon the right of retaliation. As to the first, it will hardly be contended, that, in the present state of society, in modern warfare, a commanding officer has a right to kill or enslave his prisoners. If he has, the right must reside in a subordinate officer, when in command, as well as in the General. That such a power may, under certain circumstances, be exercised, is not denied; but it is only in cases of necessity, when all ordinary laws must yield to that of self-protection. A General therefore can have no more right to kill than to enslave his prisoners, unless the safety of his army is directly concerned, or makes it necessary.

As to the right of retaliation, this, it ought to be recollected, involves not merely the right of punishing the guilty, but also of destroying the innocent for the guilty: not only the right of putting to death the men captured in battle, but that of killing women and children It therefore involves the most important powers of sovereignty. It seems therefore contrary to the whole spirit of our laws to suppose that those guilty of crimes as spies shall have the benefit of a trial by a court, but that the commanding officer, of his own will and pleasure, may visit the sins of one man upon another, and may in his discretion punish the innocent for the guilty.

These are acts of policy, fit only to be trusted in the supreme power of the country; and, it has been already shown by gentlemen who have preceded me that Congress at several times have given this power to the commander and to the President. But, if this power existed in them, why did Congress delegate it to them, or legislate upon the subject; and if it did not, how did General Jackson acquire this power?

The act passed in the late war is precisely analogous to the present case. There the British and the Indians were parties on one side; and Congress enacted, that, for violations of the laws and usages of war among civilized nations, by those acting under British authority, or those in alliance with the British, the President might retaliate upon the British or Indians?* That law was confined to the then existing war; and is it not absurd to suppose that Congress, when delegating this power to the President, would limit it to the then existing war, if they thought the commanding officer of your armies at all times possessed it? The claim here is, that, as the Indians had committed barbarities, contrary to the laws of war, those who were in alliance with them may be killed in cold blood by the Commander-in-chief, and that without an act of Congress he has the same power that by a special law was delegated to the President.

But it is said, when the commander of an army is at a distance, he may find it necessary to exercise such a power. If Congress think so, they may revive the late law, or modify it. Until they do so, the Commander-in-chief cannot assume to act as if it existed. Besides, General Jackson does not pretend these men were put to death upon this principle, but because they had violated the laws of nations. They were therefore tried by a court having no jurisdiction, by evidence unknown to our law.

The court therefore could have no authority to order their execution, much less had the Commander-in-chief. It is due then to our laws and Constitution, and to the humanity which we profess, to declare our disapprobation of their fate.

The former reputation of the commanding officer ought upon this subject to have no weight. No attempt is made to deprive him of what he thus earned. He is in the enjoyment of a salary second probably only to one in the Government, and has received the thanks of the nation. But, unless past services are to raise a man above the laws of his country, they ought not on this occasion to be introduced, much less to have an influence on the decision of the question.

Mr. Desha, of Kentucky, said, in rising to address the Committee, he had but little expectation that anything he could say would be calculated to shed any new light on the question under consideration. His object in addressing the Committee was simply to give the reasons that influenced him in the vote he should shortly be called on to give. He could not say, as some gentlemen had said, that he rejoiced that the subject had been brought before the House for discussion; but, on the contrary, he could say that he regretted extremely that the subject had been introduced; and why did he regret it? Because it was a subject of all others the best calculated to place the House in the way of temptation. Mr. D. said he believed in the nature of things that all men were born with a certain portion of despotism in their breasts, which frequently required the greatest stretch of reasoning faculties to keep that despotic feeling within proper bounds. Man is naturally fond of power, and is very apt to try to increase it when opportunity offers. The best way for man to keep from error is to frequently recur to a sentence in the good old prayer—lead me not into temptation. We have the power to legislate, but not the power to pass a vote of censure on an officer attached to another department of Government. Agreeably to the Constitution, the powers of Government are divided into three separate and distinct departments. No one of those departments has a right to encroach on prerogatives properly belonging to another department. General Jackson is properly attached to the Executive Department. Have we a right to pass a vote of censure on him? Mr. D. said he had examined the Constitution attentively, and he could find no such power, and he did think it was time to pause, lest we should be treading on hallowed ground. When men are called on to transact business, particularly of a legal character, they are always bound to show the authority

* Laws of the United States, vol. 4, p. 506.

under which they act. Gentlemen have been called on to show their authority, but have not been able to do it, and he defied them to place their finger on a single article, section, clause, or sentence of the Constitution, that justified the course we are pursuing. They cannot even show a sentence that justifies it by implication. Gentlemen ought to take care, in their zeal to prevent others from infracting that instrument, that they do not overleap the legitimate bounds themselves. He did verily believe that we were about to transcend the powers delegated to us by that instrument we had solemnly sworn to support. What would be the consequence that would inevitably result from one department of Government encroaching on the prerogatives properly belonging to another? Political chaos, the precursor of anarchy. The member from Ohio (Mr. HARRISON) says we ought to have the power, that we cannot get on well without it; but says he cannot put his finger on any clause of the Constitution that gives us the power, and therefore has applied to Britain and the customs and practices of the British Parliament, to justify us in this assumption of power. Monstrous doctrine! What! import from England the arbitrary practices and precedents of Parliament, and ingraft them on our free Constitution? by which to obtain the power to pass a vote of censure on General Jackson, who is properly attached to another department of Government, because he directed those two Englishmen to be executed for instigating the barbarous Seminole tribe of Indians to murder our citizens, furnishing them with implements and munitions of war, and leading those brigands to massacre. We want neither their precedents nor principles imported into this country. We had such a stock of the latter pending the late war, that it had like to have engulphed this Government in the vortex of ruin. If General Jackson's conduct has been so reprehensible while carrying on this Seminole war, as some gentlemen represent it to be; if he has violated both law and Constitution, why not proceed in the Constitutional and usual way, by appointing a committee to investigate it, and report the facts, as in the case of Generals St. Clair and Wilkinson? Which facts, when reported, lay before the President of the United States, and permit him to exercise his Constitutional prerogative. We have no power to punish, and destroying reputation is the greatest punishment. If the President should fail to do his duty, or should wink at violations of the law and Constitution on the part of General Jackson, you have your Constitutional remedy by impeachment. The President has the power to call a court martial for his trial. He has also the power to strike him from the list of officers. Gentlemen might turn and twist this subject as they pleased, but whatever censure they attach to General Jackson, must ultimately rest on the shoulders of the President; they were virtually whipping the President over the shoulders of the General. Gentlemen will not attempt an impeachment, and why? It is not because they have too much love for the President, but because they know they could not succeed; they are fearful that they might come out like a gentleman from Boston did, when he introduced a resolution in the House of Representatives to impeach Mr. Jefferson, the then President. After discussing the subject a considerable time, he made out to get his own vote, notwithstanding it was a time when party not only ran high, but was well marshalled; his political friends were obliged to abandon him. Mr. D. said he did not stand here as an apologist of any man, but as the advocate of justice; in which capacity he trusted he should always appear, while he had the honor of a seat in this House, and he had no hesitation in saying, that neither the President nor General Jackson had violated law or Constitution, but had done their duty in this Seminole war, and deserved well of their country. He returned them his sincere thanks for putting down this cruel war in so speedy and exemplary a manner, carried on by the red and black savages, and instigated by more than white savages.

Gentlemen say they are not inimical to General Jackson; that they appreciate his services and merits; but, at the same time, they are advocates for passing this vote of censure on him, which is calculated to tarnish his reputation, to prostrate his character in the eye of posterity. Mr. D. said he could not understand this business; it looked to him like holding out the right hand of fellowship, and, at the same time, with the left, thrusting a dagger under the fifth rib. Character is everything to an honorable, high-minded man. The General would rather you would send an executioner to stab him to the heart, than to stab his reputation. The Censors of Rome had the power of degrading a man by removing him from the class he properly belonged to, and placing him in a lower class. Was not this considered the greatest degradation? What could have been more mortifying? Will not the British be gratified at the prostration of the hero who defeated their purposes, and laid their myrmidons low at New Orleans? Will not they and their friends rejoice that the man who thwarted these machinations, and has been such a terror to them, should be paid for his services (and he has rendered more service to this Government than any man since the days of Washington) with ingratitude? Will they not raise their crest-fallen heads, and conclude that a Government that can treat its heroic sons so ungratefully cannot be lasting?

Mr. D. said, he had felt some surprise that a gentleman from the State of Georgia (Mr. COBB) should be the foremost advocate for this vote of censure, from a State for whose benefit particularly the war had been carried on. While the gentleman was lolling at his ease on his couch, or resting contentedly on his pillow, this persecuted man was exerting himself in the wilderness or swamps in Florida, warding off the tomahawk of the ruthless savage from the heads of the inhabitants of Georgia. In relation to the dispute that has taken place between Governor

Rabun, of Georgia, and General Jackson, that has been lugged into this debate, he presumed the gentleman would think with him on the subject, that we ought to permit them to settle their quarrels in their own way. This, he was sure, could not operate on the gentleman's mind. But, if he was surprised at the course pursued by the gentleman from Georgia, he was more astonished that a single member from the West could enter the lists as an advocate for this vote of censure against the man to whom the West are under such incalculable obligations, for his ability and exertions in preventing the emporium of the whole Western country from falling into the hands of that tyrannical Power, Great Britain. What man was so well calculated to unite the discordant materials collected for the defence of New Orleans, composed of Kentucky volunteers, Tennessee volunteers, Louisiana and Mississippi militia, Frenchmen, Spaniards, and even Barratarian pirates? This man, whose character is about to be tarnished, had the address to unite those materials, and make a successful defence, played havoc among Wellington's invincibles, and laid some of their ablest generals low—prevented their infamous watchword (*Booty* and *Beauty*) from being carried into operation—by which he saved the city of New Orleans, the emporium of the West, from being pillaged by these freebooters, and the female character from violation. Yet, this man, who has rendered such important services to his Government, and particularly the Western country, and who, I venture to pronounce, is the greatest military character this country has produced since the days of Washington, is to fall a victim to cruel prejudice; his character to be tarnished, his reputation destroyed, by this vote of censure. And for what? Upon mere imaginary grounds, produced by a kind of fastidiousness, or technical nicety; and we find men from the West favorable to this vote of censure.

Mr. D. said, we are told, that both law and Constitution have been violated in this Seminole war—in having war without its being declared by a solemn vote of Congress; in entering neutral territory without permission of Congress; in taking possession of neutral posts, and in the execution of Arbuthnot and Ambrister. In relation to war having been carried on without a formal declaration by Congress, he contended that the Seminole war was a mere continuation of the war declared in 1812; and he trusted he should be able to make it appear. In 1812 we declared war against Great Britain and her dependencies; the Creek nation of Indians, by the instigation of Great Britain, through her emissaries, joined her, and became a party in the war. General Jackson, from the purest patriotism, at the head of the Tennessee volunteers, took the field against the Creek Indians; after encountering and surmounting almost incalculable difficulties, and having a number of sanguinary conflicts with them, in which a great number of their best warriors were destroyed, he succeeded in breaking the force of the nation. The Indians sued for peace; General Jackson formed a treaty with them, as he was authorized to do, which was signed by a majority of the nation, through their principal chiefs; but the Seminole tribe, a part of whom lived within the limits of the United States, and some others of the nation, refused to accede to the terms held out, and broke off from the nation, went over into Florida with a determination to prosecute the war as soon as they could be supplied with the means of carrying on hostilities by the Spaniards at St. Marks and Pensacola, or the emissaries among them, Woodbine and Nicholls, or their successors, Arbuthnot and Ambrister; and also obtain provisions to sustain their squaws while they were making their hostile incursions into this country. They continued their hostilities whenever opportunity offered.

By the 9th article of the Treaty of Ghent, this Government obligates itself to put a stop to hostilities with all the Indian tribes with whom we were at war at the time of ratification, with the proviso that such tribes shall agree to desist from all hostilities against the United States and their citizens, upon the ratification of the treaty being notified to such tribes, and they shall desist accordingly. Did the Seminole tribe desist? No; they did not. Then was he not correct in saying that this Seminole war is a mere continuation of the war we declared in 1812? You passed a law last session of Congress, making provision for carrying on the Seminole war, which was a tacit acknowledgment that war did exist, and had been constitutionally declared; and also gave tacit permission to the President to send the army into Florida, as the Seminoles resided there, and we could not calculate on their coming here to meet our army. Mr. D. said he thought he had conveyed our army safe, and landed them on neutral territory, without violating either law or Constitution. But, lest gentlemen should not like to follow the route he had marked out, he would show them another way, without running foul of Constitution or law. By the second section of the second article of the Constitution, the President of the United States is Commander-in-Chief of the Army of the United States, consequently is entitled to all the prerogatives and privileges necessarily attached to so high a command. You have had a law in operation, he believed, ever since 1795, authorizing the President, in case of invasion, or imminent danger of invasion, to call out the forces of the country to repel invasion. The question is, was there an invasion? No gentleman will deny but what our territory was invaded, and our citizens murdered: there, then, was not only an invasion, but war was actually declared against this Government by the Seminoles; for we have it in proof among the documents on your table, that the Indians met at Mickasuky, and in general council solemnly resolved on war against the United States. It is a prominent part of the duty of the President of the United States to see that the laws are executed; consequently, he ordered out the forces of the country, and put them under the

command of a subordinate officer, (General Jackson,) with orders of a discretionary character, to conduct matters in such a manner as would be the best calculated to bring the war to a speedy and successful termination, and with exemplary vengeance. Would you have had the General to have marched to the Florida line, with the Constitution in one hand and the sword in the other, looked over the line, turned about, and marched back? Would not these very gentlemen who are so anxious to pass this vote of censure against the General have been louder in their clamor against him if the line had checked his progress? They would, and he confessed that he should have joined them; there would, then, have been some grounds for censure; but there was no danger to be apprehended that a nominal line would check the progress of the army, with General Jackson at their head, particularly when he was in possession of discretionary powers. Jackson don't war for fun; he is generally in earnest, and the enemy feels it. But admitting, for a moment, that it was wrong to pursue the invaders over the line, he would refer back to the law passed last session, making provision for carrying on the Seminole war, in which you tacitly gave the power of sending the army into neutral territory, as the Seminoles live in Florida. Mr. D. said he had marked out two ways that the army could occupy neutral territory, without violating either law or Constitution; that they were both plain and open to him; but if gentlemen liked neither, they might take their own route. He had landed the army safely in Florida, out of your territory, and on foreign territory; that he should now lay down both the laws and Constitution, except so far as related to the organization, regulation, and management of the army, and pick up the usages of civilized warfare, as laid down by the writers on national law, and apply it to the cases of taking possession of the neutral posts, St. Marks and Pensacola, as well as the execution of Arbuthnot and Ambrister, on the principles of retaliation—contending that when you are in foreign territory, with your armies, you must rely, in relation to the last mentioned points, entirely on the usages of civilized warfare. The writers on public law acknowledge the right not only of entering neutral territory in case of necessity, but the occupying neutral posts in the case of extreme necessity. Then, did extreme necessity exist, by which to justify General Jackson in taking St. Marks and Pensacola? He thought it did. He had not the ingenuity of some gentlemen to discriminate between these two posts; consequently was compelled, for want of those discriminating powers, to place them precisely on the same footing. The danger of a neutral post falling into the hands of an enemy, agreeably to national law, amounts to extreme necessity. In relation to St. Marks little need be said, as you have it in proof, as specified in the documents, that the commandant acknowledged, in his correspondence with General Jackson, that it was more than probable that the enemy would attempt taking the place, and that he was not in a situation to defend it. But this point has been ingeniously handled by the gentleman from Pennsylvania, (Mr. HOPKINSON,) which precludes the necessity of my saying any more on it. If the gentleman had spent, with his usual ingenuity, the twenty minutes in justifying General Jackson for taking Pensacola, that he devoted in speaking of Spanish affairs and the Spanish Government, a considerable part of which was by way of eulogy, (which he could discover from the countenance of the Spanish Minister, who sat near his elbow, that it was extremely pleasing to him,) he could have made out the case of Pensacola as clearly justifiable as St. Marks; but when the gentleman hove in sight of Pensacola, he made a full stop. In relation to Pensacola, there was as great a probability of the enemy taking it as there was of St. Marks; the enemy had it in their power at any time by stratagem, if not by open force. The place was not strong, and the Spaniards had quite an inconsiderable force for its defence. We have in proof that there were generally from fifty to one hundred and fifty Indians in the place. Is it not, then, presumable that an attempt to get possession of it would have been made simultaneously with the one contemplated to be made on St. Marks? The enemy was artful, and good at stratagem; and of what consequence would St. Marks have been to the army, without the possession also of Pensacola, as a few guns sent round from the latter would soon have dislodged them from the former. Agreeably to the writers on public law, the neutral was bound to treat us in the same manner he did our enemy. Was this done? Certainly not. When our troops were at a considerable distance from the place, the Governor sent word for them to retire, or he would make use of force. The treatment of our enemy by the Spaniard was of a very different character; they were furnished with means of carrying on hostilities against us—powder, lead, &c.; and also provisions to sustain them while they were engaged in war against us. The Governor permitted them to hold war councils in his house; and a short time before our troops appeared in sight, he had the Indians ferried across the bay of Pensacola. This kind of conduct was calculated to convince the General that those posts were virtually lent to the enemy to aid and assist them in carrying on their hellish purposes of massacre. Independent of this the General had received positive orders from the War Department to bring the war to a speedy and successful termination. He knew, by leaving those posts in the hands of the Spaniards, that the war would not have been half finished, and that, on his returning with the army, the usual massacres would have been commenced; but, independent of all other circumstances, the occupancy of St. Marks and Pensacola was essentially necessary under the immutable law of nature, self-defence, which is paramount to all other law.

Mr. D. said, in relation to the execution of Arbuthnot and Ambrister, he would ask who those men were that had excited so much sympathy in

the breasts of gentlemen? A couple of Englishmen, who had either been sent over by the British, or had come over themselves to light up the torch of war and destruction. To say that they had been sent over by the British as emissaries, would, perhaps, be speaking too positive, but really he thought it had a strong squinting that way. If gentlemen would permit themselves to retrospect, to look forty-five years back from the commencement, of the Revolutionary war, and reflect on the course of conduct pursued by the British, keeping emissaries among the Indians for the purpose of instigating them to murder our citizens, in order to prevent the extension of our settlements even in times of peace with that Government, when treaties of amity existed between the two Governments, would he be wrong in saying, that fifteen or twenty thousand during this period had been massacred? Premiums have been held out for scalps. Beginning with the incendiaries Brandt and Butler, and noticing the number that have been employed, till you come down to the two whom justice has overtaken, have I not strong grounds for saying that it looks like those two, successors to the famous Nicholls and Woodbine, were sent over as emissaries? In addition to this, you will find a letter among the documents from this Arbuthnot to the British Minister residing in this place, which, after giving an account of the progress of things, &c., demands, in a memorandum, (after stating the force of the hostile Indians to be three thousand five hundred,) one thousand muskets, a greater number of smaller pieces, two thousand flints, fifty casks of powder, two thousand knives, with blades from nine to ten inches long, one thousand tomakawks, two thousand pounds of lead, besides musket balls, vermillion, &c. We do not know whether these articles were furnished or not, but we know that this Government was not notified of what was going on. All this taken in connexion has, saying the best of it, an unfavorable appearance; but if they came even of their own accord to instigate the savages to massacre our inhabitants, they richly deserved the punishment they met with. It is positively proven that they instigated the Seminoles and runaway negroes to war, that they furnished them the means of carrying on the war, that Arbuthnot was the acknowledged agent of the Seminoles, and that Ambrister led on these brigands to war and murder. Mr. D. considered them as the head of banditti, and deserving death. They associated with the enemy, consequently, agreeably to the law of nations, were liable to be punished as the enemy. He considered that court martial, special court, or court of inquiry, or whatever it may be called, merely as a council for the commanding General: agreeably to the law of nations, as laid down by Vattel, when your armies are out of your territory, the right of retaliation is in the General of your army, and he wished it to remain there: he never wished to see it come into the Cabinet. A General has the right to call a council on any occasion, and will take the advice of the council when it coincides with his own opinion. He has the responsibility, and ought to have the liberty of acting in the manner that in his opinion is conducive to the welfare of the service. He could not discriminate between the guilt of Arbuthnot and Ambrister; the former was the agent of the Seminoles, and the latter led on their brigands, composed of negroes and Indians, to war. They both instigated the Indians to commit hostilities, and aided in furnishing them with the means of carrying on the war. They both suffered death, and, in his opinion, both deserved death. The General is completely justified by the law of nations for ordering their execution; and he had no doubt but that he would be justified by the country. Vattel says, as a General has the right of sacrificing the lives of his enemies to his own safety, or that of his people, if he has to contend with an inhuman enemy, often guilty of such excesses, he may take the lives of some of his prisoners, and treat them as his own people have been treated. Mr. D. said he justified the General in directing the execution of these Englishmen, and he sincerely wished that all who are engaged in similar practices might meet with a like fate. Independent of this, the right of a General to retaliate is sanctioned by the usage of this Government. If gentlemen will turn their attention to the Journals, they will find, in the time of the Revolution, that Congress passed a resolution, giving the power of retaliation to not only the commander-in-chief of your army, but to the commanders of separate armies, and pledged themselves to support the generals in the exercise of the principle.

He said, he had gone through the four points that he had proposed treating on, at least to his own satisfaction, and he justified General Jackson for his conduct throughout the Seminole war, and thanked the President of the United States for supporting him.

Mr. D. said he should now notice a few remarks that had fallen from gentlemen. The honorable Speaker (Mr. CLAY) said that humanity shuddered at the thought of the execution of the two Indian chiefs. If that gentleman had witnessed the scenes that I have witnessed, I think his sympathies would be turned into a different channel. Whole families lying murdered by the relentless savages; father, mother, and innocent children, lying mangled and scalped. Such sights were sufficient to make the heart bleed, and calculated to make impressions that could not easily be obliterated. But, the gentleman tells you, that retaliation has no effect. How does the gentleman know it? He tells you that it has never been resorted to since the first settlement of America. Then, from the gentleman's own statement, as no experiments have been made, it must be simply a guess; and, as guessing is fashionable in some places, I guess that the gentleman has guessed wrong. Mr. D. said that an Indian was of such a nature that he must be operated on by fear. If you wish him to be peaceable, you must make him fear you. That he had no doubt if the principle of retaliation were sometimes resorted to, that if it did not

bring them to a sense of humanity, it would at least convince them of the necessity of acting less barbarously, for their own safety. The gentleman, no doubt, had heard of such cruelties being committed by those savages as he had mentioned; but he supposed it was while he was poring over his books, in his closet, preparing to make a figure in forensic eloquence, in which he has often distinguished himself—consequently, left no lasting impressions. The gentleman denies the right of retaliation on the aborigines, and, in support of this position, he says the principle of retaliation has never been applied to the Indians. Then, agreeably to this doctrine, because the Government has been lenient, and has failed to exercise the principles of retaliation on the aborigines, it has lost the right. Mr. D. contended that we had the right of retaliation; that the writers on public law supported this position. Vattel, a popular writer on national law, says: "When at war with a ferocious nation, which 'observes no rules, and grants no quarters, they 'may be chastised in the persons of those of them 'who may be taken; they are of the number of 'the guilty—and by this rigor the attempt may 'be made of bringing them to a sense of the laws 'of humanity." This writer not only gives the right of retaliation on the aborigines, but completely covers the case of the execution of the two Indian chiefs, that the gentleman says makes humanity shudder to think of, when at war with a ferocious nation, which observes no rules and grants no quarters. It appears that the writer must have had his eye upon the Seminole tribe; for, of all the ferocious tribes in North America, (and they are all of that character,) the Seminoles stand foremost in ferocity and cruelty. They may be chastised in the persons of those of them who may be taken; they are of the number of the guilty.

Those two chiefs were not only of the guilty, but were the very guilty; they headed the party that inhumanly murdered Lieutenant Scott and his party, amounting to nearly forty persons, men, women, and children. Those two chiefs who cause so much sympathy, were the very ones that took the four infants by the heels and dashed out their brains against the side of the boat. The gentleman, in order to make his remarks more pathetic, says, what! hang an Indian? Yes, Mr. D. said, he would hang an Indian, or even a Briton, who would commit such barbarous acts as to take infants by the heels and dash their brains out against the side of a boat, or the instigator of such cruelties, for he considered the instigator worse than the perpetrator. But the gentleman objects to the treaty made by General Jackson, with the Creek Indians, and considers it rather disgraceful to the Government. He says a more dictatorial spirit cannot be expressed, than is manifested throughout the treaty.

Mr. D. said the Creeks were a conquered nation, we had a right to dictate the terms of the treaty. The law of nations gives us a right to remuneration for the expenses of the war carried on against them, and he would ask the gentleman if all we acquired by the treaty was more than sufficient to defray the expense of the war against them? But if the treaty is examined, it will be found that humanity had an agency in it; it will be found that, as their situation was rather a desperate one, owing to the exhaustion of the nation, in consequence of the war, that we agreed to furnish, and actually did furnish, them provisions for a season. He had the greatest confidence in the gentleman's treaty-making powers. He was pleased with his conduct while at Ghent, but he rejoiced that the gentleman was not in place of General Jackson, in making the Creek treaty, for, if he had been, judging from his own declarations, he suspected that the boundary of the Creek nation would be the same that it was previous to the war, and that we would have nothing for the toil, difficulty, and loss of blood, but the privilege of paying the expense of the war.

The gentleman from Georgia (Mr. COBB) asks if General Wayne retaliated, in his campaign of 1790? Mr. D. said the gentleman from Ohio, in consequence of his situation, had an opportunity of superior information in relation to the expedition, and had tendered himself to answer questions when asked by either side. Mr. D. was there himself, and knew something of the transactions. He would answer no. General Wayne had it not in his power to retaliate, except in the case of a Frenchman, who was taken within our lines at the time of the battle, and who was condemned to die, but was released, as he understood, in consequence of giving the General important information, and agreeing to exercise his influence with the Indians, to induce them to come in and form a treaty. They did come, in the ensuing season, and the Treaty of Greenville was made. But, from the personal knowledge which he had of General Wayne, together with a knowledge of his character for firmness, he had no hesitation in believing, that if the General had got hold of the principal instigator of the war, (Simon Gerty) that he would have strung him up on the first convenient tree; in which he believed the General would have been justified by his God and his country. The gentleman asks you, in rather an exulting manner, if General Macomb were to act against the British in the same way General Jackson has against the Spaniards, would you not disavow the act, recall the General, and punish him? To which I answer, no, if the cases were similar. But, why ask this question? There is no analogy in the cases; they are entirely irrelevant. He would ask that gentleman, if we had a treaty existing with Britain similar to the one we had with Spain? Are the British bound by treaty to keep a sufficient force to restrain their Indians from committing hostilities on the United States? Certainly not. Then, why ask this question? It could not, he presumed, be by way of insinuation that we were afraid to treat the British in the way we would another nation. Justice is the basis of this Government. We are as ready to do justice to others as we are to compel others to do justice to us.

We recently declared war against Britain, and drubbed her decently both by land and sea, till we brought her to a sense of justice. He voted for that war, and he would not hesitate to do it again under similar circumstances, and to participate in it, when circumstances would permit, as he had done on a former occasion. Mr. D. contended that we had given Spain no legal cause for war, and he was not apprehensive that they would consider the conduct of our army in Florida a cause of war, unless they were led to it by the speeches delivered in this House, in which gentlemen have taken great pains to throw this Government in all instances in the wrong. Indeed, the gentleman from Massachusetts (Mr. Fuller) has, after saying everything he could to put this Government in the wrong, undertaken the justification of those incendiaries Nicholls and Woodbine, and their immediate successors Arbuthnot and Ambrister. If Spain should think proper to make it a cause of war, perhaps it would be the speediest way that we could obtain restitution for the three millions and a half of dollars she owes us, for spoliations committed on our commerce; for the obtaining of which, negotiation has been carried on for fourteen years, till patience is nearly exhausted. East Florida would compensate us, and would speedily fall into our hands, if they were simple enough to make the proceedings in Florida cause of war.

One word by way of noticing some remarks that fell from the gentleman from New York, (Mr. Storrs,) whose manner and expressions put me in mind of high party times a short time previous to and during the late war with Great Britain. They went far in contradicting declarations of some of his political friends that there was nothing like party in this House. The gentleman stated that a universal glow of indignation was manifested when the documents in relation to the trial and execution of Arbuthnot and Ambrister were read. Mr. D. appealed to the Chairman, to say if this was the fact; he appealed to the whole House, to say if they discovered anything like a glow of indignation. He said he was compelled to pronounce it not the fact; that his eyes were wide open, and he made no such a discovery; and he was astonished that any member could stand up and make such a statement in the face of the House. He had felt it his duty to notice and contradict the statement, lest improper impressions might be made on the public. So far from its being the fact, he believed that an overwhelming majority of the House justified the General in ordering the execution of those incendiaries.

The gentleman says that General Jackson made peace by destroying the people and devastating the Creek country. The gentleman has let out the secret—General Jackson has done too much; he has destroyed too many of our enemies, and therefore he must go down; his reputation must be tarnished, his character prostrated. The man who has been our shield and buckler throughout two wars, and has rendered for the Government incalculable services, must be paid with ingratitude. Yes, General Jackson has been a dangerous man among our enemies, both white and red; and he hoped that he might live long to be a terror to them. The gentleman rejoices that the Military Committee had the independence to report censure against the General. No doubt but he rejoices; and he would rejoice still more, if he could by his argument persuade the House to sustain the report. But in this he will miss a figure; for, notwithstanding the formidable stand gentlemen have made against General Jackson, on mere imaginary grounds, produced by a kind of technical nicety, they will not be able to ruffle a single laurel on his brow. Mr. D. said that he rejoiced, too, that the minority of the Military Committee (three out of seven) had the independence to enter up their protest against the report of the four that censured a man who had been the protector of his country's rights, and the avenger of its wrongs; which protest was of a character calculated to meet the approbation of a grateful people, who are not disposed to pay a man with ingratitude for rendering important services. Mr. D. said, the General's reasons in support of his acts had been objected to. What had we to do with his reasons? We have to look to his acts. Acts speak louder than words: by his acts he has put down a ferocious enemy, closed a cruel and vindictive war, and given peace to our frontiers. His reasons were his own; and although he was not disposed to be governed by them, always taking the privilege of reasoning for himself, yet he had no doubt, if the General were permitted to be present, that he could support them. Mr. D. said he was acquainted with his talents, and had often been not only edified by his eloquence, but sometimes electrified. He believed this mode of proceeding to be unfair, unjust, and unconstitutional. Unfair, because delicacy prevented the General from hearing the debates; unjust, because he is not allowed the privilege of defending himself; unconstitutional, because no section nor clause of the Constitution can be found to justify the proceedings.

Mr. D. said that General Washington was blamed by many for ordering the execution of Major Andre. But who were they that blamed him? Not the friends of liberty; not the supporters of the Revolution; not the Whigs. No; they rejoiced that the General had the firmness to direct the execution, as an example at that time was all-important. But it was the enemies of liberty and the friends of Britain, the Tories, who blamed General Washington. General Jackson is now censured by many for directing the execution of two incendiaries, Arbuthnot and Ambrister, who caused, by their hellish machinations, numbers of innocent inhabitants to fall by the tomahawk of cruel savages. But who censures him? Not, he trusted, a majority of this House. No, thank God, the Representatives of a free and enlightened people are not yet prepared to verify, what has always been said by the enemies of liberty, that it is characteristic with republics to be ungrateful.

Mr. Clay then took the floor in defence of the

ground he had already occupied; and had spoken but a short time, when, at a late hour, a motion to adjourn the debate was made, and carried by a small majority; and the House adjourned.

MONDAY, February 8.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill in addition to, and in alteration of, an act, entitled "An act laying a duty on imported salt, granting a bounty on pickled fish exported, and allowances to certain vessels employed in the fisheries;" which was read the first and second time, and committed to the Committee of the Whole, to which is committed the bill in addition to an act, entitled "An act to regulate the collection of duties on imports and tonnage," passed the second day of March, 1799.

Mr. MARR, from the select committee appointed on the 1st instant on the subject, reported a bill to amend the act, entitled "An act supplementary to the act, entitled 'An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated land within the same,' passed the 18th of April, 1806;" which was read twice, and ordered to be engrossed and read a third time to-morrow.

A Message was received on Saturday last from the President of the United States, transmitting applications which have been received from the Minister Resident of Prussia, and from the Senates of the free and Hanseatic cities of Hamburg and Bremen, the object of which is, that the advantages secured by the act of Congress of the 20th of April last, to the vessels and merchandise of the Netherlands, should be extended to those of Prussia, Hamburg, and Bremen.—Referred to the Committee of Ways and Means.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting sundry documents containing the information (as far as it can now be furnished) required by the resolution of the 16th ultimo, in relation to the tracts of lands reserved for the establishment of towns in the Alabama Territory; which was read, and ordered to lie on the table.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting information required by the resolution of the 20th of April last requiring him to report what further improvement it may be practicable to make in the tariff duties on imported goods, &c., by charging specific duties instead of ad valorem duties.

BANK OF THE UNITED STATES.

The SPEAKER laid before the House a memorial of William Jones, late President of the Bank of the United States, containing an exposition of the views and motives which have regulated his official conduct, and submitting his case to the wisdom and justice of Congress, in the full confidence that his reputation will not be subjected to obloquy, by inferences alike repugnant to his principles and to the whole tenor of his private and public life; which was read and ordered to lie on the table. The memorial is as follows:

To the honorable the House of Representatives of the United States, the Memorial of William Jones, late President of the Bank of the United States, respectfully showeth:

That your memorialist has, for some time past, been afflicted with a severe disease, which, until the present moment, has precluded the preparation of the papers which he has now the honor to submit, in explanation of the testimony, touching his private concerns, which was delivered to the committee appointed by your honorable House to investigate the proceedings of the Bank of the United States; that your memorialist, solicitous to exhibit these transactions in their true light, and to submit his public conduct to the candid scrutiny of your honorable body, begs leave to refer to the statement of his private transactions in the stock of the bank, which he delivered to your committee, and to the statement of facts, and the documents thereto annexed, herewith submitted, which he trusts will establish the lawfulness and innocence of these transactions; that the only stock which your memorialist sold to profit, was the two contracts mentioned in his statement to your committee, which contracts were sold to a director of the bank, who was not likely to become the dupe of artificial measures, to enhance the value of the stock; that the shares which your memorialist subsequently disposed of, in order to meet his engagements, were sold at great loss; that the whole amount of stock which he now actually holds, as stated to your committee, cost him $156 per share, and, if valued at the reduced prices, the result of his entire stock transactions will exhibit a very heavy loss; that in this amount are included 1,070 shares, now pledged in London, (the sale of which is to this day restricted to £34 sterling per share,) for the payment of a loan which he negotiated, in order to avoid borrowing of the Bank of the United States, of which he has no loan whatever; nor is he indebted or responsible to that institution, either on his own account or for any other person, directly or indirectly, for a cent; that he has held the stock which he now holds, during the progressive decline in the price, while he has been earnestly engaged, in his official capacity, in promoting all those measures of precaution and of expense incurred by the importation of specie, which were indispensable to the safety of the institution, but which it was clearly foreseen would diminish the profits and dividends of the bank, and greatly depress, at least for a time, the price of its stock. Your memorialist further declares, that his dealings in the stock of the bank were founded upon his confidence in the prosperity and productiveness of the institution, in the many important advantages which, if fairly enjoyed, he believed it to possess over many other institutions, the market value of whose stock approximated to the highest rates which that of the Bank of the United States had attained; and in the recollection of the fact, that, towards the close of the charter of the old bank, the Government of the United States sold to Mr. Baring the whole of the public shares, at the rate of $580 per share; that in regard to his public conduct, as a director of the Bank of the United States, your memorialist does most solemnly assure your honorable House, that he has been actuated by the purest motives, and with perfect fidelity, diligence, and zeal, has employed his best faculties and judgment in promo-

ting such measures as he believed, at the time, were best calculated to advance the interest of the public, and of the institution; that the private transactions which have attracted the animadversions of your committee, have in no wise influenced his judgment or decision upon the important measures in which, as a director, he has participated; and that the reasons and motives assigned in his written answers to the questions put to him by your committee, touching the proceedings of the bank, and those which are recorded in the minutes and correspondence of the board of directors, are the true and only motives by which he has been governed in his official conduct; that, in advocating the loans on the pledge of stock, he was influenced by the additional consideration that the original constitution of the capital stock of the bank comprehended twenty-eight millions funded debt, and seven millions in money, whereas, by the rise of funded debt to and above its par value, so large an amount of the latter was substituted for the former, by the subscribers to the bank, and so large a sum redeemed by the Government, and sold by the bank to procure specie, as to create an aggregate of upwards of twenty millions of dollars in money, substituted for so much of the funded debt part of the capital; hence your memorialist, considering the extreme facility which bank accommodation had given to over-trading, and its consequent effect upon mercantile credit, believed that at least ten millions of dollars, loaned on the pledge of stocks, would best fulfil the original design of the institution, and leave as large an amount of moneyed capital as could be safely loaned on personal security; and this belief has not been impaired by the result of his observation in regard to the existing loans of the bank, which, according to the documents before your honorable House, are in the proportion of about twenty-seven millions in bills and notes resting upon personal security alone, to nine millions on notes of hand, secured by a pledge of stock.

With this brief exposition of the views and motives which have regulated his official conduct, your memorialist, with profound respect, submits his case to your wisdom and justice, in full confidence that his reputation will not be subjected to obloquy, by inferences alike repugnant to his principles and to the whole tenor of his private and public life—a life, the first perils and privations of which are identified with those of his country in the darkest period of her Revolutionary struggle, as his late faithful services in a highly responsible trust are, with her recent and not less momentous contest. Your memorialist moreover reposes, with conscious rectitude and tranquillity, in the belief, that, when truth shall have penetrated through the mist of prejudice which has obscured the services and merits of the institution in which he had the honor to preside, public sentiment will award to those who have managed its critical concerns that justice which is now withheld.

W. JONES.

Philadelphia, *Feb.* 5, 1819.

[The documents accompanying the above letter consist of a statement by Mr. Jones, and copies of his contracts for stock and transfer of the same.]

SEMINOLE WAR.

The House again resolved itself into a Committee of the Whole, Mr. Bassett in the chair, on this subject.

Mr. Clay resumed the floor, and concluded the reply which he commenced on Saturday to gentlemen who had defended the transactions in question. In the course of his remarks, Mr. C. suggested to the mover of the amendatory resolutions (Mr. Cobb) the propriety of such a modification thereof as would, he hoped, unite the conflicting opinions of members, and enable the House to agree in its vote.

Mr. Floyd, of Virginia, rose and said, that he saw the impatience of the House, and knew they were anxious to dispose of the resolutions which had been so many days the subject of discussion; consequently, he would not detain them—though, having failed in several attempts to get the floor at an earlier period of the debate, he had entirely declined making any remarks whatever—that he then rose more with a view of expressing an opinion, and of presenting a few facts, which had escaped the observation of other gentlemen, than any desire or intention of entering upon the subject at large.

I have, said he, considered the resolutions, with all the attention I was capable of giving them; and, if I had believed the measures pursued unconstitutional in themselves, or barbarous, or unjust in their execution, I should have revisited them upon the perpetrators with a heavy vengeance; but, so far from this, my inquiry has led me to believe, they are, and can be, maintained, upon every principle of justice, and the long established usages of this Government. And, sir, said Mr. F., it is with not a little surprise I hear the advocates of these resolutions disagreeing among themselves—scarce any two holding the same opinion.

The honorable Committee on Military Affairs have had all the documents relative to the Seminole war before them for weeks, and at last seized upon the objectionable point, and reported a resolution disapproving the trial and execution of Alexander Arbuthnot and Robert C. Ambrister. There was an end to answer, and this not being broad enough, other resolutions are offered, as amendments, to enlarge the chance of obtaining some success. One gentleman takes strong ground, and insists that the war was produced by us; that it was an aggression on our part, and all the proceedings resulting from it were unjust and unconstitutional. One other gentleman does not quite believe the war was waged by us, but believes the whole of the resolutions ought to obtain—that General Jackson is censurable throughout. One other admits the justice of the sentence of Arbuthnot and Ambrister, but vehemently condemns the capture of St. Marks and Pensacola. Again—it is admitted that the execution of these men were just and proper, and so with the capture of St. Marks; yet, there is no justification in the affair of Pensacola. One other honorable gentleman finds nothing to excuse but the execution of Ambrister. Last of all, the gentleman from Massachusetts (Mr. Fuller) calls the war an aggression on our part; that it was unconstitutional; that its prosecution was unjust; the capture of St. Marks, Pensacola,

and the Barancas, an infraction of the Constitution—a war with Spain; the execution of these incendiaries, a violation of the law of nations; and has even gone so far as to justify the erection of the negro fort, for the reason that Spain was too weak to prevent it.

Now, sir, if the honorable committee, in their calm retirement, a thousand miles from the scene of action, and months after it happened, could have discovered, from the documents, any "absolute necessity" for the execution of these wretched men, we have a right to infer that such a report would not have been framed by them; but the General, who was there encompassed by enemies, death, and devastation, judged wrong, and deserves the heavy censures of his country. There has been so much said upon this subject, such various and conflicting opinion among the advocates of the propositions, all diverging from the long established maxims and usages of this Government, that I am unwilling to pursue them, without first inquiring what has been the course pursued by preceding administrations, under similar circumstances.

In reverting to the transactions of this Government, it will be found, that, so long ago as the year 1789, difficulties and war with the Indian tribes took place; and the then President, WASHINGTON, felt himself authorized in taking measures to defend the people of the South and West from their hostile incursions, and advised Congress, at their next session, of the steps he had taken. That Congress thought the measures highly commendable and proper.

In the year 1790, we find the same Washington complaining grievously of hostile irruptions of certain banditti of Indians northwest of the Ohio, aided by some on the Wabash; that the country was no longer in safety on that whole frontier. He ordered one of the generals to march an army against them, which army was composed of the troops of the United States, combined with such draughts of the militia as were deemed sufficient. When this communication was made, no murmur was heard.

In 1791 difficulties and war with the Indians beyond the Ohio again commenced; troops were ordered to march against them, and Congress was informed that some of the expeditions had been crowned with success; that in other instances the troops were then in the field, the issue at that time not known. Congress again approved. Another proof of this sanctioned method of conducting this species of war, is given us in the transactions of the year 1792, when the Indians beyond the Ohio were in arms; the Chickamagas to the South had come to an open rupture. Troops were assembled, and put in training for a vigorous campaign; this, too, with a perfect knowledge of Congress, who complained not of any violation of right, or usurpation of power.

Were I to mention that the President of the United States, in the year 1793, used every possible means in his power to avoid war with the Indians, but, finding them fruitless and unavailing, ordered an army to march and act offensively, I should say no more than is known to every gentleman in this House; and I presume I should likewise say no more than is known to them, were I to say, when the communication was made to Congress they approved the procedure. Whence, sir, I may be authorized in asserting, that no other opinions have ever been entertained of the correctness of the mode of conducting Indian hostilities, from the origin of the Constitution to the present time, than those which directed in the late contest; which ought at least to be some apology with those who think the Constitution has been disregarded, in the commencement of hostilities. And how a different opinion came now to be entertained, though we have passed through some years of sorrowful experience, is more than conjecture.

That a doubt on this subject existed for a short time, with one member of the Government, is admitted; but that doubt was dissipated, when the true situation of the Indians came to be considered. The United States, feeling liberty, and actuated by principles of benevolence alone, extended to these people every privilege, and all the rights of an independent nation, which could be done consistent with their own safety, and the condition in which themselves were left by the long course of European policy under which they had suffered. And I presume it is not doubted that, in the war of the Revolution, when these United States took up arms against Great Britain, and conquered the country from her, comprised within the limits assigned to us by the Treaty of Peace in 1783, they likewise conquered those Indians who were the allies of England, bloody and revengeful then, as upon a more recent occasion; full as much so as the most sanguinary Briton could desire. I am much surprised to hear gentlemen now talk of concessions—their rights and independence. Were these concessions complete? Was it ever supposed by any to be so, or ever intended to be so? We are now told, as a proof of their independence, that we make treaties with them. This is the first time I have heard the doctrine, though, without doubt, many weighty reasons have led to that conclusion. The United States have always observed that ceremony, and permitted treaties to be made with different tribes, as one of the best means of conciliating their favor, and maintaining our peaceful relations undisturbed; as they have never been permitted to treat with any but the United States, or some Indian tribe. But, say gentlemen, they declare war, and are not guilty of treason in doing so. Was it not rather because they were totally incapable of appreciating the restraints of civilized men, that they were, in this respect, permitted to fangle their own destinies? Have not the United States ever claimed jurisdiction over their country, as contained within the limits of the Union? And when a proposition was made at Ghent to place it on a different footing, some gentlemen then felt great indignation at the idea. None will doubt, I imagine, the laws of the United States having always been in force throughout their

country; the laws of the Indians only extending to Indians within their assigned territory. If we go back, with the gentleman from New York, to the discovery of this Continent by Europeans, when it was chartered away by the monarchs of that country, down to the present time, we find they neither are, nor ever have been, independent.

But, sir, granting the question in as full and as broad an extent as gentlemen might desire, can it be presumed the forces of the Republic are to remain idle spectators—see hostile incursions take place—men, women, and children, put to death, without marching to defend them, until Congress shall authorize them to protect the helpless, and secure themselves? Suppose that Power, with which we are doomed, at no very distant day, again to contend with, in the bloody field of death, should unexpectedly, as it will be when it does come, declare war against us: is the President to permit the ships of war and the forces to lie idle, until Congress can be convened from all parts of this Union to declare war in turn? Yet this is the effect of that doctrine. This Constitution is not of such leaden materials; it never was intended; it cannot abridge the first great clause of the constitution of man himself, written upon his heart by the hand of Omnipotence—"preserve yourself." The wisdom of this instrument is acknowledged; the feelings of the hoary sages of the Revolution, blanched in the field, amid embattled legions, is appreciated; and the doctrines of liberty, moulded into form, in this instrument, will be preserved; and to pursue, at this day, a course which themselves pursued, ought to screen us from the charge of dangerous innovation, or usurpation of power. I would ask, who there is among us that does not recollect the disasters of General St. Clair, and the anxiety of every individual for the success of General Wayne? And who is there that does not recollect the joyous enthusiasm at the news of his victory, which ran, like an electric stream, from one end of this continent to the other? This, I believe, was about the year 1794; and, too, at the instance of the Executive. I believe, likewise, that it was about this time that troubles harassed us at the South—an Indian war having been excited by De Carondelet, who was at that time Governor of Louisiana. At all events, there was strong grounds to suspect him for those hostilities. And for their expenses in the prosecution of this war, I believe it is, that the State of Georgia yet claims a debt due her from the United States of perhaps $129,000. And, could I recollect the arguments of the honorable gentleman from Georgia, (Mr. COBB,) at the last session of Congress, when he advocated the Georgia claim, with so much ability and zeal, I would use them on the present occasion, with perfect confidence of success, at all events of gaining at least one proselyte. All was Constitutional then—Executive power was all.

But, Mr. Chairman, I demand if Congress have not, or, rather, I ought to say, have not we, ourselves, sanctioned this war, to as great and full an extent as ever Congress sanctioned an Indian war? And why is that an evil now, which, at the last session, was encouraged, and might have been prevented? Was not the President harassed the whole of last session with continual calls from this House? Did they not call on him to know what General Jackson was about? What measures he had taken to put an end to the Seminole war? Did they not require the orders which had been given to General Jackson to be communicated to them? And were they not communicated? Surely all this must have apprized them of the nature of the military operations on the Florida frontier. Nay, more—did they not require information relative to the manner in which that army was supplied? And the feelings created by the disclosure of the contractor's conduct on that occasion will not, in a long time, be forgotten. To say nothing of the pay of the Georgia militia in that army having been increased from five to eight dollars, at the instance and management of the gentleman from Georgia (Mr. COBB.) At all events, I recollect his pressing through this House a resolution to that effect in April last.

Now, sir, after these numerous acts of approval; after granting money, providing men, increasing their pay; inspecting the orders of the President to your Generals—with time to act, and a knowledge of all, a measure of this kind, and a report of that nature, was not to be expected from this House as the reward of fidelity and zeal.

If there is censure anywhere, it is due to Congress for not having performed their duty; as the gentleman from Pennsylvania (Mr. HOPKINSON) admits, that, if there had been in existence such a law as the one contemplated by these resolutions, he unquestionably believes General Jackson had never executed Arbuthnot and Ambrister, or captured the Spanish fortresses; and yet that gentleman would censure this General for doing an act which he would not have done had such a law been in existence, and that such a law has never been enacted, cannot be any part of General Jackson's concern. Let Congress themselves account for this deficiency, which has, in the opinion of gentlemen, caused such violence to the Constitution.

Mr. Chairman, was it right to pass the Florida line? At the last session I do not recollect to have heard a dissenting voice; though it was manifest then that the Executive paused and reflected, and reflected much, before the Secretary of War issued the order requiring Gen. Gaines to march his army into the Spanish territory; and then only upon the recurrence of new outrages. These orders were as well known then as at this time; these outrages did occur; and, sir, I must think, then was the time for this House to act; then was the time to interpose, to have preserved the Constitution. But, at that time, all these measures were pursued, as the only efficient mode of putting an end to the war. All were then energetically disposed to put an end to those hostilities which harassed Georgia and Alabama with murder and desolation. All

were then disposed to do themselves that justice which, by the law of nations and nature, they had a right to do. As the well known impotence of Spain almost precluded the hope of her maintaining her authority in that country, much less fulfilling her treaty obligations, which was manifest from her not having herself undertaken to subdue her Indians making this war upon us, some gentlemen thought the order to General Gaines slow and inefficient, which required him to halt his army, and not to attack the enemy under the fort of St. Marks until he reported to the Department of War, and received orders how to proceed; believing, from the nature of the Treaty of 1795, Spain to be, in that respect, an ally of the United States.

I will not insist, as has been done by gentlemen who advocate the same side with myself, that the orders of General Gaines were not binding upon General Jackson, believing, as I do, that an order issued to an officer is binding upon the next who takes command, though of a higher rank, provided that order had been issued by their common superior. But it appears, from the documents, that General Jackson received an order of subsequent date, from the War Department, to conduct the war in Florida "in the manner he might think best." Certainly the Secretary could not have meant anything more than that he was to conduct the war in the manner he should think most conformable to the law of nations. Considering the peculiar condition of all the parties, they could not mean anything else. Then the inquiry is, has he done so?

On assuming the command at Fort Scott, this General soon fixed on a plan for his future operations; and, in the course of his march, penetrating into Florida to find the enemy's town, he encamped at Prospect Bluff, on the old site of Negro Fort. Finding it so entirely convenient as a place of deposite, he erects Fort Gadsden, contrary to every principle of justice, in the opinion of some gentlemen, who justify the erection of Negro Fort, because Spain was not able to prevent it, and call that an outrage which destroyed it, though there were many hundred stand of arms, much powder, cannon, &c., there, manifestly destined to be used against the United States; and the burning alive of a prisoner, and the massacre of a boat's crew, might be thought by some a confirmation of that belief.

It was from this place General Jackson wrote to Governor Masot, with all that frank and open manner to be expected from an American officer, who was executing the orders of his Government, in prosecuting a war which we had been engaged in through the inability of Spain to wage, and in the termination of which both countries were equally concerned, informing him, in the most explicit terms, of his friendly intentions, and only asks that provisions might be permitted to ascend the Escambia to Fort Crawford. Was it the part of a neutral nation to refuse that passage, when perhaps the lives of part of his troops depended upon those supplies? Was that the course Spain ought to have taken to fulfil her stipulations? Under such circumstances, the law of nations will justify force.

Hearing that the hostile Indians were imbodied at a town called Mickasuky, his march was directed that way, where a battle ensued—the issue, success. And notwithstanding my honorable colleague (Mr. MERCER) thinks the accounts of those terrible massacres all vanish to nothing upon examining into the subject, there was found in this village a war pole, decorated with fresh scalps, recognised by the hair as torn from the heads of Lieutenant Scott and his party; and in the house of Kenhajo, the chief of that town, were found more than fifty others!

After this battle, it is ascertained that the enemy had departed, whilst one party directed their march to Suwanee, the other to the fort of St. Marks. It was then Captain Call, a gentleman I am not acquainted with, but on inquiry I learn from every source that he is esteemed a man of honor, and a brave and excellent officer—it was then he informed General Jackson of the message of the Governor of Pensacola. That the fort of St. Marks was weak; that demands had been made upon it for munitions of war by the negroes and Indians; that he entertained strong fears for the safety of the fort, as they had threatened to seize it in case of refusal. Moreover, it appears from the documents—proof, I think, sufficient of itself to justify the capture of that post—that the Indians did obtain ammunition and arms at that place; that councils of war were held in it by the enemy, and in the quarters of the Spanish commander; that the property plundered from the citizens of Georgia was sold there; that Luengo did permit the clothes taken from Scott's party to be sold to the Spanish soldiery; and even contracts were made for the purchase of property that was to be plundered from Georgia. Now, I ask, if prudence, justice, self-defence, did not demand the capture of St. Marks? Surely, the Governor of Pensacola's message, if it means anything, was an invitation to take possession of it, even perhaps to prevent a development of their nefarious conduct.

But, says the gentleman from South Carolina, (Mr. LOWNDES,) General Jackson was not justified in capturing St. Marks, as his safety did not depend upon occupying it, nor was it necessary to his future operations, as the enemy were dispersed and scattered, and no one ever heard of the Indians managing cannon. I hope I have not misconceived that gentleman; I should be sorry to do so. But I would ask if Ambrister and his negroes could not have managed artillery; and was it not those who intended to do so, and were only prevented from having been anticipated? That the commander of that fort should show an unwillingness to surrender, was to be expected, even if he had wished its occupancy, as he would be called on to account for his conduct to his superior officer. Yet it was war on Spain, and a violation of the Constitution. Had not that post become a party in the war? Were not these numerous acts sufficient to determine its character? Surely, the Secretary of War, when he

gave the order to suspend farther operations, and report the facts to the Department, should the Indians take shelter under the guns of the fort, could never have imagined that fort, or any other in Florida, to become the magazines of the enemy; a resort for arms; the quarters of a Spanish officer the chamber for councils of war, and a mart to obtain a price for the property plundered from American citizens. The superior authorities of Spain herself would have applied the remedy, had time allowed to make the application. This we have a right to infer, as we see, upon inquiry, that Power professes itself satisfied, and has resumed their negotiations. Sir, the law of nations is the right of every nation; to enforce it is justice, and cannot be an act of war.

Furthermore, the honorable Speaker, in reply to the gentleman from Mississippi, (Mr. Poindexter,) has furnished me with a good argument, as all his arguments are good. That in his speech in the year 1811, he justified himself by saying, "we" had a right to take a part of Florida by proclamation—meaning, thereby, the whole Government—that is, both Houses of Congress and the Executive. That Mr. Madison, in his proclamation taking and annexing a part of Florida to the United States, did not commit an act of war, because he only executed thereby a law which Congress had passed, which he had signed, and which he then enforced. Now, sir, if the act of the whole Government, justified by necessity, was not, in the opinion of gentlemen, an act of war, surely a General could not, under similar circumstances, commit an act of war.

After these operations, General Jackson determined to put an end to the war, by giving battle to the negro and Indian forces concentrated at the Suwanee towns, and, after innumerable difficulties, arrived at that place, and defeated those who had not availed themselves of the philanthropic disinterestedness of Mr. Arbuthnot, who, it seems, had advised his friend Bowlegs, by express from St. Marks, of the number and movements of Jackson's army; and, too, with a knowledge of the Spanish officer. This duty performed, he returned to St. Marks, through the wilderness, in five days, a distance of more than one hundred miles, with a firm persuasion that the war was at an end, and in a few days returned to Fort Gadsden, on his way home. Why did he not return home? Here he was informed that Fort Crawford was in great distress for the want of provisions, which the Governor of Pensacola had prevented from going to them, by enormous exactions; that the negroes and Indians had possession of that place; that a party had been pursued within sight of it by a detachment from Fort Crawford, and defeated, the fugitives taking refuge in that town; that the place was no longer under the control of the Spanish power; that many murders had been committed in Alabama by bands who went from that post, and returned to it, with their booty and scalps. Can it be supposed, under these circumstances, any place is to be regarded as neutral? It is of little consequence to the sufferers, whether it proceeds from inability to maintain its authority, or an unwillingness to do so. The effect is the same. To take possession of a post from which he has been annoyed by his enemy, is justice, and is conformable to the law of nations. Surely, if his enemy is sheltered by a fortress, and from it munitions of war obtained, inroads and murders planned and executed, and a return to that place safe, to commence anew these scenes; it is difficult to conceive why the opposite party is not entitled to the same indulgence. The Governor of Pensacola does not deny this feebleness, though he refuses positively to surrender the post; in which he is right, as he, too, has to account to a superior officer for his conduct. The inquiry then is, why did General Jackson take it? The same answer may be given which was given for the capture of St. Marks. Are these things true? The Spanish superior authorities think so; the Spanish King himself thinks so. Then it was no war on the part of General Jackson, but the assertion of a right, resulting to us from the law of nations. So it has been considered by all but our own Constitution; which, whilst it secures our liberty within, it would seem takes away our rights from without.

One gentleman has said, "if General Jackson had a right to take those posts, he had a right to keep them; and no one would contend that we had a right to keep them, because we were able to take them." To answer this, it is only necessary to say, that the right to take results from the law of nations, as applied to the then circumstances of the parties, and the right to keep remains as long as those circumstances continue, and no longer. I cannot, for my own part, otherwise than think that the doctrines urged in support of these resolutions, by perhaps a wise construction of our Constitution, is, in effect, to deprive ourselve of many of those rights which other nations claim to themselves from the law of nations, and which they are willing to allow to us, were we willing to accept them. It has been remarked by a gentleman from South Carolina, (Mr. Lowndes,) that, whatever justification there may have been for the seizure of St. Marks and Pensacola, there could not be any necessity for the seizure of the revenue of the country, nor to establish a Government. This idea, with me, had some weight; but the necessity of maintaining the peace and good order of the country made it necessary, as the Spanish authorities had gone to Cuba, at their own request. General Jackson was not acquainted with Spanish laws, or perhaps even the language; of course those of his own country were only those he could enforce.

Much has been said of the trial of Arbuthnot and Ambrister; and, as I have already said, after weeks of consideration, the Committee on Military Affairs could not find anything to censure but the execution of these two British agents and incendiaries. The one, bold and hardened in guilt, plead guilty to the charges; the other expects escape from his diplomatic skill. We are perfectly astonished, on examining the doc-

uments, to find them persevering for a long time in maturing their schemes of murder, and making arrangements to effect their plans, in procuring arms and placing them in the hands of the merciless savages, in stimulating them to commence this war, in all its horrors, and fall like a flood of fire on our whole frontier, sweeping away all, both innocence and age. More arms, of every description, are sought for; knives, flints, and tomahawks, in alarming quantities. To crush the lawless banditti of Indians and rebellious slaves, who observe no law, human or divine, urged to murder, indiscriminately, men women, and children, burn, plunder, and destroy, without distinction, without remorse, by these relentless fiends, General Jackson is ordered into the field. Yet, for the destruction of these unhappy men, are the Representatives of the people of this great Republic called on, by that extraordinary report of the committee, to censure their General; and that, too, for not showing mercy to those who knew no mercy, and whose hands were smoking with the blood of hundreds of their countrymen! This General who, in the day of adversity, stood like a rock of adamant, and breasted the tempestuous waves of a doubtful war; a war which had shook from their base the massy columns of the Hall where it was declared, and razed the Capitol to its foundation stone, whilst frenzied fear bewildered all it met, and red-eyed hate rolled with Satanic smile upon the Administration of your country; he it was who raised a reputation to your arms and to your country, bright and more bright as the storm lulled away.

I agree, sir, most cordially with the committee, in the sentiment that no officer, however great or distinguished his services, ought to be suffered to escape merited punishment. At the same time, it ought to be remembered that no officer, however subordinate or obscure his station, ought to be censured without ample cause; and not a difference of opinion as to the "absolute necesity" between the committee and the General. They had peace and a quiet room to deliberate in, a thousand miles from the scene of action, and the library of the nation to consult about the necessity. He was in a wilderness, upon the scene of action, surrounded with enemies and war; and if, under these circumstances, he erred in his judgment, it ought to be some excuse, when it is remembered that the ablest judges in courts of justice, after days of reflection, decisions to consult, and able lawyers to advise, sometimes determine wrong.

But it is said the proof is defective. I had supposed the acknowledgment of Ambrister, upon his trial, was too unequivocal to be mistaken, to say nothing of the testimony of Phenix and John J. Arbuthnot, witnesses on behalf of the prosecution; and a reference to the testimony of Wisslet, Hambly, and Cook, upon the table of every gentleman, does most clearly display the savage and unalterable purposes of Arbuthnot. For my own part, I confess my surprise is not that it is less, but that it is so clear. Were they incapable of involving great designs in mist, obscurity, and doubt, they were unfit instruments for purposes like these, useless to the British Cabinet.

I will not detain the Committee with any remarks as to the numerous objections made to the court martial, the jurisdiction, the law, and authority. It must be obvious to every one, that, by the law of nations and the usages of war, the lives of these men were at the disposal of General Jackson the instant they fell into his hands. If, then, he instituted a special court to inquire into the matter, to collate testimony, and give an opinion as to guilt, or what punishment they ought to suffer, it was to satisfy others, not himself. And let what construction be put upon the court you choose; let whatever inference you will be drawn from the opinions of that court and its decisions, the General, at last, did no more than exercise the power which he possessed under the law of nations. And if he derived his power from the law of nations, surely his calling a court, even granting it all the formalities gentlemen might wish, could not divest him of that power.

On a former day of this debate, Mr. Chairman, we were told by an honorable gentleman from Kentucky, (Mr. CLAY,) and I thought, too, with a considerable air of triumph, that the Kentuckians were a brave, independent, magnanimous people; that they never retaliated upon the unlettered savage, even in the most gloomy days of adversity, in the first settlement of that country, when the cloud of war never disappeared for a day. When the best blood of the country was poured out to maintain themselves, they scorned such an act. But yet, said he, there was one, and he felt the execrations of all when living, and infamy has stamped his name since dead. Then, sir, I will add, there was not even that one. Certainly the unhappy man he alludes to was branded with infamy, but not for retaliation; but the deliberate murder of a friendly chief. This Indian, known to be friendly, had remained in their town for several days after the hostile party had fled, and having been recognised by this man as a combatant in some particular battle some years before, whilst he was talking to an officer, this execrable wretch drew an axe he had concealed behind him, and clove his head. It was that which covered his name with infamy, and not retaliation.

Even now again, almost upon the instant, that gentleman defies all, and challenges history to produce one single example, and then adds, there was none. I will not, Mr. Chairman, question the prowess of the Kentuckians; I believe they are brave, independent, hospitable, and magnanimous, and all things that gentlemen could wish them. I am proud at all times to hear of their deeds of valor. Yet this thing called bravery, I believe, is pretty equally diffused through the great mass of men, and, under similar circumstances, there would be found but little difference; brave officers will always make brave men. Though what is said of this conspicuous State cannot be doubted, as all who have conversed with them know they are independent; all who

have travelled in that State doubtless have partaken of their hospitality. And that they behaved well at the battle of Tippecanoe, I do not doubt; that they behaved bravely at the battle of the River Raisin I will not doubt; that they behaved gallantly at the battle of the Thames I cannot doubt. But, sir, there was retaliation, and most conspicuous, in that State. In one instance, well known, when a party of Indians had committed depredations and murders, were followed by Colonel Lyne, known to be a brave and active officer, by some chance of war one of the warriors fell into his hands, and was hanged upon the next tree. The most striking instance, however, is one which my friend from Ohio (Mr. HARRISON) has just brought to my recollection—that, when that great General and best of men, George Rogers Clark, was on that celebrated campaign in which he stormed a whole chain of British posts on the Wabash and Kaskaskias, he captured the town of St. Vincennes; whilst in the town, the well-known noise was heard in the neighborhood which informed the inhabitants that a war party was then returned with scalps. Clark immediately despatched some of his soldiers and took them prisoners. When the mischief they had done was ascertained, he ordered them to be taken in view of the British fort, and told to ask protection from their good father, George the Third, and in that place were all instantly put to death. In those days there were numerous instances of individuals, who had lost a relation by the Indians, taking their rifles, and going in search of the enemy, even in their own country, and killing one. At that time they called it "taking satisfaction;" of course it might not be retaliation.

If I were to declare an opinion as to the horrors and cruelty of all our Indian wars, I would unhesitatingly say, to British agents all is attributable; nor can I now feel this sickly sorrow for them. But, in those gloomy days the honorable gentleman from Kentucky speaks of, the machinations of these agents wrung with agony and pain the bosom of many a gallant man in that country with apprehensions for the consequences. Children at school, in the hours of play, were butchered, at the instigation of those agents; murder on every road, and death in every path; all went armed to their daily avocations. Sir, the friend of my boyhood, the honorable chairman of the Committee on Military Affairs, ought to tell of early times there, and of Indian wars and British agents, though at that time he was only of such an age as to know the danger, and rejoice when the sun went down without seeing the mangled corse of a murdered friend brought into the fort. The melancholy transactions of the Seminole war are but faint rehearsals of thousands and thousands of such acts in the West. And, even at this day, the name of British agent or trader, for they are synonymous, will create a sudden start of horror in the widowed mother of a family, as it tears open all the sluices of her grief, which time had soothed, but could not destroy. The children were hushed to silence by the terrible names of Simon Girty and McKee. Could those incendiaries have been taken in those days, every voice would have pronounced their doom. Not only individuals in that country, but whole families, were swept away: many who had rendered brilliant services to their country, are now only known to those who feel a kindred sorrow; and if a gallant deed has faintly pierced the terrible night which overhangs their fame, should cause a stranger to ask where they are now, or where their children, echo mocks the inquiry, and retorts the question.

Unquestionably, sir, there are many rights incident to a state of war; that, when hostilities have commenced, and an enemy every hour in view, it is difficult for a deliberative body like this to seize upon an abstract principle, and apply it, at that particular place or moment, and say what was or was not necessary for their General to do. He knows the obligation he owes to the Constitution of his country and the authorities of the State, and knows what, by the law of nations, he may do when surrounded by war and desolation, his enemy near at hand, and retiring into a neutral country. He has a right to follow, that neutral Power not prohibiting the entry of his enemy; his country, to say the least, rightfully becomes the theatre of war. Nor is it easy to conceive this feverish discontent at the death of men who rightfully died; and, whatever may be thought of it here, in the sunshine of peace, and the whirl of gay delight, the people there consider it a blessing, and no doubt has already saved the lives of many hundreds of our citizens. Nor can it be well understood why these executions should be deemed cruel, when with them are associated the deeds for which they suffered. Whilst recollection paints the horrors of death in all its terrible forms—the scalps, fresh bleeding, torn from our countrymen, placed upon a pole, becoming the subject of hellish mirth; the helpless female butchered whilst kneeling and sueing for mercy; the toothless little infant snatched from its mother's bosom, and its brains dashed out against a tree—its body thrown on the ground, there lies quivering in death. Sir, amid scenes like these, and the enemy at hand, to talk of delays is to deride the mandates of nature and of nature's God.

It has been further remarked by an honorable gentleman from Pennsylvania, (Mr. HOPKINSON,) that of all the genius in the world there is none dangerous to the community but a military one. Newton's genius was so great that it seemed to hold converse with the stars; the erratic comet in its course could not escape him, and, I believe, even threw light upon the sun—yet this was harmless. Shakspeare, the great source of pleasure and instruction to ages, past, present, and to come, was perfectly innocent in all its operations. The honorable Speaker says, too, should we not cling to the Constitution, and preserve it by passing these resolutions, that the day is close at hand when some daring chieftain, after another splendid victory, will strut in his gaudy costume, casting a look of approbation as he walks be-

tween obedient rows of admiring vassals, and seize upon your liberties; and then, the hills rising round your Capitol will be covered with the gorgeous palaces of a pampered *noblesse*; and then tells us, in words which sound very much like Patrick Henry's, that Rome had her Cæsar, Britain her Cromwell, France her Napoleon, and may we profit by the example. *Napoleon!* If I were to express myself with an enthusiasm not my own, I would say when nature made the world, she next made the spirit of that great man, and then she rested. I saw, or thought I saw, the impression those dangers of military men seemed to make upon the House, and believe I am about to hazard an opinion, new in a degree, and very opposite to that of both these honorable gentlemen, which is, that no Government has ever yet been destroyed by a successful military chieftain. I appeal to history to support me, if my construction be right. If I recollect the words of the historian, "Cæsar, having less reputation, like a wise 'champion, retired to a distance, for exercise, 'whilst the two great factions preyed upon the 'liberties of Rome; when every contest for place 'or power, was decided in the forum by the sword, 'and stained the Capitol with blood." Then, not till then, did Cæsar return to Rome, which, ever since the wars of Marius and Sylla, had known no liberty. Nor is the overthrow of the British Government attributable to Cromwell; the speeches of Parliament produced the revolution, and the treachery of members. When all was in commotion, by canting and preaching, Cromwell secured the stronger party and became the Protector. Nor can the French revolution be attributed to anything but to the insincerity of the orators in the States General, and to none in a higher degree than that greatest of orators, and worst of men, Mirabeau. If, in after times, as in all other revolutions, Napoleon secured the stronger party, and swayed the Government, it cannot be said he overturned it. Did not every distinguished man in France rule as long as he was popular with the stronger party; and did he not cease to rule as soon as he lost his popularity? This was no reproach to professedly politicians, though in a military man, possessing power by the same means, it subjects him to the charge of using his military power to overthrow the Government of his country; and by none more than disappointed orators, who had contributed to the downfall of many successive administrations, with a hope of one day possessing it themselves. If I recollect the history right, the only instance of the overthrow of a regular Government was by an ambitious statesman, one of the Dukes of Venice, who boldly seized upon the powers, declared the then Senators Senators for life, and their children after them. This, I am inclined to believe, is the source of their nobility, the only patent they have for rank. Moreover, I believe it would be correct to say these men, the most conspicuous military destroyers of their country, were all created by the times. No, Mr. Chairman, our liberties are not to be endangered by a successful chieftain, returning to us with his gaudy costume, even after an hundred victories of New Orleans. It is here, in this Capitol, on this floor, that our liberty is to be sacrificed, and that by the hollow, treacherous eloquence of some ambitious, proud, aspiring demagogue. And if, in times to come, we should hear a favorite officer, who has exhausted his constitution in defence of his country—throwing wreaths of victory at her feet—charged with violations of her liberty, let us inquire whether the sternness of his virtues is not his greatest blemish. If history gives an account of a military chief's returning to his country, and overthrowing its settled institutions, it has, at this time, escaped my recollection.

Mr. ERVIN addressed the Chair as follows:

Mr. Chairman:—I am sorry it has fallen to my lot to be so late in debate on this question. From my own feelings, I am persuaded the Committee is exhausted and unwilling to bestow its attention, anticipating a want of capacity in any member to throw any new light upon this interesting subject. A sense of duty, however, has determined me to express to you the opinion which I entertain in relation to it, in doing which, I anticipate the same indulgent attention which you have accorded to other gentlemen. Before entering upon its discussion, I feel it a duty which I owe to the people and myself, to express my extreme regret, that so much of our time has been appropriated to its discussion, whilst other subjects of practical utility, and great public importance, have awaited our attention. Experience, sir, has long since taught me the inutility of the expression of legislative opinion upon abstract questions; because, whatever may be the result of their deliberations, and the opinion expressed, it can have no binding efficacy in determining the discretion of subsequent legislatures. At the last session of Congress, much sensibility was felt because the President of the United States expressed his opinion and determination on a subject which he anticipated would engage the attention of Congress. Although the correctness of the motive, in that case, was known and appreciated, fears were entertained, lest, if indulged and continued on the part of the Executive, and acquiesced in by Congress, a precedent would be formed which might tend to limit legislative discretion. If the informal expression of this opinion, on a subject of which he had concurrent jurisdiction, was deemed incorrect, what opinion will be formed of the character of the expression of an opinion in relation to a military officer, not by the Congress of the United States, but by the House of Representatives, over whom, even in their capacity as the impeaching power, they have no jurisdiction? For, as the House of Representatives, the only power given to it by the Constitution (and without which it has no power) is a power to judge of the elections, returns, and qualifications of its own members, and to punish or expel a member. In giving a construction to the Constitution, which I am sworn to support, I cannot, and will not, suffer my mind to be deluded by the imposing idea of the House of Representatives being "the grand inquest of

the nation." I have just enumerated its powers in its separate capacity, and contend, that the exercise of any power beyond that enumeration is assumed, but not delegated. Courts of inquiry and courts martial are the proper and legal correctives of error or criminality in the military, which, if neglected to be applied by the President, in cases requiring it, he is responsible.

Again, sir, the sovereign authority ought never to speak, but when it can command; and ought never to command, but when it can compel obedience. In this case, the officer may lie securely intrenched behind Executive protection, your resolves to the contrary notwithstanding; and a departure from this principle ought never to be indulged, unless in approbation of splendid achievements, by land or by water, which will have the happy effect of increasing the moral power or force of the nation.

The treaty of Fort Jackson, in August 1814, which is said to have been the cause of the late Indian war, has been adverted to in terms of disapprobation and severe animadversion. "The United States demand—the United States demand"—expressions used in that treaty, are thought too dictatorial.

Mr. Chairman, what age or country ever saw it otherwise than that the conqueror should dictate terms of peace; and, in this case, circumstances imperiously required it. For, in the midst of peace, whilst we were endeavoring to extend to the Indians the advantages of civilization, supplying them with implements of husbandry, and paying them an annual tribute for their friendship, and just at the time when we had engaged in war with a powerful and warlike nation, forgetful of those acts of kindness, they joined our enemy, and commenced a war of extermination against our helpless women and children. Pity still drops a tear at the remembrance of the conflagration of upwards of three hundred men, women, and children in Fort Mimms in 1813, and the winds still sigh over the fields and repeat the dying groans of our brave countrymen, who were inhumanly butchered in cold blood by the Indians after they had capitulated at the river Raisin. The whole frontier of Tennessee and Georgia was threatened with ruin and desolation from savage barbarity until the hero of New Orleans appeared upon the theatre of action, and, by triumphing at Talladega, Tullushatcha, Emuckfaw, and Tohopeka, taught that unhappy deluded people, that, although we were engaged in a foreign war, we were still able to avenge savage insults, and repel savage injuries. And will any one, after these facts and atrocities being presented to him, pretend to say, that it was unjust or unwise for the conqueror to cause them to be removed from the proximity of a neighboring nation, from whence they were continually goaded on to acts of violence and deeds of murder; or to dictate such terms of peace as were best calculated to prevent the repetition of similar scenes, and give security to our southern frontier? I hope not. Your General, as one of the commissioners on the part of the United States to make that treaty, acted correctly. The laws of nations declare, "that an equitable conqueror, deaf to the 'suggestions of ambition and avarice, will make 'a just estimate of what is due to him, and will 'retain no more of the enemies' property, than 'what is precisely sufficient to furnish the equivalent. But, if he has to do with a perfidious, 'restless, and dangerous enemy, he will, by way of 'punishment, deprive him of some of his towns 'or provinces, and keep them to serve as a barrier 'to his own dominions." Notwithstanding the treaty of August, 1814, which was depended on as effecting peace between us and those savages; notwithstanding the treaty of peace between this country and Great Britain, which also was expected to have produced the same happy effect, they remained still hostile; notwithstanding all your triumphs over them, they were beaten, but not conquered; they were scattered, but not annihilated; they rallied again, and were afforded shelter and protection in East and West Florida, Spanish neutral—neutral, did I say?—Spanish hostile territory.

Mr. Chairman: I care not for professions of neutrality; they shall not impose upon my credulity; give me the evidence of facts which are not to be biassed by fear, or influenced by hope; and, if we are to be determined, or to judge by them, Spain was not neutral. I said, sir, that the Indians were suffered to settle in the Spanish territory, in the neighborhood of Pensacola, in West Florida, and on the river Appalachicola, and on a creek called Yellow Water, in East Florida, and there in silence brooded over imaginary evils, and meditated bloody vengeance. Two civilized barbarians, Ambrister and Arbuthnot, foreign emissaries, once more lighted up the torch of war, and let loose upon us those infuriated barbarians. In 1816, a boat's crew was murdered, and an American citizen was tarred, feathered, and burnt to death. On the thirtieth of November, 1817, Lieutenant Scott and fifty persons, consisting of men, women, and children, were inhumanly murdered, except a very few who were wounded, but effected their escape. On the 13th or 14th of March, 1818, two whole families on the Federal road, in the Alabama Territory, were put to death. The next day, five men, riding along a road, were fired upon, three killed and two wounded. Terror and dismay pervaded the whole country.

Mr. Chairman: War in its mildest form is dreadful; but what force of eloquence—what power of description, can give an adequate idea of Indian warfare? It is a war of extermination: Like the lava of Etna, fear marches before it. Like the storm of the desert, ruin and desolation lead up its dreadful rear. Did you ever, sir, meet a man returning alone from your southern frontier, who had moved there with a large family? With sorrow in his face, and tears in his eyes, he begins the mournful tale, but is unable to proceed—his feelings deny him utterance. Mr. Chairman: Have you not a family? Do you not love them? Is it not for them that you wish to live? Is it not for them that you would

dare to die? The glad day, sir, will soon arrive, when you will return home, and behold again the wife of your youth, and your children, the objects of your affection. He too once had a family, but now they are gone; he will never see them more. The night was gloomy; her husband, her protector, was far away; the pale moon hid her face behind the clouds; the winds blew; the tempest howled; trembling she pressed to her bosom the tender objects of their mutual love. At length destruction came: the yell of the savage awoke the sleep of the cradle; fire and the tomahawk without, horror and dismay within; the tender infant lifts up its arms for protection, and receives the stroke of death, and the shrieks of the distracted mother are hushed in everlasting silence. O! sir, suspect no deception; it is not the pencilling of fancy; it is history, faithful history, written in characters of blood along your whole southern frontier.

President WASHINGTON expended a million of money, and marched fifteen thousand men to put down a partial insurrection, and collect a petty tax, in the western counties of Pennsylvania. And shall we be told, that it is unconstitutional, or, that it is wrong, to march our legions to protect our citizens from the tomahawk and Indian scalping knife? But, gentlemen say the President has acted unconstitutionally in marching our troops into Spanish neutral territory, without the authority of Congress. Did he do so clandestinely? Did he not, in his Message, sent to this House the 25th of last March, expressly tell you he had given orders to that effect? Where were then these sentinels of the people's rights—these guardians of the Constitution? Were they at their posts? Yes, sir, and wisely legislating for the public good. All then was right; not a word said against it. What, sir! sworn to support the Constitution; told that it was about to be violated, and remain silent! Yes, sir, silent—silent as the grave. And, as if fearful that the sincerity of their approbation might be questioned, voted away large sums of the people's money to carry on the very war which is now the subject of blame. And this session, sir, as if gentlemen had come in contact with Elisha's bones, there is a general resuscitation; the tocsin of alarm has been sounded; our power has been usurped; the President has acted unconstitutionally, and gloomy predictions are indulged in about future Cæsars and Cromwells, and the overthrow of liberty and constitution, in other days and times yet to come.

Mr. Chairman, having presented to the attention of the Committee these preliminary observations, permit me, before entering into the investigation of the principles which would authorize the marching troops into neutral territory, and what branch of the Government is charged with that power, to inquire into the character of the Indians with whom we have been lately in conflict; which character, if correctly ascertained, will serve to elucidate, in some measure, the subject of discussion now before us.

An honorable gentleman from Massachusetts has said they possess a plenitude of sovereignty in war, and a qualified sovereignty in peace. The honorable Speaker allows them only a qualified sovereignty in every condition. It is alone the proud prerogative of genius and talents to determine between the opinions of honorable gentlemen standing so deservedly high in the estimation of their country. I shall content myself with observing, and in doing of which, I cherish the hope I shall be pardoned, that those honorable gentlemen err in attaching ideas of sovereignty to Indians in foreign countries, which are only correct when applied to those within our own jurisdiction. Over the latter, we exercise partial sovereignty; we have prescribed the mode, and to whom alone they can sell their lands, and have denied to them the right of trading with any other people than ourselves. Over the former, we have no control, and being without our jurisdiction, are, in relation to us, as free and independent as any other nation whomsoever; and we are not authorized to deny them sovereignty because they are few in number, or inhabit a small territory, no more than we would be to say a dwarf, when arrived at the age of maturity, is not a man because he is not is big as a giant; and if they are a foreign and sovereign people, in relation to us, how can gentlemen deny us the right, when they make war upon us, to march into their possessions and attack them? But, sir, I am willing to admit, that, in relation to Spain, so far from being sovereign, they are her subjects *sub modo*. I will go farther, and say, considering the Spanish Government despotic, under which her subjects have no rights, and, according to the laws of nations, the Indians are her very slaves. It is their character and condition under the laws of nations, that I wish to consider. In the latter end of the fourteenth, and in the fifteenth century, the Popes of Rome assumed to themselves paramount authority, not only in spiritual, but temporal things. They declared, that the whole earth was the patrimony of St. Peter, and that they were his successors and heirs. And Ward, in his inquiry into the foundation and history of the laws of nations, in Europe, says: "The right 'was assumed by the christian nations of reducing 'to their obedience, for the sake of converting 'them, all people who professed a faith different 'from their own; the tyranny and injustice of 'the Spaniards, towards the American nations, 'were defended upon this ground, and every inves-'tigator of the affairs of Europe has been struck 'with those remarkable grants made by the Holy 'See to Portugal and Spain of all the countries 'they should discover; the one to the East and 'the other to the West. Other States, if they 'did not follow the Spaniards in the extremes of 'cruelties, at least proceeded, in the discoveries 'they made in the new world, upon the same 'principles." The grant made by Henry the Seventh to John Cabot and his sons was upon the same principle. "In like manner, a patent was 'granted by Elizabeth to the celebrated Sir Hum-'phrey Gilbert, authorizing him to discover, find, 'search out, and view, such remote, *heathen* and

'*barbarous* lands, countries and territories, not 'actually possessed of any christian prince or 'people; and he, his heirs and assigns, are to have, 'hold, occupy, and enjoy the same, with all their 'commodities, jurisdictions and royalties."

Gentlemen, Mr. Chairman, may regard the doctrine as they please, but they would sacrifice thousands of lives, and vote millions of money, to defend rights for which they can show no other authority than the laws of nations established in the fourteenth century by the authority of the Popes. You say, sir, in common parlance, that the ocean is the highway of nations. From whence then do you derive exclusive jurisdiction to a marine league from your shores? Did you inherit it by descent, or did you conquer it from the wind and the waves? Again, sir, it is said, that, in a state of nature, use and occupation give a right to soil, and, in a state of society, purchase and conquest. In what era of your history did the star-spangled banner float in proud triumph over those vast regions to the west? Or in what disastrous battle were the liberties of those numerous tribes of Indians beyond the Mississippi cloven down, and they acknowledged you paramount lord? Where, sir, is the treaty which has recorded your purchase? Or the evidence which can tell of your occupation? So far from there being any conquest, purchase, occupation, or even visitation, that our Commissioners, who made the late treaty with Great Britain, although wise men, could not tell us whether the forty-ninth degree of north latitude, which is therein said to be our northern boundary, is north or south of the most northwest point of the Lake of the Woods. We deny the authority, yet willingly partake of all the benefits resulting from the law. And, sir, shall it be a matter of surprise if those nations who acknowledge the supremacy of the Pope, should act agreeable to, and claim the benefits of, this law. And I contend, sir, that in the spirit of this law Spain made and ratified the treaty of 1795,* acting under the influence of the opinion that the Indians within her jurisdiction were not only under her moral but physical coercion. In this point of view their acts are the acts of Spain, and ought to be repelled as such. This character of identity is rendered complete when, with the principle I have been endeavoring to bring to the attention of the Committee, we combine the fact that Spain supplied those hostile Indians with provisions and munitions of war. The existence of such a principle being established, the application of it to Spain is correct; for Ward, in his second volume, page 66, says, "it is still a received doctrine among those who submit to the establishment of the inquisition." Having endeavored to prove that we had a right to enter the Floridas in self-defence, from the consideration of the relation of the Indians to us as a foreign Power, and their relation to Spain as subjects or slaves, I proceed now to deduce the same right from our relations with Spain. The laws of nations speak of obligations imperfect and perfect; and corresponding resulting rights which are, as the case may be, imperfect or perfect. Every nation, by the laws of nations, is under an imperfect obligation to prevent her neutral territory from being occupied by a third Power, for the purpose of annoyance of a neighboring nation. But if this neutral nation will enter into a solemn contract by treaty, with a neighboring nation, to prevent a nation occupying her neutral territory from using it as a convenient place for annoying the neighboring nation, she incurs a perfect obligation to save harmless from annoyance or injury the neighboring nation; and a corresponding perfect right results to the neighboring nation, by such obligation, to be saved harmless. Spain has, by the treaty of 1795, incurred a perfect obligation to save us harmless from the depredations of the Indians within her territory; from which a correspondent perfect right has resulted to us of security. And I contend that if Spain fails in the performance of her perfect obligation, that failure does not involve a forfeiture of our right of security as a nation. And I further contend, that some one of the branches of our Government is vested with the power to pursue and obtain (within the limits prescribed by law and the Constitution) all the rights and benefits of security as a nation to which we are, or may be entitled by the laws of nations, international or municipal law. To which branch of the Government such power belongs I shall presently inquire; but it is not now the subject of my inquiry. For I have been inquiring, and still wish to be understood as confining my inquiries to those principles which give one nation the right of entering the territory of another nation. But, Mr. Chairman, before I proceed further, I wish to deduce an argument from the principle which I last presented to the attention of this Committee, for the purpose of obviating an objection made by an honorable gentleman from New York. He said we ought to have given notice to, and required Spain to have performed her treaty stipulations and saved us harmless from Indian depredations, before we should have undertaken to have righted ourselves.

That honorable gentleman will pardon me in thinking him incorrect. The United States were under no obligation, by the laws of nations, to give notice to Spain, and require of her the performance of the treaty of 1795. The laws of nations, Mr. Chairman, recognise principles em-

* "Art. 5. The two high contracting parties shall, by all the means in their power, maintain peace and harmony among the several Indian nations who inhabit the country adjacent to the lines and rivers, which, by the preceding articles, forms the boundaries of the two Floridas. And the better to obtain this effect, both parties oblige themselves expressly to restrain, by force, all hostilities on the part of the Indian nations living within their boundary: so that Spain will not suffer her Indians to attack the citizens of the United States, nor the Indians inhabiting their territory; nor will the United States permit the last mentioned Indians to commence hostilities against the subjects of his Catholic Majesty, or his Indians, in any manner whatever."

bracing imperfect and perfect obligations, and corresponding rights. Each nation is under an obligation, by the laws of nations, not to suffer another nation to occupy her territory for the purpose of annoying a third nation. This obligation, however, is an imperfect one, because each nation has still the volition as it relates to any particular State or nation, to permit the occupation or not, as best suits her interest. Notice in such a case is requisite to ascertain whether the nation permitting the occupation intends to permit its further continuance. But when one nation has entered into a solemn treaty to prevent such occupation, or to prevent any injury to a third nation from such occupation, she thereby incurs what is called, by the laws of nations, a perfect obligation: that is, her discretion is determined, and she cannot be supposed to entertain any other volition in relation to the provisions of the treaty, than that expressed in the treaty. To give her notice, then, thus circumstanced, and require her to perform an act which she had, by solemn treaty, told you she would perform, would seem to me to be superfluous. *Vattel* says: "The perfect obligation is that 'which gives to the opposite party the right of 'compulsion; the imperfect obligation gives him 'only a right to ask."

The same principle is recognised by the municipal law. A contracts with B to pay B a certain sum of money at a particular day. A thereby incurs a perfect obligation, and a perfect corresponding right results to B for its performance. If A fails to perform his contract, B has a perfect right to compulsory process to enforce its performance. And no judge would ever entertain a motion for a nonsuit because B had not notified A, and required him to perform his contract. I have never understood, sir, that Spain has complained of the want of notice; and I should be sorry to hear it; for there is something extremely ungracious in the idea for Spain to require the United States to spend several months in begging her to perform a solemn treaty, and, in the meantime, to leave her citizens exposed to the bloody vengeance of infuriated barbarians.

I now again proceed in the investigation of those principles which authorize one nation to enter the territory of another nation. In pursuance of which, I lay it down as an established principle, that the laws of nations and municipal laws, which are *mala prohibita*, are deduced from the eternal rules of right and wrong; and argue, that, by the laws of nation, one nation bears the same relation to another nation as, by municipal law, a sovereign State does to an individual of that State; and if a sovereign State, in the pursuit of an individual who has committed a crime, can, by its officers, enter the private possessions of an individual and apprehend the offender, so, by the laws of nations, is it right for one nation to enter the territory of another nation in the pursuit of a third offending nation, who is afforded shelter and aid in a neutral territory. Again: a fort bears the same relation to a nation as a house does to an individual; and they are regarded as citadels, or places of safety, to the former as well as to the latter; but, let it be remembered, that they are sacred only so long as they are used for places of defence; and, if it is right for a sovereign State, in the pursuit of a criminal who is afforded shelter in a dwelling-house, not only to enter the premises, but to break down even outer doors, and drag him from thence, so it is right for one sovereign State, not only to enter the territory, but the forts, of another sovereign State, in pursuit of a hostile offending nation that is afforded shelter, aid, or protection, in the neutral territory or forts. For the law of nations declares: "That if my neighbor affords a retreat 'to my enemies, when defended and too much 'weakened to escape me, and allows time to re-'cover and watch a favorable opportunity of 'making a second attack on my territory, this 'conduct, so prejudicial to my safety and inter-'est, would be incompatible with neutrality. If, 'therefore, my enemy, on suffering a discomfiture, 'retreat into his country, although charity will 'not allow me to refuse him permission to pass 'in security, he is bound to make them continue 'their march beyond his frontiers as soon as pos-'sible, and not suffer them to remain in his ter-'ritory on the watch for a convenient opportu-'nity to attack me anew; otherwise he gives me 'a right to enter his country in pursuit of them." And I contend, upon the same principle, that similar conduct would give a right to enter a fort. Do gentlemen require the production of the facts which begat the necessity for our marching into neutral territory and taking possession of forts belonging to another nation, and which only can operate our justification?

Mr. Chairman, I have only to regret that they are so numerous. Without adverting to those in the late war between Great Britain and this country, is it not notorious, sir, that the Indians were almost in the continual habit of stealing property from our citizens, and, when pursued, would retire into this neutral territory, and there sell it, in the face of open day, at Pensacola and at the fort of St. Marks? Is it not a notorious fact, that they murdered Lieutenant Scott and the most of his party, consisting of men, women, and children; that they murdered the whole crew of a boat except one, and him they tarred, feathered, and burnt to death? Did not the Indians cruelly murder whole families, and then would retire into this said neutral territory with impunity? Is it not a notorious fact, that, in this same territory, called neutral, were found fifty fresh scalps in one place, and three hundred more were suspended on a pole at another? Is it not a notorious fact, that the Indians, associated with Ambrister, held councils of war in Fort St. Marks, a Spanish neutral fort? Did not Governor Masot inform General Jackson that the Indians intended occupying it? Is it not a notorious fact, that large hordes of Indians lay at and near Pensacola and the Fort St. Carlos Barrancas; that they were fed by the Spaniards, and supplied with munitions of war from the King's store? After the defeat of the Indians by Major

Youngs, near Pensacola, were the Indians not ferried in Government vessels across the bay, to secure them from injury? Did not the Spanish Governor, in the capitulation for the surrender of the Fort St. Carlos Barancas, treat for the safety and impunity of a noted Indian chief, then secured in the fort; and, after its surrender, was not a wounded Indian carried out of it? Are we Americans, and are these facts not enough? Or do gentlemen require our whole Southern frontier to be laid waste with fire and sword before the necessity would be sufficient to justify our marching into neutral territory to put down savages there sheltered, and who have murdered our citizens? If we, Mr. Chairman, who are at a distance, feel for our injured country, what must have been the feelings of General Jackson, who was an eye-witness to those transactions?

I proceed now, sir, to inquire what branch of the Government possesses the power of executing the laws and repelling invasion. By the fourteenth specification in the 8th section of the 1st article of the Constitution of the United States, Congress has power "to provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasions." What power has Congress by this provision? I answer, no other power than to provide for calling forth the militia for the purposes expressed in the specification. The militia is the efficient power to execute the laws, &c. Who commands them when in the service of the United States? Not Congress, but the President of the United States; he commands, directs, and controls them. It is the President, then, that is authorized to execute the laws, suppress insurrection, and repel invasions. Again, sir, the Constitution of the United States charges the President to "take care that the laws be faithfully executed." Laws do not merely mean law international or municipal, but also national law; for the ninth specification of the 8th section of the 1st article of the Constitution of the United States speaks of "offences against the laws of nations," thereby recognising the existence of the laws of nations as part of the laws of the land. The President of the United States is executor of all laws under the Constitution; he is therefore authorized, under certain circumstances involving self-defence, and in that case only, to enter neutral territory. Lamentable, indeed, Mr. Chairman, would be our situation, if the President had not the power, in self-defence, of pursuing an enemy into neutral territory. A mere banditti might issue from foreign territory, commit murder and depredations upon your citizens, and retire back with impunity. These depredations must be endured, or Congress must interfere. It might not be expedient to go to war; but I contend, that if Congress, which is the war-making power, should authorize by law any act of violence in a foreign territory, modify the phraseology as you please, it would be a declaration of public war. Under such doctrines, the only alternative left us is public war, prepared or not prepared, or to suffer our citizens to be murdered with impunity. But I contend, sir, that the President was authorized, by your own authority, which is the war-making power, to do what he did do. The act "entitled an act to provide for calling forth the militia to repel invasion," &c., passed the 28th February, 1795, is, in my estimation, a standing declaration of defensive war against the Indians; and the President is as much bound to obey it as he was the act declaring war against Great Britain. That act declares, "that whenever the United States 'shall be invaded, or be in imminent danger of 'invasion from any foreign nation or Indian 'tribe, it shall be lawful for the President of the 'United States to call forth such number of the 'militia of the State or States most convenient 'to the place of danger or scene of action, as he 'may judge necessary, to repel such invasion." By this act, the President is authorized not only to repel actual invasion, but also the capacity or power of invasion; for the word imminent cannot mean actual invasion, but does mean, if it means anything, the power or capacity to invade. To strengthen and confirm the correctness of this construction, let us for a moment advert to first principles. The first duty imposed upon man, in every stage of his existence, is preservation. In a state of nature, he is under no necessity to wait until he is shot down before he would be justified in making resistance; neither is he, in a state of society; for if his antagonist assumes an attitude of defence, speaks the language of menace, and is in striking distance, he is authorized to strike first, and is under no obligation to wait until he receives the blow which might incapacitate him from resistance. The same duty is also of primary obligation to nations; and, in principle, it matters not whether the existence of an individual or that of a nation is in danger; for society is under as solemn obligation to guaranty existence to one as to the other. I contend, then, that, by the provisions of this law, nay, by the provisions of all laws, both human and divine, the President was authorized to put down, not only actual invasion, but the power of invasion, let it happen or exist when and where it might; and, considering the mode of Indian warfare, not merely nation against nation or army against army, but individual against individual, that the principle would extend to embrace the capacity of invasion upon any scale, small or extensive. But I beg not to be misunderstood; for I wish to be considered as allowing this power to the President only in case of self-defence; one step beyond that would make him the aggressor, and would be an assumption of the war-making power, which belongs only to Congress. The President of the United States being thus proven to possess the power to execute the laws, a portion of this power was imparted to General Jackson in relation to the Seminole war. The Secretary of War, in a letter written to Governor Bibb, says that General Jackson was vested with discretionary powers in relation to the Seminole war; and we all know, from the high and distinguished character of that officer, that he would never condescend to state a fact in the least de-

gree different from what it was. This supposition of power is corroborated from the consideration, that General Jackson, in a letter to the Secretary of War after the capture of the Fort of St. Marks, informs him, that he had acted agreeable to the orders of the President; which assertion we cannot suppose the General would have made, unless he was warranted in doing so by his instructions.

The taking of the Danish fleet by the British has been adverted to, and we have been triumphantly told, that the features of the capture of the posts of St. Marks, Pensacola, and St. Carlos Barancas, correspond with those of the capture of the Danish fleet at Copenhagen, and that we cannot consistently approve of the conduct of General Jackson and condemn that of the British. The facts of the two cases, Mr. Chairman, are very dissimilar. Let gentlemen advert to the history of the capture of the Danish fleet by the British. Were the French fed by the Danes, or furnished with munitions of war from the King's store? Did they commit depredations on the English coast, and were they afforded shelter and protection in Danish neutral territory? Or was any evidence ever furnished to the world that they intended to seize the Danish fleet? It is true, they had overrun Italy and conquered the Netherlands. Hamburgh had submitted to their authority, and the city of Lubeck was in their possession. But we must not forget their danger. The empire of Germany lay on their rear, and the battle of Jena had not yet prostrated the power of Prussia. In front, the lake of Lubeck and East sea presented physical obstructions to their obtaining their object. If they turned to the left, they had to encounter the passage of the Little and Great Belt; and, could they have marched upon Copenhagen, the fleet might have sailed up the Sound and escaped into the Cattegat. Under such circumstances, it was possible, but not probable, that the French could have seized the Danish fleet, and, without which probability, where was the necessity for the British to make the seizure? The necessity was not real but fictitious; it was not predicated upon facts, but existed only in conjecture. In relation to the capture of St. Marks, Pensacola, and St. Carlos Barancas, by General Jackson, it is unnecessary again to repeat the facts which begat the necessity to make it; they were not merely conjectural, but had actually occurred and produced a necessity highly imperative. The case of the capture of the Danish fleet fails in the comparison, and furnishes no ground of illustration.

But, sir, it is said that General Jackson, in causing Arbuthnot and Ambrister to be executed, acted incorrectly, and even his reasoning has been considered wrong. I disclaim, Mr. Chairman, having anything to do with his reasoning, and if, upon investigation, I find his conduct correct, I shall be satisfied. I would do great injustice to my feelings, sir, notwithstanding the criminality of the conduct of those men, did I not express my extreme regret that they were executed. Thinking, however, as I do, that General Jackson had the power, as commander, to put them to death, and having exerted that power, no doubt as he thought for the good of his country, I acquiesce. There is no evidence that they were spies, in which case they ought to have been tried by a court martial, furnished with the grounds of their accusation, and confronted with the witnesses. They were foreigners, without our territory, owed this Government no allegiance, either local or general, and could therefore not be put to death for high treason. And our courts for the punishment of crimes on land could not take cognizance of their acts, however criminal, because they were perpetrated in a foreign country and out of their jurisdiction. Nor were they put to death to satiate cruelty or gratify a malignant spirit of revenge, but as subjects of retaliation, and, in terrorem, to prevent other foreigners from identifying themselves with the Indians and exciting them to murder and rapine. This power, in every age, has belonged and appertained to the commanding General; he commands the commencement of destruction, and, in modern warfare, stays the carnage at the cessation of resistance: but in ancient times, if he pleased, not until there was no one left to resist. When war became less sanguinary, the vanquished were made prisoners and led into slavery:—chained, they followed in the train, to swell the pomp and triumph of the victor; and their lives, although spared, were always supposed to be forfeited, and at the mercy of the commanding officer, under circumstances of imperious necessity. Upon this principle was the bloody massacre of the prisoners justified, who, upon the false alarm after the battle of Agincourt were ordered to be executed by the Black Prince, the pink of courtesy and delight of chivalry; and from this principle, disguise it as you may, is derived the power to put an innocent prisoner to death by way of retaliation. The law of nations considers your enemies in your power, not merely as prisoners, but as hostages for the correct treatment of your countrymen in the power of your enemies. By the laws of civilized modern warfare, women and children are exempt from destruction, which, if denied to them, you are perfectly justifiable to retaliate upon the Indians, or those who identify themselves with them, so as to prevent its repetition. This power of retaliation was assumed by General Washington, in the Revolutionary war, in the case of Captain Asgill; and when the same power was assumed by General Greene, to the south, on account of the execution of the gallant Hayne, the then Congress acquiesced in the assumption of such power, by each of those great men. But the honorable Speaker says, "the right of retaliation is an attribute of sovereignty, and comprehended in the war-making power," and that because Congress has, in the rules and articles of war, provided a tribunal for the trial of spies, they have the power to prescribe the rule or mode of trial in cases of retaliation. Again, that no man could be executed in this free country, without two things being shown: first, that the law condemns him to death; secondly, that his death is pronounced

by that tribunal which is authorized by law to try him.

Provide rules or mode of trial—and for what purpose? The death of a subject of retaliation is not determined on by trial, but by lot. He is condemned, not because he is guilty, but because he is unfortunate. And will you insult a dying man with forms of law and constitution, and deny him the substance? He is not a victim given up to the demands of insulted justice, but an unfortunate sacrifice, reluctantly yielded up by justice herself to the tears of mercy and humanity, to stop the improper effusion of human blood, and to protect your unfortunate countrymen in the power of your enemy.

But, sir, the policy of retaliation on an Indian is questioned, and the words

"Begin ye tormentors, your threats are in vain,
For the son of Alknomok will never complain,"

ascribed by the poet to the Indian, are regarded as conclusive evidence of its inefficacy. Admitting those expressions to be historical facts, are we to conclude that an Indian is above the weakness of humanity, and insensible to the impulse of fear? No, sir; for, although by custom barbarous, by nature he is a man—not only subject to his passions and his appetites, but forever under the predominant influence of the two great incentives to action, *hope* and *fear*. And whether he frowns in the gloom of the forest, or adorns the circles of polished life, he is physically every where the same; and it is education alone which gives variety to his character, which improves his mental capacity, brightens the radiance of moral grandeur, and developes the divinity of his nature; and whatever firmness of character may be attributed to an Indian by a poet, whilst agonizing at the stake, all experience testifies that when death thunders at the mouth of the cannon, or bristles at the point of the bayonet, in wild dismay he flies to the covert of the woods and the swamp, for shelter and for safety. But, sir, it is farther said, that General Jackson is ambitious: if criminally, produce the evidence, and it shall be the signal of his destruction. Instead of a few such as conspired against Cæsar, a whole people will conspire against him; and instead of having occasion only to exclaim, *et tu Brute*—thousands upon thousands of indignant freemen "would break through the thick array of his thronged legions and reach his heart, to free their country." But where is the evidence of his ambition? Has he, like Cæsar, passed the Rubicon, to enslave his country? No: but has on foot forded your rivers, penetrated your swamps, and encompassed your morasses, to preserve your wives and your children from ruin and destruction. Has he, like Philip, by bribes and corruption, entered the Amphictionic council? No, sir; but is now unarmed and defenceless within your city. And although your Speaker, the modern Demosthenes, unlike his great prototype in the day of contest, stands firm to his post, and, with impassioned eloquence, maintains the contest against him; and although his hard-earned reputation, which is dearer to him than life, is at stake, and he without an opportunity of defending it, he bows in silence, and respectfully withholds himself from the hall of your deliberations. Has he, like Philip, seized upon Elatea? or terminated the liberties of his country at the battle of Chæronea? No, sir; but he took possession of New Orleans, at the command of his superiors, and quenched the flames of the late war, not in the tears of his country, but in the blood of your enemies.

Most unfortunate of unfortunate men! If he does not march into Florida, he disobeys the orders of his superiors, and his commission or his life may be the forfeit. If he does, and encounters difficulties, dangers, and almost starvation itself, in an honest endeavor to promote the interest and glory of his country, he meets the frowns of the representatives of the very people whom he has been endeavoring to benefit.

Mr. Chairman, let us not forget his achievements. His country may yet want his services. And although, whilst fighting the battles of his country, he could look death and look danger in the face, and knew no fear—now he does fear. Yes, sir, he fears the disgrace of his country. Alas! sir, if he should incur the disgrace of his country, whither will he go? Will he return back to his family and friends, whom he so lately left with joy? Or will he, mournful and dejected, direct his course to New Orleans, the scene of his toils and his triumph? No, sir, he will wish for an early grave, to hide himself from the contempt of his country, under that very soil which he has so often gloriously defended!

Here the debate terminated, the whole of which is contained in the preceding pages, except the speech of Mr. H. NELSON, and the second speech of Mr. Speaker CLAY, of which the editors have not been able to obtain satisfactory reports for publication. The final proceedings on this interesting subject are thus stated in the National Intelligencer of February 10th:

After Mr. ERVIN had concluded his speech, the House yet being in Committee of the Whole—

The question was taken on the adoption of the following resolution, reported by the Committee on Military Affairs:

"*Resolved*, That the House of Representatives of the United States disapproves the proceedings in the trial and execution of Alexander Arbuthnot and Robert C. Ambrister."

And decided in the negative—ayes 54, noes 90.

The question was then put on agreeing to the first resolution proposed by Mr. COBB, as follows:

"*Resolved*, That the Committee on Military Affairs be instructed to prepare and report a bill to this House, prohibiting, in time of peace, or in time of war, with any Indian tribe or tribes only, the execution of any captive, taken by the Army of the United States, without the approbation of such execution by the President."

And decided in the negative—ayes 57 noes 98.

The question was then taken on the second resolution offered by Mr. COBB, which he modified to read as follows:

"*Resolved*, That the late seizure of the Spanish

posts of Pensacola and St. Carlos de Barancas, in West Florida, by the Army of the United States, was contrary to the Constitution of the United States."

And decided in the negative, also—ayes 65, noes 91.

The question was then taken on the third and last resolution proposed by Mr. Cobb, as follows:

"*Resolved*, That the same committee be also instructed to prepare and report a bill prohibiting the march of the Army of the United States, or any corps thereof, into any foreign territory, without the previous authorization of Congress, except it be in the case of fresh pursuit of a defeated enemy of the United States, taking refuge within such foreign territory."

And decided in the negative—ayes 42.

The Committee of the Whole then rose and reported their proceedings to the House, and the question being stated on concurring with the Committee of the Whole in their disagreement to the resolution reported by the Military Committee—

Mr. POINDEXTER moved that the whole subject be indefinitely postponed. It was enough that a direct question had been taken on the resolutions in the Committee of the Whole, and he wished the House to pronounce no opinion in a case which he believed to be not within its jurisdiction. Mr. P. recapitulated briefly one or two arguments which he had used in the debate; contending, that the officers of the army were responsible to the Executive alone—not to Congress, and much less to one branch only of Congress;—the only power delegated to this House, singly, was to judge of the election of its members. He wished to avoid a course that he considered so improper, and which would operate as a precedent in future; and therefore hoped the matter would be indefinitely postponed.

Mr. LOWNDES offered a few remarks to show that Mr. POINDEXTER was mistaken in the effect which he apprehended from a vote on the resolution. Mr. L. believed there was no authority vested in the House more unquestionable or real than that which entitled it to express an opinion on the case now before it. It was strictly within the powers of the House, as the agents of the people, appointed to investigate all public matters. He should vote for the indefinite postponement, but it was not because he believed the House incompetent to express its opinion of the matter in question; and he wished that no such construction might be given to the vote.

After some conversation on the propriety of the course proposed, Mr. POINDEXTER said, as gentlemen appeared disposed to vote on the resolution directly, he would withdraw his motion for postponement.

Mr. SPENCER renewed the motion. He did not think this subject properly within the jurisdiction of this House, nor was it one of those great occasions on which it ought to transcend its powers. It was not a proceeding which was to lead to impeachment, nor to any practical legislation, and he hoped the House would not pronounce an opinion in the case. If the members wish to express their opinions as individuals, said Mr. S., let us adjourn to Davis's hotel, and there, as citizens, give our opinions, but not here, in our legislative capacity, pronounce a decision to which we are not competent—out of which no act of legislation is to grow.

Mr. HOLMES thought the postponement of the resolution might operate as an indirect censure on General Jackson. The subject had been much discussed—the matter at issue had been the conduct of General Jackson, and it was due to him, and to members on both sides, that the question should be now met and fairly decided.

Mr. TAYLOR said he should vote against the postponement. He wished to meet the resolution directly, and expressed his dissent from the doctrine advanced by his colleague, (Mr. SPENCER.) It might become necessary often for the House to express its opinion on the conduct of the military officers, and he hoped gentlemen would agree to vote in the spirit of the proposition reported by the Military Committee, reject the motion for postponement, and give its opinion directly on the resolution.

Mr. COBB opposed the postponement, and asked it as a favor of the House to be allowed to record his vote on the resolution which he had submitted in Committee, for which there would be no opportunity if this motion prevailed. Mr. C. then made some remarks on the opinion advanced, that it was not competent for the House to express its opinion in this case, which he controverted, and contended that it was a power unquestionably vested in the House, and one which he hoped it would never resign.

Mr. QUARLES was in favor of the indefinite postponement, because it accorded with his opinion of the incompetency of the House to act on the subject. He had thought, throughout the debate, that it was acting against the Constitution of the country. Whenever a proposition was presented to him, which he approved, he would give his opinion, regardless of the frowns of any man; but it was strongly impressed on his mind that this course was trenching on the Constitution and laws of the country, which it would be a dereliction of duty to sanction. Whence did the House derive its power to proceed in this *ex parte* manner to pronounce on the conduct of an officer? Congress could make rules and regulations for the government of the army, but this was a case not within the jurisdiction of the House, and an encroachment on the prerogatives of the Executive. If General Jackson had acted improperly, he could be tried any time within two years after the commission of the offence; but, as the Constitution had not given to this House the power of trying him, but had pointed out the mode, to that mode it was proper to leave him. A vote of this House would have a powerful effect on a court of inquiry, if such a court were to be convened, and it would for that reason be improper to express an opinion. Mr. Q. was averse to interfering with the powers of other departments of the Government, and this was a case under the exclusive jurisdiction of the Executive, &c.

Mr. Rhea was not now, after this case had been argued eighteen days, for giving it the go-by. The question ought now to be met directly, and let the precedent be fixed, whether the House would sustain the course proposed by the resolution. He hoped every member would have an opportunity of recording his vote on it.

Mr. Poindexter, with the view, and with that view alone, of obtaining a vote directly on concurrence with the Committee of the Whole in their report, called for the previous question.

The House agreed to take the previous question—ayes 95; and,

The question being pronounced from the Chair, "Shall the main question be now put?"

Mr. Spencer, upon this question, called for the yeas and nays, which were refused; and

The House having agreed to take the main question, of concurring with the Committee of the Whole in their disagreement to the resolution reported by the Military Committee,

Mr. Harrison called for a division of the question—conceiving the cases of Arbuthnot and Ambrister to be very distinct, and marked by circumstances so different, as to permit the approval of one and censure of the other.

The trial, sentence, and execution, of Arbuthnot were, he said, in his opinion, perfectly correct; and, although he would not agree to censure any one concerned, when their motives were as pure as he was certain they were on this occasion, especially when he had no doubt but both men deserved death; yet, being called upon to say whether the execution of Ambrister was right or wrong, as he differed in opinion from General Jackson as to his powers over the court, he was obliged to say that it was wrong. It was an honest difference of opinion, he said, and was not intended to convey any censure upon that officer.

The question was then taken on concurring with the Committee of the Whole in their disagreement to the first branch of the resolution, viz: "That this House disapproves of the trial and execution of Alexander Arbuthnot," and decided in the affirmative, by yeas and nays, as follows:

Yeas—Messrs. Abbot, Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Bennett, Blount, Boden, Bryan, Burwell, Butler of Louisiana, Campbell, Clagett, Comstock, Crafts, Cruger, Davidson, Desha, Drake, Ellicott, Ervin of South Carolina, Floyd, Folger, Gage, Garnett, Hall of Delaware, Hall of North Carolina, Harrison, Hasbrouck, Herkimer, Herrick, Heister, Hitchcock, Hogg, Holmes, Hopkinson, Hostetter, Hubbard, Hunter, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Linn, Little, Livermore, McLane of Del., McLean of Illinois, McCoy, Marchand, Marr, Mason of Massachusetts, Merrill, Middleton, Robert Moore, Samuel Moore, Morton, Murray, H. Nelson, New, Newton, Orr, Owen, Palmer, Parrott, Patterson, Peter, Poindexter, Porter, Quarles, Rhea, Rich, Richards, Ringgold, Rogers, Sampson, Savage, Sawyer, Scudder, Sergeant, Settle, Seybert, Shaw, Silsbee, Simkins, S. Smith, Ballard Smith, Alex. Smyth, Southard, Spencer, Strother, Tarr, Taylor, Tompkins, Tucker of South Carolina, Upham, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Wilkin, Williams of New York, and Wilson of Pennsylvania—108.

Nays—Messrs. Allen of Massachusetts, Austin, Ball, Bayley, Beecher, Bloomfield, Cobb, Colston, Cook, Crawford, Culbreth, Cushman, Edwards, Fuller, Gilbert, Huntington, Irving of New York, Johnson of Virginia, Lewis, Lincoln, Lowndes, W. Maclay, W. P. Maclay, Mason of Rhode Island, Mercer, Mills, Moseley, Jeremiah Nelson, T. M. Nelson, Ogden, Pawling, Pegram, Pindall, Pitkin, Pleasants, Reed, Rice, Robertson, Ruggles, Schuyler, Sherwood, Slocum, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Strong, Stuart of Maryland, Terrell, Terry, Trimble, Tucker of Virginia, Tyler, Westerlo, Whitman, Williams of Connecticut, Williams of North Carolina, and Wilson of Massachusetts—62.

The question was then taken on concurring with the Committee of the Whole, in its disagreement to the second part of the resolution, viz: "That this House disapproves of the trial and execution of Robert C. Ambrister," and decided also in the affirmative, by yeas and nays, as follows:

Yeas—Messrs. Abbot, Anderson of Kentucky, Baldwin, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Bennett, Blount, Boden, Bryan, Burwell, Butler of Louisiana, Campbell, Clagett, Comstock, Crafts, Cruger, Davidson, Desha, Drake, Ellicott, Ervin of South Carolina, Floyd, Folger, Garnett, Hall of Delaware, Hall of North Carolina, Hasbrouck, Herkimer, Herrick, Heister, Hitchcock, Hogg, Holmes, Hopkinson, Hostetter, Hubbard, Hunter, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Linn, Little, Livermore, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marchand, Marr, Mason of Massachusetts, Merrill, Middleton, Robert Moore, Samuel Moore, Morton, H. Nelson, Nesbitt, New, Newton, Ogden, Orr, Owen, Palmer, Parrott, Patterson, Peter, Poindexter, Porter, Quarles, Rhea, Rich, Richards, Ringgold, Rogers, Sampson, Savage, Sawyer, Scudder, Sergeant, Settle, Seybert, Shaw, Silsbee, Simpkins, S. Smith, Bal. Smith, Alex. Smyth, Southard, Spencer, Strother, Tarr, Taylor, Tompkins, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Wilkin, Williams of New York, and Wilson of Pennsylvania—107.

Nays—Messrs. Adams, Allen of Massachusetts, Austin, Ball, Bayley, Beecher, Bloomfield, Cobb, Colston, Cook, Crawford, Culbreth, Cushman, Edwards, Fuller, Gage, Gilbert, Hale, Harrison, Hendricks, Herbert, Huntington, Irving of New York, Johnson of Virginia, Lewis, Lincoln, W. Maclay, W. P. Maclay, Mason of Rhode Island, Mercer, Mills, Moseley, Murray, Jeremiah Nelson, T. M. Nelson, Pawling, Pegram, Pindall, Pitkin, Pleasants, Reed, Rice, Robertson, Ruggles, Schuyler, Sherwood, Slocumb, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Strong, Stuart of Maryland, Terrell, Terry, Trimble, Tucker of Virginia, Tyler, Westerlo, Whitman, Williams of Connecticut, Williams of North Carolina, and Wilson of Massachusetts—63.

So the House concurred with the Committee of the Whole in rejecting the resolution of censure reported by the Military Committee.

Mr. COBB then moved the adoption of the second resolution, offered by him in Committee of the Whole, as modified, in the following words:

Resolved, That the late seizure of the Spanish posts of Pensacola and St. Carlos de Barancas, in West Florida, by the army of the United States, was contrary to the Constitution of the United States."

Mr. MILLS moved to amend the resolution by substituting the following after the word "resolved:"

That this House disapproves of the capture and occupation of Pensacola and the fortress of Barancas by the army of the United States, and the establishment of a civil government there without the authority of Congress.

[This modification was accepted by Mr. COBB, but, subsequently, after the objections which were made to it, he declined receiving it as his motion.]

Mr. POINDEXTER objected to the shape in which the amendment of Mr. MILLS placed the motion, because it brought up a point for decision which had not been discussed, on which the House had made no inquiry, and had no information. He did not know the nature of the civil government established at Pensacola, or anything about it, and was unwilling, thus called on *instanter*, to give a vote on it, and if the proposition were insisted on he should feel it his duty to call for information on the subject. Mr. P. presumed it was absolutely necessary to establish a government of some kind there to enforce the revenue laws, and prevent smuggling, and other illicit practices; and he stated a case in which the clandestine introduction of a cargo of slaves into the United States was prevented by the authority placed there by General Jackson, and other cases, &c.

Mr. MILLS's amendment was withdrawn; and

Mr. FLOYD then moved the indefinite postponement of the resolution; but, having afterwards withdrawn his motion,

Mr. BARBOUR renewed it; and spoke a short time, explanatory of his reasons for preferring that course. The House had already signified its sense of the subject; the act in question, though not strictly defensible, was not such a one as he was ready to pronounce a vote of censure on, and it would be avoided by the postponement.

After some further conversation on the propriety of the different propositions, the question was taken on the motion for indefinite postponement, and decided in the negative, by yeas and nays, as follows:

YEAS—Messrs. Baldwin, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Bennett, Boden, Bryan, Butler of Louisiana, Campbell, Clagett, Crafts, Cruger, Davidson, Desha, Drake, Floyd, Folger, Gage, Garnett, Hale, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hendricks, Herrick, Heister, Hitchcock, Holmes, Hostetter, Hunter, Kinsey, Kirtland, Lawyer, Linn, Little, Livermore, McLane of Delaware, McLean of Illinois, McCoy, Marchand, Marr, Merrill, Middleton, Samuel Moore, Morton, Moseley, Nesbitt, New, Newton, Ogden, Ogle, Orr, Owen, Patterson, Poindexter, Porter, Quarles, Rice, Richards, Ringgold, Rogers, Sampson, Savage, Scudder, Sergeant, Settle, Seybert, Shaw, S. Smith, Ballard Smith, Alexander Smyth, Strother, Tarr, Tompkins, Tucker of South Carolina, Upham, Walker of Kentucky, Wallace, Wendover, Whiteside, Wilkin, and Williams of New York—83.

NAYS—Messrs. Abbott, Adams, Allen, Anderson of Kentucky, Austin, Ball, Bayley, Beecher, Bloomfield, Blount, Burwell, Cobb, Colston, Comstock, Cook, Crawford, Culbreth, Cushman, Edwards, Ellicott, Ervin of South Carolina, Fuller, Gilbert, Harrison, Herbert, Herkimer, Hogg, Hopkinson, Hubbard, Huntington, Irving of New York, Johnson of Virginia, Johnson of Kentucky, Jones, Lewis, Lincoln, Lowndes, W. Maclay, W. P. Maclay, Mason of Massachusetts, Mason of Rhode Island, Mercer, Mills, Robert Moore, Moseley, Jeremiah Nelson, H. Nelson, T. M. Nelson, Palmer, Parrott, Pawling, Pegram, Peter, Pindall, Pitkin, Pleasants, Reed, Rhea, Rice, Robertson, Ruggles, Schuyler, Sherwood, Silsbee, Simkins, Slocumb, J. S. Smith, Southard, Speed, Spencer, Stewart of North Carolina, Storrs, Strong, Stuart of Maryland, Taylor, Terrell, Terry, Trimble, Tucker of Virginia, Tyler, Walker of North Carolina, Westerlo, Whitman, Williams of Connecticut, Wilson of Massachusetts, and Wilson of Pennsylvania—87.

The question was then taken on the resolution proposed by Mr. COBB, and decided in the negative, as follows:

YEAS—Messrs. Abbot, Adams, Allen, Austin, Ball, Bayley, Beecher, Bloomfield, Burwell, Cobb, Colston, Cook, Crawford, Culbreth, Cushman, Edwards, Ellicott, Fuller, Gilbert, Harrison, Herbert, Hopkinson, Huntington, Irving of N. Y., Johnson of Va., Lewis, Lincoln, Lowndes, W. Maclay, W. P. Maclay, Mason of Rhode Island, Mercer, Mills, Robert Moore, Moseley, J. Nelson, T. M. Nelson, Ogden, Pawling, Pegram, Pindall, Pitkin, Pleasants, Reed, Rice, Robertson, Ruggles, Schuyler, Sherwood, Silsbee, Simkins, Slocumb, J. S. Smith, Speed, Spencer, Stewart of North Carolina, Storrs, Strong, Stuart of Maryland, Terrell, Terry, Trimble, Tucker of Virginia, Tyler, Westerlo, Whitman, Williams of Connecticut, Williams of North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania—70.

NAYS—Messrs. Anderson of Kentucky, Baldwin, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Bennett, Blount, Boden, Bryan, Butler of Louisiana, Campbell, Clagett, Comstock, Crafts, Cruger, Davidson, Desha, Drake, Ervin of South Carolina, Floyd, Folger, Gage, Garnett, Hale, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hogg, Holmes, Hostetter, Hubbard, Hunter, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Linn, Little, Livermore, McLane of Delaware, McLean of Illinois, McCoy, Marchand, Marr, Mason of Massachusetts, Merrill, Middleton, Samuel Moore, Morton, Murray, H. Nelson, Nesbitt, New, Newton, Ogle, Orr, Owen, Palmer, Parrott, Patterson, Peter, Poindexter, Porter, Quarles, Rhea, Rich, Richards, Ringgold, Rogers, Sampson, Savage, Scudder, Sergeant, Settle, Seybert, Shaw, S. Smith, Bal. Smith, Alexander Smyth, Southard, Strother, Tarr, Taylor, Tompkins, Tucker of South Carolina, Upham, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Wilkin, and Williams of New York—100.

And then the House adjourned.

TUESDAY, February 9.

Mr. HERBERT presented the memorial of the President and Directors of the Columbian Institute, praying that the President of the United States may be authorized to invest the said Institute with as much of the public reservations within the City of Washington, not exceeding five acres, as by him shall be deemed proper, for the purpose of erecting thereon a hall and other buildings and improvements, necessary for their accommodation.—Referred to the Committee for the District of Columbia.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill for the relief of Bartlett Still; which was read twice, and committed to a Committee of the Whole, to-morrow.

Mr. HUGH NELSON, from the Committee on the Judiciary, reported a bill to authorize the Secretary of War to convey a lot or parcel of land belonging to the United States, lying in Jefferson county, in the State of Virginia; which was read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill for the relief of Isaac Minis, and others; which was read twice, and ordered to be engrossed and read a third time to-morrow.

On motion of Mr. HUGH NELSON,

Resolved, That the Committee on the Judiciary inquire into the expediency of providing, by law, for vesting in the President of the United States a power to demand, from the Executives of the respective States, fugitives, who having committed offences against society, within the District of Columbia, or other territory subject to the jurisdiction of the United States, may have sought an asylum in any of the States of this Union; as also, power and authority to comply with the demand made by any of the Executives of the United States, for the delivery of fugitives, who, having committed offences against the laws of such State, may have sought an asylum in the said District of Columbia, or in any other territory over which the jurisdiction of the United States may extend.

A message from the Senate informed the House that the Senate have passed a bill of this House, entitled "An act to incorporate the Medical Society of the District of Columbia," with amendments. They have also passed bills of the following titles, to wit: "An act for the relief of Samuel Ward;" "An act, supplementary to an act, entitled an act further to amend the charter of the City of Washington;" "An act for the relief of John B. Timberlake;" and "An act for the relief of John A. Dix;" in which amendments and bills they ask the concurrence of this House.

Bills from the Senate of the following titles, to wit: An act for the relief of Samuel Ward; An act supplementary to the act, entitled an act further to amend the charter of the City of Washington; An act for the relief of John Clark; An act for the relief of John A. Dix; and, An act for the relief of John B. Timberlake, were severally read the first and second time, and referred: the first to the Committee of Claims; the second to the Committee for the District of Columbia; the third to the Committee on the Public Lands; the fourth to the Committee on Military Affairs; and the fifth to the Committee on Naval Affairs.

On motion of Mr. WILLIAMS, of North Carolina, the House took up and proceeded to consider the resolution submitted by him on the 11th December, 1818, instructing the Committee on Military Affairs, to inquire into the expediency of reducing the army; and the said resolution being read was agreed to by the House.

An engrossed bill, entitled "An act to amend the act, entitled 'An act supplementary to the act, entitled an act to authorize the State of Tennessee to issue grants and perfect titles, to certain lands therein described, and to settle the claims to the vacant and unappropriated land within the same,' passed the 18th of April, 1806," was read the third time and passed.

The amendments proposed by the Senate to the bill, entitled "An act to incorporate the Medical Society of the District of Columbia," were read and referred to the Committee on the District of Columbia.

BANK OF THE UNITED STATES.

Mr. JOHNSON, of Virginia, submitted the following resolution:

Resolved, That the Committee on the Judiciary be instructed to report a bill to repeal the act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed April 10th, 1816.

Mr. JOHNSON said he had not submitted a proposition of so much importance, without considering all the consequences which were likely to result from it. He had looked at the state of the country; he knew the deep and great interests involved in the question; was aware that some embarrassments in the financial operations of Government would result; and that something would be said of the pledge of the public faith. But, after taking into view all these considerations, he thought it imposed on him, as a solemn duty, to make this proposition. What was public faith, Mr. J. asked, and what its best security? Whenever any person or body, either moral or political, shall presume to violate the laws of the country, let the corrective, exemplary punishment, be applied. This was its best security. The great banking corporation, which was to promote the great interests of the country, has, by its misconduct, completely defeated the objects of the community; and would not the public faith be best preserved by putting down this corporation, which has thus abused its powers, and committed such frauds as had been developed? Have we the power to put it down? This, said Mr. J., is the only question which could create a single, doubt. Have we, who have created this charter a right to repeal it? Mr. J. said he had paid some attention to this subject, and the manner of proceeding in such cases in England. There

their corporations were somewhat differently constructed: there the King himself granted charters, and, when they were violated, he annulled them. Here the Legislature creates the charter, and it had as much right as any other tribunal to decide on a revocation of it. We, said Mr. J., have no more interest in this corporation than the Supreme Court, which it is said ought to decide the question between the bank and the nation. The House, he said, could meet it as free from prejudice, or any improper bias, as the Supreme Court. It appeared to him there was no choice for those members who believed the Constitution had been violated by this corporation, but to avail themselves of the earliest opportunity to free themselves from it and relieve the Constitution. Mr. J. concluded by saying his present object was to have his resolution referred to the Committee of the Whole to which the bank report had been referred.

Mr. SPENCER suggested the propriety of referring to the same Committee the resolution which he had laid on the table on Monday week, and the proposition made by Mr. TRIMBLE on the 19th ultimo to issue a *scire facias*. Mr. S. noticed briefly the remarks of Mr. JOHNSON. They were strong, he said, and impressive; but there were other considerations to be remembered. The immediate destruction of this bank, Mr. S. said, would bring in its consequences ruin to thousands upon thousands who had become its debtors; it would inflict a wound upon the public credit, and go far to tarnish the national faith abroad. The bank had loaned out the sum of thirty-eight millions of dollars. Could this sum be called in immediately, when there was, as it was stated, but seventeen millions of dollars in the whole Union? If called in, the State banks must pay all they owe, and must necessarily curtail their discounts, which were deemed, at a low estimate, to amount to one hundred and sixty millions. This, Mr. S. said, would operate on the borrowers from the United States Bank, and through them on those from the State banks. The great importance of this subject, Mr. S. said, and the great interest at stake, ought to make the House proceed with much circumspection. If the corporation conflicted with the Constitution, he was willing to go with gentlemen against it; but he hoped it would be seen that the Constitution might be preserved, without creating the scene of distress and ruin he had adverted to.

Mr. RICH was unwilling to sustain the proposition in any shape; because it was only creating useless alarm through the community, by holding out the idea that the bank was to be destroyed. For his part, Mr. R. said, he would never consent to proceed against the United States Bank in any manner until he could see the State banks conduct their affairs correctly, which he had yet to learn. He hoped the House would not consider the resolution.

Mr. LOWNDES made a few remarks in favor of referring the resolution to the Committee of the Whole; for, whether the House was disposed to destroy an institution which, properly managed, would be highly beneficial to the interests of the country, and had been productive of much good to the public, or whether it meant to sustain that institution, the question could be better deliberated on in a Committee of the whole House.

The resolution was then referred to the Committee of the Whole on the Bank report, as were also those of Mr. SPENCER and Mr. TRIMBLE, on their respective motions.

GENERAL APPROPRIATION BILL.

The House then resolved into a Committee of the Whole on the bill making appropriations for the support of Government for the year 1819.

The Committee occupied some time in going through the provisions of this bill.

Amongst the motions in the course of the proceeding, the appropriation of fifty thousand dollars, for defraying the expenses of intercourse with foreign nations, was objected to by Mr. JOHNSON of Virginia, who moved to substitute twenty thousand for that object.

The motion was negatived, and the Committee proceeded with the remaining provisions of the bill, the whole of which were agreed to, with the exception of the appropriation for the Cumberland road, which was passed by for the present, to afford an opportunity for further consideration.

The item appropriating six thousand dollars to pay Colonel Trumbull for a painting of the Declaration of Independence, executed for the United States, under contract, in pursuance of an act of Congress, being under consideration—

An inquiry was made, by Mr. SPENCER, of the chairman of the Committee of Ways and Means, respecting the particulars of the contract with Colonel Trumbull, and the sums which had been paid him.

He was answered by Mr. SMITH, of Maryland, that eight hundred dollars had been paid to Colonel Trumbull at the time of executing the contract with the Secretary of State, and that the further sum of six thousand dollars was to be paid to him for each of the four paintings authorized by the act, on their delivery, respectively. The present appropriation was to pay for the first picture, the Declaration of Independence, which it was understood was now ready for delivery.

Mr. SPENCER proceeded then to inquire by what authority Colonel Trumbull had been perambulating the country with this painting, which he had executed for Congress, and exhibiting it for the trifling sum of twenty-five cents a head? This proceeding on the part of Colonel Trumbull Mr. S. highly disapproved; it was apeing the indecent custom of the English, who, in an avaricious spirit, exhibited the celebrated Swift in his idiocy for one shilling a head, and exposed the body of Nelson for the same sordid object. Mr. S. lamented that the representation of the Declaration of Independence, a subject so dignified, so sacred to American feelings, should have been thus hawked about the country, and treated so unworthily. If Colonel Trumbull was not

allowed enough for his labor, give him more, said Mr. S., and do not leave him a pretext for seeking remuneration in this improper manner. To indicate his feelings on this subject, Mr. S. moved to strike out of the bill the proposed appriation.

Mr. Pitkin said, in explanation, that he understood that when this painting was nearly completed, as it was known to contain many likenesses of the venerated Congress which declared Independence, there was a very great desire in different parts of the country to view the painting; and application had, in consequence, been made to the President for permission to carry it to some of the large cities to gratify public curiosity, and his consent had been obtained. Colonel Trumbull would not trust the painting in any other hands than his own, and he had therefore carried it himself and exhibited it under his own superintendence. In this Mr. P. thought Colonel Trumbull had done nothing improper. Colonel Trumbull had, Mr. P. further remarked, appropriated a part of the proceeds of the exhibition to public charities of the cities which he had visited.

Mr. Spencer replied, that he had understood the President gave his permission that the picture should be shown for the purpose of ascertaining whether the likenesses were deemed correct; but not that it should be carried about and exposed for money. The exhibition, Mr. S. said, he had heard, had produced five thousand dollars in Boston, and he supposed more than six thousand in Philadelphia, and a proportionable sum in Baltimore, where it was now exhibiting. At any rate, as the payment for the painting was not to be made before the delivery, he should oppose the appropriation at this time. It would, in his opinion, be perfectly proper for the House to express its feelings by deferring the appropriation until the next year.

Mr. Smith, of Maryland, observed that the picture reached Baltimore some days ago, on its way here; and he knew that Colonel Trumbull had been making preparations for transporting it hither—it might indeed have already arrived, and, if not paid for on delivery, it would be a violation of the contract. It was certainly proper to provide the means of paying for it now, though payment would not be made before delivery.

Mr. Lowndes confessed that he concurred very much in opinion with Mr. Spencer, as to the exhibition of the painting. He regretted extremely that it should have been thus used by Colonel Trumbull. But, Mr. L. said, if the other party had acted incorrectly, it was no reason that the Government should not comply with its contract. Whether Colonel Trumbull had done wrong or not, the painting, it was stipulated, should be paid for when delivered, and this could not be done unless the money should be previously appropriated. While the obligation existed, the House must comply with it, and whatever his feelings might be respecting the proceeding adverted to, he could not consent to withhold the appropriation.

Mr. Harrison said, he approved of the course pursued by Colonel Trumbull, in gratifying, as far as he was able, the public curiosity; and regretted that the painting could not be exhibited in every part of the country, that all might view it. It was, he thought, a very proper use for the painting. At any rate, it was no reason for withholding the appropriation, that it had been exhibited for public inspection. The President certainly would not have sanctioned an improper exhibition of the painting, and it was reasonable to conclude, as it was with his consent, that it had been exhibited in an unobjectionble manner.

Mr. Mills concurred in opinion with Mr. Harrison. The object of the painting was to commemorate one of the greatest events in all history—an event, above all, dear to the people of this country. And was this representation of it executed for the benefit or gratification of this House, or of Congress, alone? Had the public no right to be gratified with a view of what the National Legislature had thought it worthy to expend the public money for? If so, could it be expected that the people could all come here to see it? It was a subject in which all were interested, and in which all had an equal right. In giving, as far he could, an opportunity to distant citizens to view this interesting work, Colonel Trumbull could not undertake to do so at his own expense, he was obliged to resort to some mode of defraying the expense. Mr. M. denied that any harm would ensue from what Colonel Trumbull had done—the painting was not injured—none of its beauties impaired; and, indeed, what he had done was in itself laudable. Mr. M. said, he was not so selfish as to regret the exhibition, or to consider the painting of less value, because it had been looked at by his fellow-citizens in other parts of the country. The appropriation was necessary now, even if the picture should not be delivered in six months; and, therefore, in any view, should not be withheld.

Mr. Livermore said, the House was called on to fulfil a contract entered into by the United States, and there was no discretion in the case, even though the contract was an extraordinary one, and certainly that was an extraordinary contract which bargained for a picture by the yard or by the acre. Mr. L. said, if this were not a matter of contract, he should be very slow in making such an appropriation. It had been said that the President had given his permission for the exhibition of the painting, but that appeared to be mere hearsay. What he found fault with, Mr. L. said, was this—that the contract was made by the public for this picture, and that the people should afterwards be required to pay for seeing it. If it had been shown for nothing, he would have had no objection to it—but it was not right that the people should pay for the work collectively, and then be made to pay individually for seeing it. In what he said, Mr. L. disclaimed

any disrespect towards Colonel Trumbull, which was far from his feeling and from his intention.

Mr. TERRY vindicated the conduct of Colonel Trumbull, and said he had it from Colonel Trumbull himself, that the President gave the permission, and therefore it could not be doubted. Colonel Trumbull had, Mr. T. remarked, spent many years of his life in England, where it was the custom thus to exhibit great paintings, whether executed for the Government or others, before they were delivered; an instance of which might be mentioned in the great painting of the destruction of the Spanish flotilla, executed by our countryman Copley, for the Government, which was exhibited in London by permission. Colonel Trumbull had not conceived there could be any impropriety in showing his work to his countrymen, and, had he foreseen the objections which were now made to it, he would not have done it; though it was, no doubt, as much to gratify the public curiosity, as from any other motive. If the House chose to deny to him this privilege in future, they could say so, but what had been done was no reason for refusing to fulfil the contract with Colonel Trumbull.

Mr. SPENCER had not denied that the permission of the President had been given for the exhibition of the painting; but, if he had authorized it to be exposed for money, then, Mr. S. said, the remarks which he had applied to Colonel Trumbull on this occasion, he should have to transfer to another person. As to the charity which had been mentioned, the fact, Mr. S. said, was this: After the picture had been exhibited in New York until the public curiosity was satiated, it was shown, on the last day of exhibition, for the benefit of the charitable institutions.

Mr. TAYLOR, of New York, said, the sum required for these paintings was certainly far greater than was supposed at the time of passing the law. He believed it was then considered that what was authorized, would give to Colonel Trumbull about two thousand dollars a year while engaged in executing the paintings, and that eight thousand dollars would defray the whole expense; but it now appeared that the paintings would cost in all thirty-two thousand dollars. As to the exhibition, the painting did not belong to Congress until it was delivered; and in the mean time, Colonel Trumbull could use it as he pleased. But Mr. T. denied that the President had any right to give permission for its exhibition. It was the property of Congress, not of the Executive, and the permission, if given, was improper. While he considered it proper to express the opinion that the cost was much more than was originally contemplated, yet the appropriation ought not to be withheld now the contract was made.

Mr. STORRS spoke of the merits of the painting, and said, the very fact that he had received five thousand dollars in one town alone, for its exhibition, proved that it was worth more to Colonel Trumbull than Congress were to pay him for it; and, if the House chose to disavow the contract, Colonel Trumbull would, he had no doubt, be glad of it, as he could derive double the emolument from the painting by keeping it, or even by selling it elsewhere. Respecting Mr. SPENCER'S motion, Mr. S. said, it could do no harm to make the appropriation, as Colonel Trumbull would not get the money until the painting was delivered.

The question was then taken on striking out the appropriation, and decided in the negative—ayes 22.

The Committee having risen, and reported progress, the House adjourned.

WEDNESDAY, February 10.

Mr. HERBERT, from the Committee on the District of Columbia, to which was referred the bill from the Senate, entitled "An act further to amend the charter of the City of Washington," reported the same without amendment, and the bill was ordered to be read a third time to-morrow.

Mr. HERBERT, from the same committee, to which was referred the amendments proposed by the Senate to bills of this House, of the following titles, to wit: "An act to incorporate the Provident Association of Clerks, in the Civil Department of the Government of the United States, in the District of Columbia;" and "An act to incorporate the Medical Society of the District of Columbia," reported their agreement thereto. The said amendments were then severally read and concurred in by the House.

Mr. LIVERMORE, from the Committee on the Post Office and Post Roads, reported a bill to alter and establish certain post roads; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. HOLMES submitted a joint resolution, to authorize the transmission of the documents accompanying the report of the committee to examine into the proceedings of the Bank of the United States, free of postage; which was read twice and ordered to be engrossed and read a third time to-day. The resolution was then read a third time, and passed.

Mr. HUBBARD submitted the following resolution, accompanied with documents:

Resolved, That the Committee on Pensions and Revolutionary Claims be instructed to inquire into the expediency of placing Isaac Stebbins on the roll of invalid pensioners.

The resolution was read and referred to the Committee of the Whole, to which is committed the bill concerning invalid pensioners.

The Committee of the Whole, to which is committed the bill for the relief of Joseph Wheaton, were discharged from the consideration thereof, and it was ordered to be engrossed and read a third time to-morrow.

The Committee of the Whole, to which is committed the bill from the Senate, entitled "An act to increase the salaries of certain officers of Government," were discharged, and it was committed to the Committee of the Whole to which

is committed the bill making appropriations for the support of Government for the year 1819.

The Committee on Roads and Canals were discharged from the further consideration of the resolution submitted by Mr. PINDALL, on the 24th December last, instructing them to inquire into the expediency of completing the road from Cumberland to Wheeling, and the resolution was ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: "An act providing for a grant of land, for the seat of government in the State of Mississippi, and for the support of a seminary of learning within the said State;" "An act confirming Anthony Cavalier and Peter Petit, in their claim to a tract of land;" and "An act authorizing the President of the United States to purchase the lands reserved by the act of the 3d of March, 1817, to certain chiefs, warriors, or other Indians of the Creek nation;" in which bills they ask the concurrence of this House.

An act providing for a grant of land, for the seat of government in the State of Mississippi, and for the support of a seminary of learning within the said State; an act authorizing the President of the United States to purchase the lands reserved by the act of the 3d of March, 1817, to certain chiefs, warriors, or other Indians of the Creek nation; an act confirming Anthony Cavalier and Peter Petit, in their claim to a tract of land, were severally read twice, and referred, the first and second to the Committee on the Public Lands, and the third to the Committee on Private Land Claims.

Engrossed bills of the following titles, to wit:

An act to authorize the Secretary of War, to convey a lot or parcel of land belonging to the United States, lying in Jefferson county, Virginia; and, an act for the relief of Isaac Minis and others, were severally read the third time and passed.

GENERAL APPROPRIATION BILL.

The House then resolved itself into a Committee of the Whole, on the general appropriation bill for 1819.

The appropriation contained in the bill of $250,000 for the payment of moneys due and becoming due on existing contracts for completing the road from Cumberland, in Maryland, to the State of Ohio, with the amendment of Mr. CLAY to add an appropriation of $285,000 for the completion of said road, gave rise to much debate.

Mr. SMITH of Maryland, Mr. CLAY, Mr. PINDALL, Mr. BEECHER, and Mr. PITKIN, spoke in favor of the appropriation; Mr. JOHNSON, of Virginia, against any appropriation for this object: Mr. BALDWIN against the latter appropriation; and Mr. TALLMADGE against the appropriation—on the ground of imputed misapplication of the money.

Mr. JOHNSON, of Virginia, moved to strike out of the bill the clause appropriating $250,000 for present contracts; which motion was negatived.

Mr. CLAY moved to insert an additional appropriation of $285,000 for the completion of the road; which was agreed to by the following vote: For the additional appropriation 66, against it 61.

The Committee then proceeded to the consideration of the bill from the Senate, referred to the same Committee, to increase the salaries of certain officers of the Government—(to give the Heads of Departments salaries of $6,000 each, the Postmaster $4,000, and the Attorney General $3,500.)

Mr. HOPKINSON moved to amend this bill so as to give to the Chief Justice of the United States $5,000 per annum, and to the circuit judges $4,500 per annum.

After debate, this motion was agreed to—69 to 57.

Mr. WHITMAN moved an amendment to increase the salaries of the two Assistant Postmasters General, from $1,800 to $2,500 per annum; which was negatived.

Mr. RICH moved to reduce the proposed salaries of the Heads of Departments from $6,000 to $5,500; which motion was negatived by a considerable majority.

When the Committee was about to rise—

Mr. CLAY rose, and said, that it had been his settled intention to renew, pending this bill, the proposition which he had had the honor of submitting at the last session, having for its object the recognition of the independence of the United Provinces of South America. He was restrained from executing that intention by two considerations: one was his personal indisposition, but another and a more important one was the small portion of the session yet remaining to transact the public business. Whilst he was up, he would say, that so far from his opinions expressed on the former occasion having undergone any change, they had been strengthened and confirmed by all the occurrences which had subsequently taken place. He had been anxious, if time had permitted, to examine what appeared to him very exceptionable reasons assigned for declining to recognise our sister Republic, in a paper entitled to the most profound respect—the Message of the President at the opening of the Congress. He was desirous also of noticing the still more exceptionable grounds taken in a paper recently transmitted to the House from the Department of State. (It ought to be laid upon our table; why it was not, he did not know. He hoped our worthy Clerk would, in his future contract for the public printing, guard against the delay to which we have been so often subjected.) From that paper it appeared that even a Consul could not be received from the Southern Republic, because the grant of an exequator implied recognition. We receive her flag, we admit her commerce, and yet refuse the Consular protection which that flag and commerce necessarily drew with them! But to submit his proposition would be to occasion perhaps a protracted debate. And considering the few days yet left us; the pressing and urgent though not more important business yet to be done; he should hold himself inexcusable to the House and to the country, after

having himself so greatly contributed to the consumption of time in debate, if he were even the unintentional instrument of preventing the passage of what might be thought essential laws. He would like exceedingly to contrast the objections urged against the reception of the Venezuelian Minister with the more forcible and stronger ones that lay to the reception of the present Spanish Minister. But, deep as was the interest which he heretofore had felt, and still felt, in the success of the great struggle to the South, he must, for the reasons assigned, forbear to press any proposition upon the House at present.—Should it be necessary at another session, and should he have the honor of a seat on this floor then, he pledged himself to bring up the subject, unless adverse causes should render it highly inexpedient.

The Committee then rose, and reported the two bills it had had under consideration; and, after a sitting of nearly six hours, the House adjourned.

THURSDAY, February 11.

A new member, to wit: from North Carolina, CHARLES FISHER, elected to supply the vacancy occasioned by the death of George Mumford, appeared, produced his credentials, was qualified, and took his seat.

Mr. POINDEXTER presented a petition of the Legislature of the State of Mississippi, praying that a port of entry may be established on Pearl river, as near as may be to the mouth of the same.—Referred to the Committee of Commerce and Manufactures.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, to which was referred the bill from the Senate, entitled "An act for the relief of John A. Dix," reported the same without amendment, and it was ordered to be committed to a Committee of the Whole to-morrow.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act more effectually to provide for the punishment of certain crimes, and for other purposes;" in which they ask the concurrence of this House.

The bill was read twice, and referred to the Committee on the Judiciary.

On motion of Mr. WILLIAMS, of North Carolina, the Committee on Military Affairs were discharged from the further consideration of the resolution submitted by him some days ago, directing an inquiry into the expediency of reducing the Army of the United States.

Mr. W. stated that he made this proposition with the view of moving to-morrow to instruct the Military Committee to bring in a bill to reduce the Army, on which motion the sense of the House could be ascertained; and while the House was engaged on the Bank subject, the committee could be preparing the bill, if they should be so instructed.

The bill from the Senate supplemental to the act further to amend the charter of the City of Washington, was read the third time, and passed.

The engrossed bill for the relief of Joseph Wheaton was read a third time, and passed.

GENERAL APPROPRIATION BILL.

The House took up and proceeded to consider the amendments reported by the Committee of the Whole, to the bill making appropriations for the support of Government for the year 1819.

The first question was, on concurring in the amendment which proposed to insert the following item: "For completing the United States road from Cumberland, in Maryland, to the Ohio river, $285,000."

Mr. BASSETT spoke at some length against this appropriation.

Mr. TAYLOR, after supporting his motion by several arguments, proposed to add the following amendment:

"To be repaid out of the fund reserved for laying out and making roads to the State of Ohio, by virtue of the act, entitled "An act to enable the people of the eastern division of the Territory Northwest of the river Ohio to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes."

The amendment was opposed by Messrs. TUCKER, of Pennsylvania, STORRS, and SPENCER, and supported by the mover and by Mr. ANDERSON; all of whom went incidentally somewhat into the general question of the appropriation.

The amendment was finally agreed to; and the question was then taken on agreeing to the amendment reported by the Committee of the Whole, as amended, and decided in the affirmative—yeas 82, nays 71, as follows:

YEAS—Messrs. Abbot, Anderson of Kentucky, Barber of Ohio, Bayley, Beecher, Bloomfield, Campbell, Colston, Crawford, Cruger, Cushman, Davidson, Desha, Drake, Fuller, Gilbert, Hall of Delaware, Harrison, Hendricks, Herbert, Herrick, Hitchcock, Holmes, Hostetter, Hubbard, Hunter, Johnson of Kentucky, Jones, Kinsey, Lincoln, Linn, Little, Livermore, Lowndes, McLane of Delaware, McLean of Illinois, Mason of Massachusetts, Mercer, Middleton, Mills, Samuel Moore, Moseley, Murray, Jeremiah Nelson, Nesbitt, New, Newton, Ogden, Parrott, Patterson, Pindall, Poindexter, Porter, Quarles, Reed, Rice, Rich, Ringgold, Robertson, Ruggles, Schuyler, Seybert, Sherwood, Silsbee, Simkins, S. Smith, B. Smith, Speed, Storrs, Strother, Stuart of Maryland, Tarr, Taylor, Terrell, Terry, Trimble, Tucker of Virginia, Upham, Walker of Kentucky, Wallace, Westerlo, and Whitman.

NAYS—Messrs. Adams, Anderson of Pennsylvania, Austin, Baldwin, Ball, Barbour of Virginia, Bassett, Bennett, Blount, Boden, Burwell, Clagett, Comstock, Cook, Crafts, Darlington, Edwards, Ellicott, Fisher, Floyd, Garnett, Hale, Hall of North Carolina, Hasbrouck, Herkimer, Heister, Hogg, Hopkinson, Huntington, Irving of New York, Johnson of Virginia, Kirtland, Lawyer, W. Maclay, McCoy, Marchand, Mason of Rhode Island, Merrill, Robert Moore, Morton, H. Nelson, Orr, Palmer, Pawling, Pegram, Pitkin, Rhea, Richards, Rogers, Sampson, Savage, Sawyer, Scudder, Sergeant, Settle, Slocumb, J. S. Smith, Southard, Spencer, Stewart of North Carolina, Tallmadge,

Tompkins, Townsend, Tucker of South Carolina, Tyler, Wendover, Whiteside, Williams of Connecticut, Williams of New York, Williams of North Carolina, and Wilson of Pennsylvania.

Mr. Taylor then moved the same amendment, to come in after the appropriation of $250,000, for discharging claims due and becoming due under existing contracts for making said road; which was agreed to *nem. con.*

Mr. Johnson, of Virginia, then offered an amendment, which, after some discussion, in which Mr. J. supported, and Messrs. Smith, of Maryland, and Lowndes, made some remarks, principally explanatory, was agreed to, as follows:

"For a deficiency in the appropriations of former years for the payment of expenses on foreign intercourse, including losses on drafts and the difference of exchange, $25,000."

This item, as it originally stood in the bill, read—"For a deficiency in the appropriation for the year 1818, for contingent expenses of said missions, (Rio Janeiro, Madrid, London, Hague, and Stockholm,) $25,000."

Mr. Terrell moved to amend the bill so as to increase the appropriation for the clerks in the office of the Surgeon General from $1,150 to $2,150.

This motion gave rise also to some debate, and was finally negatived, without a division.

Mr. Johnson, of Virginia, moved to reduce the contingent appropriation for defraying the expenses attending intercourse with foreign nations (generally called the secret service fund) from $50,000 to $30,000; which motion Mr. J. supported at some length, and was replied to by Messrs. Smith, of Maryland, and Lowndes, and was finally agreed to—ayes 70, noes 54.

After some inquiry by Mr. Strother into the appropriation for defraying the expenses of commissioners, &c., for running the boundary under the Treaty of Ghent, the probable duration of this service, &c., and reply by Mr. Smith, of Maryland, the bill was ordered to be engrossed for a third reading; and

The House proceeded to the consideration of the amendment reported by the Committee of the Whole to the bill to increase the salaries of certain officers of the Government, viz., to increase also the compensation of the Chief Justice and Judges of the Supreme Court.

Considerable debate again took place on this amendment, in which Messrs. Holmes, Hopkinson, Livermore, and Mills, participated.

The amendment was finally concurred in by a large majority.

Mr. Strother then moved the indefinite postponement of the bill; which motion he supported in a speech of considerable length against the bill, and was replied to briefly by Mr. Johnson, of Kentucky; when

The question was taken on postponing the bill indefinitely, and decided in the negative—yeas 59, nays 93, as follows:

Yeas—Messrs. Austin, Ball, Barbour of Virginia, Bateman, Bayley, Bennett, Burwell, Campbell, Cook, Crafts, Culbreth, Davidson, Desha, Edwards, Folger, Garnett, Hall of North Carolina, Hasbrouck, Herkimer, Herrick, Hogg, Hunter, Huntington, Johnson of Virginia, Linn, McLean of Illinois, W. Maclay, W. P. Maclay, McCoy, Merrill, Robert Moore, Morton, Murray, H. Nelson, Patterson, Pegram, Richards, Rogers, Sampson, Savage, Sawyer, Scudder, Settle, Shaw, Slocumb, Ballard Smith, J. S. Smith, Southard, Speed, Stewart of North Carolina, Strother, Tarr, Tompkins, Townsend, Tucker of South Carolina, Tyler, Walker of Kentucky, Williams of New York, and Williams of North Carolina.

Nays—Messrs. Abbot, Adams, Allen, Baldwin, Barber of Ohio, Bassett, Beecher, Bloomfield, Butler of Louisiana, Clagett, Cobb, Colston, Comstock, Crawford, Cruger, Cushman, Darlington, Earle, Ellicott, Ervin of South Carolina, Fisher, Floyd, Fuller, Gage, Hale, Hall of Delaware, Harrison, Herbert, Hitchcock, Holmes, Hopkinson, Hostetter, Hubbard, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Lincoln, Little, Livermore, Lowndes, McLane of Delaware, Mason of Massachusetts, Mason of Rhode Island, Mercer, Middleton, Mills, Samuel Moore, Moseley, Jeremiah Nelson, Nesbitt, Ogden, Orr, Palmer, Parrott, Pawling, Pindall, Pitkin, Pleasants, Poindexter, Porter, Reed, Rhea, Rice, Rich, Ringgold, Robertson, Ruggles, Schuyler, Sergeant, Seybert, Sherwood, Silsbee, Simkins, S. Smith, Spencer, Storrs, Tallmadge, Taylor, Terrell, Terry, Tucker of Virginia, Upham, Wallace, Wendover, Westerlo, Whitman, Wilkin, Williams of Connecticut, Wilson of Massachusetts, and Wilson of Pennsylvania.

Mr. Whitman then renewed the motion which he had made in Committee of the Whole, to increase the salaries of the Assistant Postmasters General to $2,500, and supported his motion by reference to sundry facts to prove its necessity. The motion was agreed to; and,

After an unsuccessful motion by Mr. J. S. Smith to recommit the bill, for the purpose of increasing the salaries of the district judges, the bill was ordered to be engrossed, and the House adjourned.

Friday, February 12.

Mr. Taylor, from the Committee of Revisal and Unfinished Business, reported a bill concerning the allowance of pensions upon a relinquishment of bounty lands; which was read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. Poindexter, from the Committee on the Public Lands, reported a bill for the relief of Henry Batman; which was read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. P., from the same committee, to which was referred bills from the Senate of the following titles, to wit: "An act providing for a grant of land for the seat of government in the State of Mississippi, and for the support of a seminary of learning within the said State;" "An act authorizing the President of the United States to purchase the lands reserved by the act of the 3d of

March, 1817, to certain chiefs, warriors, or other Indians of the Creek nation;" "An act for the relief of John Clark;" and "An act for adjusting the claims to land and establishing land offices in the districts east of the island of New Orleans," reported the said bills without amendment.

The three first mentioned of the said bills were ordered to be read a third time to-morrow, and the latter to lie on the table.

The Committee of Claims were discharged from the further consideration of the bill from the Senate, entitled "An act for the relief of Samuel Ward;" and it was referred to the Committee on Pensions and Revolutionary Claims.

Mr. LIVERMORE, from the Committee on the Post Office and Post Roads, reported a bill freeing from postage, letters, and packets to and from certain officers of Agricultural Societies; which was read twice, and ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: "An act for the relief of Daniel Pettibone;" and "An act making appropriations to carry into effect, treaties concluded with several Indian tribes therein mentioned;" in which bills they ask the concurrence of this House.

The bill from the Senate, entitled "An act for the relief of Daniel Pettibone," was read twice, and referred to Messrs. FOLGER, SERGEANT, and SEYBERT.

The bill from the Senate, entitled "An act making appropriations to carry into effect treaties concluded with several Indian tribes therein mentioned," was read twice, and referred to the Committee of Ways and Means.

The House took up for consideration the report made by the Committee of Ways and Means during the last session, on the expediency of authorizing the President of the United States to distribute an additional sum among the assessors of the United States. Whereupon,

On motion of Mr. BARBOUR, of Virginia, the report was recommitted to the Committee of Ways and Means, with instructions to inquire into the expediency of preparing and reporting a bill allowing compensation to those Assessors who, under the act of August 2, 1813, commenced the duties prescribed therein, and were prevented from proceeding by reason of the State to which their assessment district belonged assuming its quota of the direct tax.

On motion of Mr. POINDEXTER, a committee was appointed, jointly, with such committee as may be appointed by the Senate, to inquire what subjects before the two Houses it will be proper to act on during the present session of Congress; and Messrs. POINDEXTER, BASSETT, PITKIN, TAYLOR, and HOLMES, were appointed on the part of this House.

An engrossed bill, entitled "An act making appropriations for the support of Government, for the year 1819," was read the third time, and passed.

The bill from the Senate, entitled "An act to increase the salaries of certain officers of Government," was read the third time as amended; and on the question, Shall it pass? it was determined in the affirmative—yeas 76, nays 56, as follows:

YEAS—Messrs. Adams, Allen of Massachusetts, Anderson of Kentucky, Barber of Ohio, Bassett, Beecher, Blount, Butler of Louisiana, Clagett, Cobb, Colston, Comstock, Cruger, Cushman, Darlington, Davidson, Ellicott, Fisher, Floyd, Fuller, Hale, Hall of Delaware, Herbert, Hitchcock, Holmes, Hopkinson, Hubbard, Johnson of Kentucky, Kinsey, Kirtland, Lawyer, Lincoln, Little, Livermore, McLean of Delaware, Mason of Massachusetts, Mercer, Middleton, Mills, Moseley, Jeremiah Nelson, Nesbitt, Newton, Ogden, Palmer, Parrott, Pawling, Pindall, Pitkin, Pleasants, Poindexter, Quarles, Rhea, Rice, Rich, Ringgold, Robertson, Ruggles, Schuyler, Seybert, Sherwood, Silsbee, Simkins, S. Smith, Alexander Smyth, Spencer, Storrs, Stewart of Maryland, Taylor, Terry, Wendover, Westerlo, Whitman, Wilkin, Williams of Connecticut, and Wilson of Massachusetts.

NAYS—Messrs. Austin, Ball, Barbour of Virginia, Bateman, Bayley, Bennett, Boden, Burwell, Campbell, Cook, Crafts, Culbreth, Desha, Edwards, Garnett, Gilbert, Hall of North Carolina, Hendricks, Herkimer, Herrick, Huntington, Johnson of Virginia, Linn, McLean of Illinois, W. Maclay, W. P. Maclay, McCoy, Marchand, Merrill, Robert Moore, Samuel Moore, Morton, H. Nelson, Patterson, Pegram, Richards, Rogers, Sampson, Savage, Scudder, Settle, Shaw, Bal. Smith, Southard, Stewart of North Carolina, Strother, Tarr, Tompkins, Tucker of South Carolina, Tyler, Walker of North Carolina, Wallace, Whiteside, Williams of New York, Williams of N. Carolina, and Wilson of Pennsylvania.

BANKS—DISTRICT OF COLUMBIA.

Mr. HERBERT, from the Committee on the District of Columbia, reported a bill concerning the banks of the District of Columbia. [Providing for the consolidation of the several banks of the District into two in each town, viz: in the City of Washington, under the denomination of the Bank of Washington and the Bank of the Metropolis; in Georgetown, under the denomination of the Bank of Columbia and the Bank of Georgetown; and in Alexandria, under the denomination of the Bank of Alexandria and the Bank of Potomac—each with a capital of one million of dollars; the remaining present banks to be merged in those above named, if they shall think proper, as follows: The Patriotic Bank, to subscribe its capital in the Bank of Washington; the Union Bank, the Farmers and Mechanics' Bank, and the Central Bank of Georgetown, to subscribe their capitals in the new Bank of Georgetown; the Bank of Alexandria, the Mechanics' Bank, and the Union Bank of Alexandria, to subscribe their capitals in the new Bank of Alexandria; and the Franklin Bank to subscribe its capital to the Bank of Potomac; the said subscriptions to be made on or before the first Monday in July, in the books to be opened for that purpose. The banks created by this act, to subscribe, on their organization, six per cent. on the capitals paid in for constructing turnpike roads connected with the District.]

The bill was twice read, and laid on the table.

REDUCTION OF THE ARMY.

Mr. Williams, of North Carolina, agreeably to the intimation which he gave yesterday, submitted the following resolution:

Resolved, That the Military Peace Establishment of the United States shall consist of such proportions of artillery, infantry, and riflemen, not exceeding, in the whole, six thousand men, as the President of the United States shall judge proper; and that the Committee on Military Affairs be instructed to report a bill for that purpose.

Mr. Williams supported his proposition in a speech of nearly two hours in length.

Mr. Harrison, of Ohio, replied, and spoke also at considerable length against the proposition to reduce the Army. When he had concluded,

Mr. Simkins, of South Carolina, intimating a wish to offer his opinions on the question, which the lateness of the hour opposed to-day, moved an adjournment; which motion was agreed to; and the House adjourned.

Saturday, February 13.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: "An act supplementary to the acts concerning the coasting trade;" and "An act to erect an equestrian statue of General Washington in the Capitol square;" in which they ask the concurrence of this House.

Engrossed bills of the following titles, to wit: An act concerning the allowance of pensions upon a relinquishment of bounty lands, and An act for the relief of Henry Batman, were severally read the third time, and passed.

Bills from the Senate, of the following titles, to wit: An act for the relief of John Clark; An act providing for a grant of land for the seat of government in the State of Mississippi, and for the support of a seminary of learning within the said State; and An act authorizing the President of the United States to purchase the lands reserved by the act of the 3d of March, 1817, to certain chiefs and warriors or other Indians of the Creek nation, were severally read the third time, and passed.

The bill from the Senate entitled "An act supplementary to the acts concerning the coasting trade," was read twice, and referred to the Committee of Ways and Means.

The bill from the Senate, entitled "An act to erect an equestrian statue of General Washington in the Capitol square," was read twice, and committed to a Committee of the Whole on Monday next.

On motion of Mr. Johnson, of Virginia, the Secretary of the Treasury was requested to communicate to this House a statement of the moneys, and the amount transferred by the Bank of the United States, for the use or accommodation of the Government or its agents, to any place or places where an equal amount of public money had not been previously received by the said bank or its branches.

REDUCTION OF THE ARMY.

The House then proceeded again to the consideration of the resolution offered by Mr. Williams, of North Carolina, to reduce the Army of the United States.

Mr. J. S. Smith, of North Carolina, moved to amend the resolution by adding thereto the following:

Resolved, That the act or acts of Congress authorizing the appointment of two Major Generals be repealed, and that the office of Major General, in the military peace establishment of the United States, be dispensed with.

Resolved, That the residue of the staff of the Army of the United States be reduced to one half of the present number of officers, or as nearly so as the nature of the case will admit of.

The amendment was accepted by Mr. Williams as a part of his motion.

Mr. Simkins spoke as follows:

Mr. Speaker, I am not insensible of the obligation I owe this House, in adjourning yesterday for the purpose of giving myself, as well as others, an opportunity of deliberating and delivering our sentiments, on the very important resolutions before the House; and I am equally sensible, that, in moving the adjournment, I assumed a responsibility always disagreeable to a young member, and which I cannot discharge either by the ability I possess, or the information I shall have to communicate on the subject.

If a man, acquainted with the defenceless state of this country, some ten or fifteen years ago, and with its consequences at the beginning of the late war, should have been ushered into this House at the time these resolutions, to reduce the Army from ten to six thousand men, were submitted by the gentleman from North Carolina, (Mr. Williams,) he would very naturally presume that our frontier, both inland and maritime, had been much lessened; that the number of military posts established for the public defence had been greatly diminished; and, above all, he would take it for granted, that Congress, whose duty it is to provide for the common defence, had, by the wisest, and most salutary laws, so armed, disciplined, organized, and equipped the whole body of the militia, as to have made them prompt, efficient, and energetic. But, what utter astonishment must he have felt, when he should be informed, that, so far from our territory being reduced, it had been greatly extended; that, so far from the number of military garrisons, fortifications, and posts being lessened, it had been found indispensably necessary to have them greatly increased; and that, so far from there being a well-armed, organized, and disciplined militia, that many of the States, upon a requisition made upon them by the Secretary of War, in conformity with a resolution of Congress, could not render even a vague account of the number of men fit for duty; that, so far from a uniform and efficient militia, fit for war, there was a relaxation so great, that scarcely a single branch of military duty was attended to! It would be still more astonishing, to

find that all the lessons of preparation and defence, so powerfully and awfully impressed upon us at the beginning of the last war, which caused so many millions to be wasted, and our blood so freely to flow, had been nearly lost to the nation, and about to be forgotten by Congress! Yes, I repeat it, forgotten by that Congress whose great and responsible duty it is "to provide for the common defence, and promote the general welfare" of the country.

From this view, Mr. Speaker, it does seem most evident to me, that this period, of all others, is the most adverse, the most unfortunate, and the most unwise, to move for a reduction of our army.

But the gentleman from North Carolina (Mr. WILLIAMS) insists upon it, that nations, like individuals, should not be prodigal in expenditure; and he intimates that there has been, and is now, a most ruinous, extravagant, and abusive disbursement of the public money, on our army. If this is true, if, indeed, there is this abuse, of which I have as yet heard no proofs, I, for one, would institute an inquiry, so full and prompt as to exact the most rigid accountability, and enforce the most efficient and complete system of economy. No one more thoroughly condemns a waste of public money than myself. Indeed, nothing can be more true than that a waste of money is a waste of the morality of the country; and, upon a due and proper accountability of your officers, greatly depends, not only the correct and pure administration of the Government, but even the existence of liberty itself. I would, therefore, never consent to tax the people to indulge the extravagance or pamper the pride of any set of men.

But, is the gentleman from North Carolina quite sure that he is pursuing the direct road to economy? It is much to be doubted whether his plan will not be by far the most expensive in the end. It is true he speaks very handsomely of the economy of Mr. Jefferson's administration; which he says is now going out of fashion, and almost forgotten, so much so, that the word economy is rarely used in this House. He also tells us, that, in the true spirit of economy, Mr. Jefferson disbanded, or greatly reduced, the Army. Yes, Mr. Speaker, he did; I acknowledge it; but has this turned out to be real economy? No, not so. I am, and always have been, an enthusiastic admirer of many traits in the character of that statesman, philosopher, and benefactor; but, permit me to say, that some measures of his administration have proved the most expensive to the nation. Subsequent experience has evinced it, and candor constrains me to confess and declare it. Let us for a single moment advert to that crisis. This distinguished friend to man came into the Government under the auspices of that great and mighty Republican party which had opposed the measures of Mr. Adams with the most perfect integrity, but with great feeling and violence. It was most natural that a thorough and sincere hatred for, and prejudice against, all Mr. Adams's principal acts, should be felt by those in power. It so happens, that parties, strongly opposed to each other, rarely stop at the proper point; and it followed, that a standing army, a navy, and other measures, were exceedingly unpopular, principally because Mr. Adams and his friends had vindicated, and had wished to swell them, as we thought, to an improper size, with improper views, and for improper purposes. Hence, there was so great an antipathy to anything like a standing army, among other things, that it was reduced below the proper standard, and a general relaxation in organization and discipline ensued. This, Mr. Speaker, was not the true policy of the country; but so ardent an admirer was I, with the great body of the people, of Mr. Jefferson's measures, that I vindicated, not only the reduction of the Army, to the lowest point, but I followed him most devotedly in his gunboat system, his plan for reducing an unjust nation to terms, by embargoes and restrictions. Indeed, his idea of obtaining and securing our rights, by an appeal to the justice and moral feeling of foreign nations, was also adopted. But what enlightened American, at this day, thinks that an improper reduction of the Army, the gunboat, or embargo systems, were prudent or economical? The effects of the late war have proved, beyond all possible question, that a lofty, dignified, national character, impressed and won by the unprecedented valor of your Army, and the thunder of your naval cannon, is of more real importance to us, in preserving peace and advancing our prosperity, than all the embargoes and restrictions; than all the appeals to national justice, and all the treaties and paper stipulations which the world could produce.

Will it be supposed, by any honorable member of this House, that I would depreciate the fair fame, or dim the steady lustre, which irradiates the brow of the distinguished Jefferson? I hope not. The main scope of his administraton is approved; but that there were some errors into which he, and the most of us, fell with him, it would be uncandid and unjust to deny. These should not now have been mentioned but to warn the House against them, to show that they are closely connected with the subject now before us, and to demonstrate that the honorable gentleman from North Carolina, under the specious name of economy, would plunge the nation, in this view, into the same unwise policy.*

* The true and rational grounds of the opposition to Mr. Adams's administration, were the following, viz: The obvious predilection of the party who supported him, for Great Britain. The great desire that was entertained to assimilate our Government as nearly as possible to her's; and the abuse of France and praise of Great Britain, whenever they came in contact. The Republicans did not so much oppose a navy, or a standing army of a reasonable size, in themselves considered, but because they were to be swelled to an improper size, all at once, not alone for national defence, but for war, against a Power which had given us no sufficient cause of war. As connected with this unnatural animosity to France, the Republicans opposed an unconstitutional sedition law, and an alien

The gentleman says, that those were the halcyon days of economy, peace, and prosperity. Let him remember that the calm was in some measure deceitful—that a storm was then gathering, and which, in spite of all the soothing palliatives which could be applied, did contrive to gather, and lower, and threaten, till it burst upon us, with all its awful fury, in 1812. It is unnecessary to recapitulate, in detail, the events of this war. They are so recent, and were so strongly marked, that they must present a vivid picture to the mind of every man who will look back. I call the attention of this House, however, to the opinions of the ablest friends of the country at the conclusion of the late war, when the dearly bought lessons of experience were in full view. The Senate of the United States, a body of men equal at least in age and experience, did solemnly pronounce an opinion that the Army should consist of twenty, or at the least fifteen thousand men, and so strong was their conviction of the necessity of this, that they refused, for a long time, to reduce it to the present establishment of ten thousand. Indeed there was a very large minority in this House, who thought this number too small.

The report of the Secretary of War, which has been the subject of such severe criticism by the honorable gentleman, states that, in 1802, a time of profound peace, and, I will add, of general relaxation, the Army consisted of 3,322; in 1808, of 9,996, and in 1818, of 12,656, including all descriptions of staff and officers attached to it. This report further states, that, since 1802, our population has nearly doubled, and our wealth more than doubled. Here the gentleman from North Carolina begins his scrutiny, and most unfairly endeavors to prove that, as our establishment in 1802 was only 3,322, and as our population and wealth are only doubled, the Army ought to be also only doubled, and triumphantly asserts that the premises taken by the Secretary do not justify his conclusions, but prove him to be unacquainted with even the elementary principles of arithmetic. This he does without adverting, which common justice both to this House and the Secretary required him to do, to what is explicitly stated in the report, that, since 1802, we have acquired the immense country of Louisiana, including the growing, yet defenceless city of New Orleans—that great commercial depot for the inexhaustible riches of the western world —that we have to defend a line of frontier, both maritime and inland, of about 8,000 miles, not including its indentations and windings. With equal unfairness, the gentleman does not bring to view what is also stated, and what could not have escaped the most careless observer, that, in 1802, we had but twenty-seven military posts, and that now we have seventy-three, with a number more indispensably necessary to be established, extending on the Lakes, the Missouri, Red River, Green Bay, St. Peters, the Yellowstone river, Belle Point, and Natchitoches. After this specimen of the correctness of the gentleman's arithmetic and reasons, I leave this House to judge between him and the Secretary, which is entitled to the palm either for arithmetical or reasoning talents, and which of the two may be said "to use bad arguments in a bad cause."

But, the honorable member asserts, and endeavors to prove, that the increase of the size and wealth of your commercial cities does not require any increase of soldiers to defend them; that at any rate the militia will answer this purpose. Is it possible that an assertion of this kind deserves to be refuted by serious argument? Will any member of this House compare such a city as New York, containing more than one hundred thousand inhabitants—the great emporium of your commercial prosperity, in which nearly one third of the revenue that supports your Government is collected—with any small town on your coast, and say that the former requires for its defence no greater number of soldiers than the latter? Do not large depots or large towns, generally speaking, require proportionably large and extensive fortifications; and are not a proportionable number of soldiery required to man these fortifications, to keep the guns in order, to acquire skill and discipline in their duty?

What purpose would militia answer, even if they could be called there quick enough, on any sudden emergency, unacquainted, as they would be, with the whole routine of duty? But it would be deemed a reflection on the sagacity and good sense of this House to dwell longer on an argument rejected alike by reason and experience.

Mr. Speaker, it seems somewhat like adding darkness to light to endeavor to enforce more strongly or give more weight to some of the topics discussed in this report, but I cannot forbear dwelling for a few moments on the indispensable importance of a well organized Army, which can only be obtained by a well organized staff. They form the most efficient defence of the country against sudden onsets. In time of peace they keep alive military science, skill, and that spirit of ardor, patriotism, and national glory, which form the very basis for an increased efficient force at the commencement of a war. They furnish the only certain materials for making the militia useful, energetic, and overwhelming, when drawn out into the service of the country. They save, thereby, in the language of the gentleman from Ohio, (Mr. HARRISON,) "thousands of lives and millions of money." This will be the road to real economy.

law, giving the President almost unlimited powers, as it regarded those unhappy strangers who had sought a home on our shores, all brought to bear on the people at a particular time, "to save them from their worst enemies, themselves," and to create, in fact, "a reign of terror" in which the people should not be allowed to canvass freely the measures of their own Government. These are a few of the grounds upon which the "Federalists," so called, were opposed by the Republicans, which even now have lost none of their force, but of which, subsequent events have disclosed, Mr. Adams was not so great an advocate as a party which surrounded him, and which wished and endeavored to drive him much further than he did go.

But the gentleman from North Carolina opposes this idea, and endeavors to make the Secretary of War contradict himself in one short sentence, by representing him to admit the staff to be unnecessary in time of peace, yet necessary to be kept up. Will the patience of the House last whilst I read the whole paragraph of the report which is alluded to? It is too important to be omitted:

"In fact, no part of our military organization requires more attention in peace than the general staff. It is, in every service, invariably the last in attaining perfection, and, if neglected in peace, when there is leisure, it will be impossible, in the midst of the hurry and bustle of war, to bring it to perfection. It is in peace that it should receive a perfect organization, and that the officers should be trained to method and punctuality, so that, at the commencement of a war, instead of creating anew, nothing more should be necessary than to give to it the necessary enlargement. In this country particularly, the staff cannot be neglected with impunity. As difficult as its operations are in actual service everywhere, it has here to encounter great and peculiar impediments, from the extent of the country, the badness, and frequently the want of roads, and the sudden and unexpected calls which are often made on the militia. If it could be shown that the staff, in its present extent, was not necessary in peace, it would, with the view taken, be unwise to lop off any of its branches which would be necessary in an actual service. With a defective staff, we must carry on our military operations under great disadvantages, and be exposed, particularly at the commencement of a war, to great losses, embarrassments, and disasters."

Now, is it not obvious that it is nowhere admitted in this document that the staff is unnecessary in time of peace? It is, on the contrary, essential, even then, for the due organization of the Army; but it is admitted that, in time of war, its importance is incalculably increased, so much so, that, even if it could be proved to be unnecessary in time of peace, yet it is so absolutely indispensable in time of war that it would be rash to lop off any of its branches; because, in time of war, it could not be perfected. Time could not be given for such a purpose.

The member from North Carolina, in his zeal to reduce the Army, or, in other words, to show that, in time of peace, we should make no preparation for a time of war, has asserted that the officers of the standing army which existed before the last war, rendered but little service during that eventful period; that but few victories were obtained by them; and plainly infers that the keeping of officers in pay in time of peace is unnecessary. Is the gentleman aware how much he risks, and what injustice he has done by such an assertion? An assertion which, although made, no doubt, with the purest motives, is contradicted by almost every event that occurred. The truth really is that the officers of the old army were the principal actors in the last war, and were the true sources from whence the skill, discipline, and intrepidity which were imparted to the Army originally sprang, and which eventually gave such signal and glorious success to its exertions. In what a situation would your country have been placed without Scott, Gaines, Pike, Covington, Gibson, Hamilton, and many more, together with persons in this House, the mention of whose names delicacy now forbids? How unfortunate for the argument used has been the reference to the officers of the Army previous to the late war! A constellation of military talent, mingled with the purest patriotism, which imparts glory to our arms and honor to the American name! Without derogating from the talents and exertions of others, permit me to observe that these are the men who had a principal agency in saving your country; and the reasons why their exploits did not appear conspicuous in the commencement of the war, were because those soldiers, under their discipline previously to that period, were too few in number, and, because it was impossible to impart their discipline and ardor, in a single day, to troops newly raised and added to the Army.

An attack on the candor and official character of the Secretary of War is made by directly charging him with giving a statement and arguments, in his report, to keep the Army at what it now is, rather than a full development of facts or information. I understood the gentleman to say so, and he does not disavow the charge. But, has he pointed out in detail the facts which have been suppressed or kept back? He has not done it; he cannot do so. Will the members of this House who have not read the report read it, and examine the volume of information given in a tabular form, and then judge whether full information is not given? Mr. Speaker, it does not become me to stand here, the eulogist of this officer, nor, neither shall I do it. It is unnecessary, because his acts, reports, and documents, speak for themselves. Let them be examined, and then let him stand or fall by the opinion entertained of them by the impartial of all parties.

But what information has he withheld? He has given the number of men nominally, the number of men actually, composing the army. He has given the staff, the engineer, and ordnance departments; the officers, the pay of all; an account of the transportation, forage, and even fuel. He has given the garrisons, forts, posts, &c., with the number of men at each. He has shown you the expense which must necessarily be incurred by the immense space over which your little army must be stationed. He has shown you, from the great number of desertions which do and must always take place in a country like ours, that the army is but little more than half filled; and that, although it is so small, yet he has demonstrated the necessity, from the great number of posts to be occupied, that the number of officers cannot be diminished with safety to the army. And yet, after all this, a charge is brought forward that full information is not afforded! The gentleman has long had this subject under consideration; if he wanted further information, he well knew the course to be pursued to obtain it. Why has he not done so? It seems to me that he has overlooked the cardinal points in the report, which make against him, and has viewed it with the eye of a special

pleader, to find defects which he can hardly avail himself of by a special demurrer. In short, without derogating from his talents or candor, I may be permitted to say that he reminds me of what has been said by one of our own poets:

> "That any man, with half an eye,
> What stands before him may espy;
> But optics sharp it needs, I ween,
> To see what is not to be seen."

At all events, I am willing to submit the report itself, with the gentleman's speech, which he has spent so much time and perseverance to enable him to make, to his own constituents, however strongly they may be opposed to a standing army, and I should not fear the result.

Much has been said about the abusive and extravagant expenditure of public money in the army; and, although I have seen no documentary or well-established proof of this, yet it is highly probable there may have been abuses existing in some of its departments. If so, I for one would correct them; but, let it be remembered, that the War Department seems not, for many years back, to have been a favorite station; but few persons of distinguished talents could be got to accept it, and those of that class who did, have, in a short time, abandoned it. Under these circumstances, is it wonderful that confusion, and even abuses, should have found their way into it? If they do exist, they have been or will be shortly seen, and have been or will be speedily remedied. It is already seen that the strictest accountability and most rigid economy can be enforced, by making the head of each responsible for the abuses and defalcations in his own department, and by making him who presides over all responsible to this body and this nation for the whole.

It has already been seen, too, that the establishment and organization of your commissariat has saved much of the public treasure in a single year; that great improvements can, and are about to be introduced, which will add to the health and comfort of the soldier; and that industry, in improving and making important military roads, begins to be the order of the day. It need hardly be mentioned that this system of industry, expended on this object, will strengthen the defence and promote the commercial and political prosperity of the Union, and that by it the soldier will establish and secure good health and good habits, and also advance his private interests.

A want of military knowledge prevents me from entering into the detail of duty and of pay in the different departments; but, as the gentleman who offered these resolutions has made many charges against the officers of the army, from information obtained from private, and, in my opinion, vague sources, it is but common justice that I should correct two of them. The first relates to alleged impositions said to have been committed in the article of fuel, in New York, and perhaps other places; and that is, that an officer charges against the Government the highest prices that occur during the season, although the article may not have cost him half the sum. Now, if any abuse ever did exist in this way, it has not been often; for I am authorized to state that the contract for fuel is made by the Quartermaster's department, at a stipulated price, which is generally reasonable, bring about six dollars a cord, instead of fifteen or twenty. In the city of New York, as stated by the gentleman, this contract continues for the season, and does not admit of the imposition stated.

It is also stated that the Inspector General of the Northern division is receiving a salary or pay, and absolutely fulfils little or no duty. Now, so far from this being the case, that valuable officer, since March last, has inspected the men, military improvements, arms, ammunition, &c., at perhaps thirty or forty posts; in doing which, he has been compelled to travel about seven thousand miles, and has made his report of the same to the proper department, to which the gentleman may resort for further information. If the various other charges made are equally incorrect, it is obvious that the honorable member must have been egregiously imposed upon.

Still, however, it is insisted, that the army must be reduced, for all now is peace; that there is no danger from Great Britain; and that Spain cannot injure us. Has it not been proved, that, in proportion as you abandon defence and reduce your army, you invite danger, you invite war? All gentlemen know that nations are governed by interest, and that they strike where and when you are weakest. By such a conduct you offer a premium to nations to cut up your trade, assail your country, and depress your growing greatness. Have you not a great rival in commerce and in everything connected with the prosperity of the nation, and yet do you make bare your breast and invite the vital attacks?

Besides, will gentlemen cast their eyes to the North, to the West, and to the South, and behold what an almost boundless extent of frontier they have exposed to the attacks of the murderous man-killing savage, even now but slightly defended, and relying for protection greatly on the supposed pacific disposition of these unrelenting people! Can you attentively consider this state of things, and diminish an army now greatly reduced by desertion and other causes? Will the gentleman from North Carolina be answerable for the innocent blood which must flow, if your army is reduced? I think he would shrink from so dreadful a responsibility.

But danger to the liberties of the country is augured from our small yet valorous standing army! Nothing but respect for the gentleman would allow me to treat the idea seriously. Danger from a standing army of five or six thousand men stationed at seventy-three posts, scattered over an extent of country of from two to four thousand miles, and peopled by ten millions of enlightened freemen! I dismiss the subject, as I will the further trespass upon your patience, by observing that, diminish your army to so pitiful a size, that officers of talents will not serve in it.

Dismiss from its rolls Jackson, Brown, Scott, Gaines, Macomb, and others, who now give it reputation, and who irradiate the land where they fought by the success of their battles and the splendor of their fame, and your army will languish, your military skill and ardor will die, the home of freedom will be assailed, and your liberties will be endangered!

Mr. SAWYER spoke a short time in favor of the resolutions.

Mr. STORRS opposed the resolutions, and replied at some length to the advocates of the proposition.

Mr. LIVERMORE spoke briefly in favor of reducing the army.

Mr. JOHNSON, of Kentucky, opposed it, and spoke a short time in answer to those who advocated the reduction.

Mr. HOLMES, after stating that there were but fifteen days remaining of the session, in which the House could not, with due attention to the necessary measures now before it, investigate and act on this subject with the deliberation and understanding which its importance demanded, and that it would be better to defer the decision of the question to the next session of Congress, when it could be maturely acted on, with the view of bringing the discussion now to a close, moved that the resolutions be laid on the table.

Mr. DESHA made one or two remarks against the motion of Mr. H., observing, incidentally, that he was opposed to reducing the army, except so far as regarded the staff.

The question was then taken on laying the resolutions on the table, and decided in the affirmative, yeas 71, nays 66, as follows:

YEAS—Messrs. Abbot, Anderson of Kentucky, Baldwin, Barbour of Virginia, Bassett, Bennett, Butler of Louisiana, Clagett, Claiborne, Comstock, Crawford, Cruger, Culbreth, Davidson, Folger, Harrison, Hasbrouck, Herrick, Hitchcock, Holmes, Hopkinson, Hunter, Irving of New York, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lawyer, Lewis, Lincoln, Linn, Little, McLane of Delaware, McLean of Illinois, McCoy, Merrill, Middleton, Samuel Moore, H. Nelson, New, Newton, Ogden, Parrot, Pawling, Pegram, Pleasants, Poindexter, Porter, Rhea, Rich, Ringgold, Robertson, Sergeant, Seybert, Simkins, S. Smith, Bal. Smith, Southard, Speed, Storrs, Strong, Tallmadge, Terrell, Tompkins, Trimble, Tucker of Virginia, Tyler, Upham, Walker of Kentucky, Wendover, and Wilkin.

NAYS—Messrs. Adams, Allen of Massachusetts, Ball, Bayley, Beecher, Bellinger, Boden, Burwell, Campbell, Cobb, Colston, Cook, Darlington, Desha, Earle, Edwards, Fisher, Gage, Garnett, Gilbert, Hale, Hall of Delaware, Hall of North Carolina, Hendricks, Herbert, Herkimer, Heister, Hogg, Hostetter, Huntington, Livermore, W. Maclay, W. P. Maclay, Marchand, Mason of Rhode Island, Mercer, Mills, Robert Moore, Murray, Jer. Nelson, Orr, Patterson, Rice, Richards, Sampson, Savage, Sawyer, Scudder, Settle, Shaw, Sherwood, Slocumb, J. S. Smith, Stewart of North Carolina, Stuart of Maryland, Taylor, Terry, Tucker of South Carolina, Walker of North Carolina, Whiteside, Whitman, Williams of Connecticut, Williams of New York, Williams of North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania.

NEW STATES.

The House then, on motion of Mr. SCOTT, resolved itself into a Committee of the Whole, (Mr. SMITH, of Maryland, in the chair,) on the bills to enable the people of the Territories of Missouri and Alabama to form State governments.

The bill relating to the Missouri Territory was the first in order, and the first taken up.

The Committee were busily occupied until half past 4 o'clock, in maturing the details of this bill, and discussing propositions for its amendment; in which Messrs. SCOTT, ROBERTSON, MILLS, HARRISON, ANDERSON, of Kentucky, DESHA, TALLMADGE, CLAY, and BARBOUR, participated.

In the course of the consideration, Mr. TALLMADGE moved an amendment, substantially to limit the existence of slavery in the new State, by declaring all free who should be born in the Territory after its admission into the Union, and providing for the gradual emancipation of those now held in bondage.

This motion gave rise to an interesting and pretty wide debate, in which the proposition was supported by the mover, and by Messrs. LIVERMORE and MILLS, and was opposed by Messrs. CLAY, (Speaker,) BARBOUR, and PINDALL; but before any question was taken, the Committee rose, and the House adjourned.

MONDAY, February 15.

Mr. WENDOVER presented a petition of sundry stockholders in the Bank of the United States, residing in the city of New York, owning stock in said bank, exceeding in the aggregate two millions of dollars, praying that no measures may be adopted calculated to put down, or to destroy the credit of the said bank, but that such course may be adopted as will protect private rights, and restore to the bank the confidence of the community; which petition was referred to the Committee of the Whole on the state of the Union.

Mr. SERGEANT presented a petition of sundry merchants of Philadelphia, stating that late in the year year 1806 they made large shipments in American and colonial produce, from ports of the United States to the port of Antwerp, in France; that the vessels in which their shipments were made were carried into England under the Orders in Council of Great Britain, and after being subjected to illegal duties, were released; that upon their arrival in the port of Antwerp the ships with their cargoes were seized under the decrees of France, commonly called "the Berlin and Milan Decrees," and were sold, and the proceeds paid into the treasury of France; that all their efforts to obtain redress have been unavailing, and praying that such measures may be adopted by the Government of the United States as will induce that of France to grant

them compensation for their property, as well as for its detention.—Referred to the Secretary of State.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill making an appropriation for carrying into effect the provisions of an act, passed on the 1st day of March, 1817, entitled "An act making reservation of certain public lands to supply timber for naval purposes;" which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill for establishing an additional military academy and a military school of application; which was read twice, and committed to the Committee of the Whole, to which is committed the bill to establish a national armory.

The House took up and proceeded to consider the bill for the relief of Patrick Callan; whereupon, it was ordered that the said bill be engrossed and read a third time to-morrow.

A message from the Senate informed the House that the Senate have passed the bill of this House, entitled "An act for the relief of Kenzie and Forsyth," with an amendment. And they have also passed bills of the following titles, to wit: "An act for confirming the claim of Alexander Macomb to a tract of land in the Territory of Michigan;" "An act for the relief of B. and P. Jourdan, brothers;" "An act for the relief of Michael Hogan," and "An act for the relief of the heirs of Edward McCarty;"—in which amendment and last-mentioned bills, they ask the concurrence of this House.

MEMORIAL OF GEORGE WILLIAMS.

The SPEAKER presented a memorial of George Williams, explanatory of his conduct as a director, on the part of the Government, of the Bank of the United States; which was ordered to lie on the table. The memorial is as follows:

To the House of Representatives of the United States:

The memorial of George Williams respectively sets forth, that having this day obtained a copy of the documents reported by the committee of your House, appointed to examine into the proceedings of the Bank of the United States, he deems it proper to submit to the House of Representatives some explanations relative to his conduct as a Government director, which has been the subject of animadversion in the report of the committee. The imputations charged against your memorialist are threefold: 1st. That he subscribed eleven hundred and seventy-two shares of stock in as many names, as their attorney, for the purpose of unduly influencing the election of directors. 2dly. That he was concerned in the purchase of one thousand shares for the account of Mr. Jones, on which a considerable profit was realized by that gentleman, in which the committee seem to suppose there was some unfairness:—and, 3dly. That your memorialist, while a Government director, had been deeply concerned in the purchase of stock, and in the making and purchase of contracts for the delivery of stock. With regard to the first allegation, he obtained names and subscribed one share each on them, for the sole object of securing a considerable amount of this stock, entertaining a very favorable opinion of the institution; but in so doing he had not the remotest view to influence the election, not being even a candidate for the office of director himself. He procured, also, eight hundred shares to be subscribed for him in different names, in ten and twenty shares each, in Lexington and Cincinnati, with the same object. The whole of the eleven hundred and seventy-two shares were voted singly at the first election, the transfer books not being at that time opened, and every share taken in single names as then voted, whether held by the real proprietor or by proxy. The shares above referred to were subsequently consolidated, and were never, after the first election, voted as if held in single names. They were voted, not by the memorialist, but by the agents of the Baltimore stockholders, in common with other shares held there; and, although these stockholders held one-fourth of the votes, while those of New York held only one-twelfth thereof, it is decisive evidence that no undue influence was attempted to be exercised, in behalf of the Baltimore interest, since only two directors were elected into the first board from Baltimore, and a like number from New York. In noticing the second charge, your memorialist avers that there is not the slightest foundation for imputing, either to himself or to Mr. Jones, the late President, any unfair or improper motives in that transaction. But he forbears to go into a statement of its particular circumstances, inasmuch as that gentleman has presented documents in his justification to your House, establishing, as he trusts, conclusively, its innocent and honorable character.

In reference to the third allegation, your memorialist acknowledges that, having believed that the Bank of the United States, being chartered by Congress, would receive the countenance and be invigorated by the fostering protection of the Government; that it possessed great advantages, which in its progress would be continually developing, and becoming daily more evident; and that it would be prosperous and productive beyond any other moneyed institution in the country, he early made large investments in its stock, both by original subscription and by purchase; that almost all he ever obtained he continues now to hold; that, in so doing, he had not the most distant idea he was acting inconsistently with his duty as a public director, or that he transgressed the bounds which his obligations in that situation imposed upon his conduct. Nor did he imagine that, in proportion as he increased his interest in the institution, he thereby diminished his fidelity to it, or became the less qualified to act as a director of its concerns. He did not understand that his appointment applied any restraint on his accustomed commercial dealings, or that, in clothing himself with the office of a director, he thereby abandoned his profession, or lost the character of a merchant. His purchases were made openly in the market, and his engagements relative to them fairly entered into, and honorably fulfilled.

Your committee have appeared to suppose that sundry measures were adopted by the board of directors, which, having had the effect to raise the price of the stock, were entered into for the purpose of giving an artificial and temporary enhancement to those prices. The measures alluded to are principally the resolutions to pay dividends in England; to loan to subscribers to enable them to pay the second instalment; to loan on stock at par; and, subsequently, to loan on stock at one hundred and twenty-five dollars per

share, with requiring an additional name. Your memorialist was not a director at the time the two first of these resolutions were passed, and not residing at Philadelphia, and consequently seldom being present at the sittings of the board, he was absent when the two last of those measures were adopted, so that he had no individual participation in any of those proceedings. Nor does he recollect ever to have advised or assented to the payment of the dividends on delinquent stock. He will, however, take this occasion to observe, that he entertains a thorough conviction that all those measures were entered into in perfect good faith, and with no sinister or interested views on the part of the board of directors; and he does not doubt, that, if he had had a vote on all, or any of those resolutions, they would have received his full approbation, whatever may now be thought of their wisdom or policy.

In conclusion, your memorialist begs leave briefly to notice the remarks made by the committee upon his examination before them. He stated to the committee his perfect readiness to answer all inquiries which regarded his conduct as a public director, and even to disclose to them the particulars of all his contracts and concerns of every nature, relative to his purchase of stock, for their satisfaction; but, understanding that the statements furnished, and the results obtained in their inquiries, would be printed and published, he declined exhibiting for public inspection his private transactions, they having not the least connexion with his proceedings or character as a director of the bank. And your memorialist acknowledges that he made no explanations before the committee in extenuation or vindication of his conduct, as it appears by the report he had the opportunity given him to do, both because he did not then understand, to the best of his present recollection, that he was expected or invited to make explanations for such an object; and, moreover, because he did not conceive, nor does he now conceive that his conduct required either apology, extenuation, or vindication. During the two years that he served his Government as a director, he endeavored to fulfil the duties of his honorable appointment to the best of his judgment and abilities. He arrogates in his behalf no praise for manifesting either; but he claims confidently the merit of having, at all times and on all occasions, discharged those duties with perfect integrity and uprightness.

Your memorialist, forbearing to invoke in his favor that share of reputation which his fellow-citizens have heretofore accorded to him, and which has been hitherto unimpeached, relies with entire confidence on the justice and impartiality of your honorable House to acquit him in his character of a public director, (in which character alone he has any right to ask to be heard,) of all unworthy or dishonorable imputations, where no evidence appears to condemn him, and to believe his motives to be correct and pure, where his actions cannot be shown to be either criminal or even blameable. GEORGE WILLIAMS.

BALTIMORE, *February* 10, 1819.

ADMISSION OF MISSOURI.

The House having again resolved itself into a Committee of the Whole, (Mr. SMITH of Maryland in the chair,) on the bill to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of the same into the Union—

The question being on the proposition of Mr. TALLMADGE to amend the bill by adding to it the following proviso:

"*And provided*, That the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes, whereof the party shall have been fully convicted; and that all children born within the said State, after the admission thereof into the Union, shall be free at the age of twenty-five years:"

The debate which commenced on Saturday was to-day resumed on this proposition; which was supported by Mr. TAYLOR, Mr. MILLS, Mr. LIVERMORE, and Mr. FULLER; and opposed by Mr. BARBOUR, Mr. PINDALL, Mr. CLAY, and Mr. HOLMES.

This debate (which was quite interesting) involved two questions; one of right, the other of expediency. Both were supported by the advocates of the amendment, and generally opposed by its opponents. On the one hand, it was contended that Congress had no right to prescribe to any State the details of its government, any further than that it should be republican in its form; that such a power would be nugatory, if exercised, since, once admitted into the Union, the people of any State have the unquestioned right to amend their constitution of government, &c.

On the other hand, it was as strongly contended that Congress had the right to annex conditions to the admission of any new State into the Union; that slavery was incompatible with our Republican institutions, &c.

Besides the above gentlemen, Mr. HARRISON and Mr. HENDRICKS spoke on points incidentally introduced into the debate.

Mr. TAYLOR, of New York, spoke as follows:

Mr. Chairman, if the few citizens who now inhabit the Territory of Missouri were alone interested in the decision of this question, I should content myself with voting in favor of the amendment, without occupying for a moment the attention of the Committee. But the fact is far otherwise: those whom we shall authorize to set in motion the machine of free government beyond the Mississippi, will, in many respects, decide the destiny of millions. Cast your eye on that majestic river which gives name to the Territory, for the admission of which into the Union we are about to provide; trace its meanderings through fertile regions for more than two thousand miles; cross the stony mountains, and descend the navigable waters which empty into the Western ocean; contemplate the States hereafter to unfurl their banners over this fair portion of America, the successive generations of freemen who there shall adorn the arts, enlarge the circle of science, and improve the condition of our species. Having taken this survey, you will be able, in some measure, to appreciate the importance of the subject before us. Our votes this day will determine whether the high destinies of this region, and of these generations, shall be fulfilled, or whether we shall defeat them by permitting slavery, with all its baleful consequences, to inherit the land. Let the magnitude

of this question plead my apology, while I briefly address a few considerations to the sober judgment of patriots and statesmen.

I will not now stop to examine the policy of extending our settlements into the wilderness, with the astonishing rapidity which has marked their progress, leaving within our ancient borders an extensive country, unsubdued by the hand of man. This inquiry, although intimately connected with the subject, would too much extend the range of discussion at this late period of the session. I, however, cannot forbear reminding gentlemen that but few years have elapsed since the opinion was often expressed, and earnestly inculcated by our wisest and best men, that no locations ought to be made beyond the Mississippi, until the original States and their Territories should acquire a population of considerable compactness and strength; and that our military posts should not be pushed forward faster than was necessary to protect the frontier settlements. A policy embracing more enlarged ideas, and more magnificent projects, appears to have succeeded. We now talk of forts at the mouth of the Yellow Stone, and military establishments some fifteen or twenty hundred miles in the Indian country, as objects of reasonable and easy achievement. An honorable member from Virginia has this morning presented a petition from sundry inhabitants of that State, praying of Congress permission to settle on Columbia river, between the Rocky Mountains and the Pacific ocean, probably intending to introduce slavery into the remotest verge of Republican territory. I pass over these subjects, however momentous, and well deserving the attention of Congress, and come directly to the points in issue.

First. Has Congress power to require of Missouri a Constitutional prohibition against the further introduction of slavery, as a condition of her admission into the Union?

Second. If the power exist, is it wise to exercise it?

Congress has no power unless it be expressly granted by the Constitution, or necessary to the execution of some power clearly delegated. What, then, are the grants made to Congress in relation to the Territories? The third section of the fourth article declares, that "the 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." It would be difficult to devise a more comprehensive grant of power. The whole subject is put at the disposal of Congress, as well the right of judging what regulations are proper to be made, as the power of making them, is clearly granted. Until admitted into the Union, this political society is a territory; all the preliminary steps relating to its admission are territorial regulations. Hence, in all such cases, Congress has exercised the power of determining by whom the constitution should be made, how its framers should be elected, when and where they should meet, and what propositions should be submitted to their decision. After its formation, the Congress examine its provisions, and, if approved, admit the State into the Union, in pursuance of a power delegated by the same section of the Constitution, in the following words: "New States may be admitted by the Congress into the Union." This grant of power is evidently alternative; its exercise is committed to the sound discretion of Congress; no injustice is done by declining it. But if Congress has the power of altogether refusing to admit new States, much more has it the power of prescribing such conditions of admission as may be judged reasonable. The exercise of this power, until now, has never been questioned. The act of 1802, under which Ohio was admitted into the Union, prescribed the condition that its constitution should not be repugnant to the ordinance of 1787. The sixth article of that ordinance declares, "there shall be neither slavery nor involuntary servitude in the said Territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted." The same condition was imposed by Congress on the people of Indiana and Illinois. These States have all complied with it, and framed constitutions excluding slavery. Missouri lies in the same latitude. Its soil, productions, and climate are the same, and the same principles of government should be applied to it.

But it is said that, by the treaty of 1803, with the French Republic, Congress is restrained from imposing this condition. The third article is quoted as containing the prohibition. It is in the following words: "The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages and immunities of citizens of the United States, and, in the meantime, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess." The inhabitants of the ceded territory, when transferred from the protection of the French Republic, in regard to the United States, would have stood in the relation of aliens. The object of the article doubtless was to provide for their admission to the rights of citizens, and their incorporation into the American family. The treaty made no provision for the erection of new States in the ceded territory. That was a question of national policy, properly reserved for the decision of those to whom the Constitution had committed the power. The framers of the treaty well knew that the President and Senate could not bind Congress to admit new States into the Union. The unconstitutional doctrine had not then been broached, that the President and Senate could not only purchase a West India island or an African principality, but also impose upon Congress an obligation to make it an independent State, and admit it into the Union. If the President and Senate can, by treaty, change the Constitution of the United States, and rob Congress of a power clearly delegated, the doctrine may be true, but otherwise, it is false. The treaty, therefore, has no operation on

the question in debate. Its requirements, however, have been faithfully fulfilled. In 1804, the laws of the United States were extended to that territory. The protection afforded by the Federal Constitution was guarantied to its inhabitants. They were thus "incorporated in the Union," and secured in the enjoyment of their rights. The treaty stipulation being thus executed, "as soon as possible," it remained a question for the future determination of Congress, whether the Government should remain territorial or become that of an independent State. In 1811, this question was decided in relation to that part of the territory which then embraced nearly all the population, and to acquire which, alone, the treaty had been made. A law was passed to enable the people of the Territory of Orleans to form a constitution and State government, and to provide for its admission into the Union. Did Congress then doubt its power to annex conditions to such admission? No, sir, far from it. The government of Orleans had always been administered according to the principles of the civil law. The common law, so highly valued in other parts of our country, was not recognised there. Trial by jury was unknown to the inhabitants. Instead of a privilege, they considered its introduction an odious daparture from their ancient administration of justice. Left to themselves, they never would have introduced it. Congress, however, knowing these things, made it a condition of their admission into the Union, that trial by jury should be secured to the citizen by a Constitutional provision.

Even the language of the Territory was required to be changed, as a condition of its admission. The inhabitants were wholly French and Spanish. Theirs were the only languages generally spoken, or even understood. But Congress required from them a Constitutional provision, that their legislative and judicial proceedings should be conducted in the English language. They were not left at liberty to determine this point for themselves. From these facts, it appears that Congress, at that day, acted from a conviction that it possessed the power of prescribing the conditions of their admission into the Union.

Gentlemen have said the amendment is in violation of the treaty, because it impairs the property of a master in his slave. Is it then pretended, that, notwithstanding the declaration in our bill of rights, "that all men are created equal," one individual can have a vested property not only in the flesh and blood of his fellow man, but also in generations not yet called into existence? Can it be believed that the supreme Legislature has no power to provide rules and regulations for ameliorating the condition of future ages? And this, too, when the Constitution itself has vested in Congress full sovereignty, by authorizing the enactment of whatever law it may deem conducive to the welfare of the country. The sovereignty of Congress in relation to the States, is limited by specific grants—but, in regard to the Territories, it is unlimited. Missouri was purchased with our money, and, until incorporated into the family of States, it may be sold for money. Can it then be maintained, that, although we have the power to dispose of the whole Territory, we have no right to provide against the further increase of slavery within its limits? That, although we may change the political relations of its free citizens by transferring their country to a foreign Power, we cannot provide for the gradual abolition of slavery within its limits, nor establish those civil regulations which naturally flow from self-evident truth? No, sir, it cannot; the practice of nations and the common sense of mankind have long since decided these questions.

Having proved, as I apprehend, our right to legislate in the manner proposed, I proceed to illustrate the propriety of exercising it. And here I might rest satisfied with reminding my opponents of their own declarations on the subject of slavery. How often, and how eloquently, have they deplored its existence among them? What willingness, nay, what solicitude have they not manifested to be relieved from this burden? How have they wept over the unfortunate policy that first introduced slaves into this country! How have they disclaimed the guilt and shame of that original sin, and thrown it back upon their ancestors! I have with pleasure heard these avowals of regret and confided in their sincerity; I have hoped to see its effects in the advancement of the cause of humanity. Gentlemen have now an opportunity of putting their principles into practice; if they have tried slavery and found it a curse; if they desire to dissipate the gloom with which it covers their land; I call upon them to exclude it from the Territory in question; plant not its seeds in this uncorrupt soil; let not our children, looking back to the proceedings of this day, say of them, as they have been constrained to speak of their fathers, "we wish their decision had been different; we regret the existence of this unfortunate population among us; but we found them here: we know not what to do with them; it is our misfortune, we must bear it with patience."

History will record the decision of this day as exerting its influence for centuries to come over the population of half our continent. If we reject the amendment and suffer this evil, now easily eradicated, to strike its roots so deep in the soil that it can never be removed, shall we not furnish some apology for doubting our sincerity, when we deplore its existence—shall we not expose ourselves to the same kind of censure which was pronounced by the Saviour of Mankind upon the Scribes and Pharisees, who builded the tombs of the prophets and garnished the sepulchres of the righteous, and said, if they had lived in the days of their fathers, they would not have been partakers with them in the blood of the prophets, while they manifested a spirit which clearly proved them the legitimate descendants of those who killed the prophets, and thus filled up the measure of their fathers' iniquity?

Mr. Chairman, one of the gentlemen from Ken-

tucky (Mr. CLAY) has pressed into his service the cause of humanity. He has pathetically urged us to withdraw our amendment and suffer this unfortunate population to be dispersed over the country. He says they will be better fed, clothed and sheltered, and their whole condition will be greatly improved. Sir, true humanity disowns his invocation. The humanity to which he appeals is base coin; it is counterfeit, it is that humanity which seeks to palliate disease by the application of nostrums, which scatter its seeds through the whole system—which saves a finger to-day, but amputates the arm to-morrow. Sir, my heart responds to the call of humanity; I will zealously unite in any practicable means of bettering the condition of this oppressed people. I am ready to appropriate a territory to their use, and to aid them in settling it—but I am not willing, I never will consent to declare the whole country west of the Mississippi a market overt for human flesh. In vain will you enact severe laws against the importation of slaves, if you create for them an additional demand, by opening the western world to their employment. While a negro man is bought in Africa for a few gewgaws or a bottle of whiskey, and sold at New Orleans for twelve or fifteen hundred dollars, avarice will stimulate to the violation of your laws. Notwithstanding the penalties and confiscations denounced in your statutes and actually enforced on all detected offenders, the slave trade continues—a vigilant execution of the laws may diminish it, but, while you increase the demand and offer so great temptation to the cupidity of unprincipled men, they will encounter every peril in the prosecution of this unhallowed traffic. The gentleman from Kentucky has intimated his willingness, in addition to the existing penalties upon transgression, to discourage this inhuman commerce by declaring the imported slave to be free. This provision, if established, would in theory provide some remedy for the evil, but in practice it would be found altogether inoperative. A slave is smuggled into the country and by law becomes free; but the fact of importation must be established by witnesses in a court of justice. In non-slaveholding States, all men are presumed free, until the contrary be proved; but, where slavery is established, all black men are presumed slaves, until they are proved free. This presumption alone would generally present to the slave an insuperable obstacle to the successful prosecution of his claim—he moreover would be poor, unfriended, ignorant of our language, and under the watchful eye of those whose interest it would be to allow no communication of his wrongs where redress could be obtained. The right of freedom might exist, but he would find it impracticable to enforce it, and he probably would have occasion to feel that every effort to break his chains only increase their weight and render his condition the more intolerable.

To the objection that this amendment will, if adopted, diminish the value of a species of property in one portion of the Union, and thereby operate unequally, I reply, that if, by depriving slaveholders of the Missouri market, the business of raising slaves should become less profitable, it would be an effect incidentally produced, but is not the object of the measure. The law prohibiting the importation of foreign slaves was not passed for the purpose of enhancing the value of those then in the country, but that effect has been incidentally produced in a very great degree. So now the exclusion of slavery from Missouri may operate, in some measure, to retard a further advance of prices; but, surely, when gentlemen consider the present demand for their labor, and the extent of country in Louisiana, Mississippi, and Alabama, requiring a supply, they ought not to oppose their exclusion from the territory in question. It is further objected, that the amendment is calculated to disfranchise our brethren of the South, by discouraging their emigration to the country west of the Mississippi. If it were proposed to discriminate between citizens of the different sections of our Union, and allow a Pennsylvanian to hold slaves there while the power was denied to a Virginian, the objection might very properly be made; but, when we place all on an equal footing, denying to all what we deny to one, I am unable to discover the injustice or inequality of which honorable gentlemen have thought proper to complain. The description of emigrants may be affected, in some measure, by the amendment in question. If slavery shall be tolerated, the country will be settled by rich planters, with their slaves; if it shall be rejected, the emigrants will chiefly consist of the poorer and more laborious classes of society. If it be true that the prosperity and happiness of a country ought to constitute the grand object of its legislators, I cannot hesitate for a moment which species of population deserves most to be encouraged by the laws we may pass. Gentlemen, in their zeal to oppose the amendment, appear to have considered but one side of the case. If the rejection of slavery will tend to discourage emigration from the South, will not its admission have the same effect in relation to the North and East. Whence came the people who, with a rapidity never before witnessed have changed the wilderness between the Ohio and Mississippi into fruitful fields; who have erected there, in a period almost too short for the credibility of future ages, three of the freest and most flourishing States in our Union? They came from the eastern hive; from that source of population which, in the same time, has added more than one hundred thousand inhabitants to my native State, and furnished seamen for a large portion of the navigation of the world; seamen who have unfurled your banner in every port to which the enterprise of man has gained admittance, and who, though poor themselves, have drawn rich treasures for the nation from the bosom of the deep. Do you believe that these people will settle in a country where they must take rank with negro slaves? Having neither the ability nor will to hold slaves themselves, they labor cheerfully while labor is honorable; make it disgraceful, they will despise it. You cannot degrade it more effectually than

by establishing a system whereby it shall be performed principally by slaves. The business in which they are generally engaged, be it what it may, soon becomes debased in public estimation. It is considered low, and unfit for freemen. I cannot better illustrate this truth than by referring to a remark of the honorable gentleman from Kentucky (Mr. CLAY.) I have often admired the liberality of his sentiments. He is governed by no vulgar prejudices; yet with what abhorrence did he speak of the performance, by your wives and daughters, of those domestic offices which he was pleased to call servile! What comparison did he make between the "black slaves" of Kentucky and the "white slaves" of the North; and how instantly did he strike a balance in favor of the condition of the former! If such opinions and expressions, even in the ardor of debate, can fall from that honorable gentleman, what ideas do you suppose are entertained of laboring men by the majority of slaveholders? A gentleman from Virginia (Mr. BARBOUR) replies, they are treated with confidence and esteem, and their rights are respected. Sir, I did not imagine they were put out of the protection of law. Their persons and property are doubtless secure from violence, or, if injured, the courts of justice are open for their redress. But, in a country like this, where the people are sovereign, and every citizen is entitled to equal rights, the mere exemption from flagrant wrong is no great privilege. In this country, no class of freemen should be excluded, either by law, or by the ostracism of public opinion, more powerful than law, from competing for offices and political distinctions. Sir, a humane master will respect the rights of his slave, and, if worthy, will honor him with confidence and esteem. And this same measure, I apprehend, is dealt out, in slaveholding States, to the laboring class of their white population. But whom of that class have they ever called to fill stations of any considerable responsibility? When have we seen a Representative on this floor, from that section of our Union, who was not a slaveholder? Who but slaveholders are elected to their State Legislatures? Who but they are appointed to fill their executive and judicial offices? I appeal to gentlemen, whether the selection of a laboring man, however well educated, would not be considered an extraordinary event? For this I do not reproach my brethren of the South. They doubtless choose those to represent them in whom they most confide; and far be it from me to intimate that their confidence is ever misplaced. But my objection is to the introduction of a system which cannot but produce the effect of rendering labor disgraceful.

An argument has been urged by a gentleman from Virginia (Mr. BARBOUR) against the proposed amendment, connected with our revenues. He said, that by prohibiting the further introduction of slaves into the proposed State, we should reduce the price and diminish the sales of our public lands. In my opinion, the effect would be precisely the reverse. True, it is, that lands for cultivation have sold higher in Alabama than in Illinois, but this is owing not to the rejection of slavery in the one and its admission into the other, but to the different staples they are capable of producing. The advanced price of cotton has created in market a demand for lands suited to its cultivation, and enhanced their value far beyond any former precedent. But, to test the truth of the position, we must ascertain the relative value of land in adjoining States, the one allowing and the other rejecting slavery, where the climate, soil, productions, and advantages of market are similar. Pennsylvania and Maryland furnish fair specimens of comparison in all these respects. But here the result is in direct opposition to the conjecture of the gentleman from Virginia. Land on the Pennsylvania side of the line, where the power of holding slaves does not exist, uniformly sells at a higher price than lands of equal quality on the Maryland side, where the power is in full exercise. It therefore is probable that the further introduction of slavery into Missouri, far from increasing, would actually diminish the value of our public lands. But, should the fact be otherwise, I entreat gentlemen to consider whether it become the high character of an American Congress to barter the present happiness and future safety of unborn millions for a few pieces of pelf, for a few cents on an acre of land. For myself, I would no sooner contaminate the national Treasury with such ill-gotten gold, than I would tarnish the fame of our national ships by directing their employment in the African slave trade. But, whatever may be the influence of the subject in controversy upon the original price of land, it must be evident to all men of observation that its ultimate and permanent effects are very prejudicial to agricultural improvement. Farms in Maryland, notwithstanding the mildness of its climate compared with New York, I am informed, may be purchased at five or six dollars an acre, while lands, by nature not more fertile nor more advantageously situated, in the last mentioned State, sell at a rate ten times higher. Had not slavery been introduced into Maryland, her numerous and extensive old fields, which now appear to be worse than useless, would long since have supported a dense population of industrious freemen, and contributed largely to the strength and resources of the State. Who has travelled along the line which divides that State from Pennsylvania, and has not observed that no monuments are necessary to mark the boundary; that it is easily traced by following the dividing lines between farms highly cultivated and plantations laying open to the common and overrun with weeds; between stone barns and stone bridges on one side, and stalk cribs and no bridges on the other; between a neat, blooming, animated, rosy-cheeked peasantry on the one side, and a squalid, slow-motioned, black population on the other? Our vote this day will determine which of these descriptions will hereafter best suit the inhabitants of the new world beyond the Mississippi. I entreat gentlemen to pause and solemnly consider

how deeply are involved the destinies of future generations in the decision now to be made. If I agreed in opinion with the gentleman from Georgia, (Mr. Cobb,) that this amendment does not present an insurmountable barrier against the further introduction of slavery; that Missouri, after becoming a State, may call a convention and change this feature of her constitution—even then I should consider the amendment scarcely less important than if it were a fundamental and unalterable compact. On this subject we have experience, and the result has justified the best hopes of our country; while under the government of Congress, slavery was excluded from the Territories, now the States, north of the Ohio. Our power over their municipal regulations has since been withdrawn; they have taken the government into their own hands. But who has not seen the moral effect produced on the inhabitants by the ordinance of 1787? It is as permanent as the soil over which it was established. The exclusion of slavery from all these States is now more effectually insured by public sentiment than by their Constitutional prohibitions. Require the government of Missouri to commence right, and the same moral effect will then be produced. No convention of the people will ever permit the future introduction of slaves. Let their political institutions be established in wisdom, and I shall confidently trust in the good sense of the people to direct them thereafter. But, be the event as it may, I at least shall have the satisfaction of reflecting that, if the misfortune of slavery shall be entailed upon this country, everything in my power will have been done to prevent it.

Mr. Chairman, it was my intention to say something of the moral and political interests involved in this question. But, having already occupied more of your time than was my purpose when I rose to address you, and being admonished, by the multiplicity of important bills which, during the few remaining days of the session, demand our attention, I forbear to discuss or even touch upon those parts of the subject. It moreover is the less necessary, because those views have often been presented to the public, and have doubtless been seriously considered by every member of this Committee. The facts and arguments to which I have drawn your attention, more particularly relate to our condition as a Federal Republic, and our duties to Missouri, arising from the relation in which she stands to the Union. While regretting that it has not been in my power to do more ample justice to this important subject, owing in part to the unexpected manner in which it was taken up, I cannot sit down without expressing an earnest hope that our present decision may be such as will promote the permanent union, stability, and security of our country.

Mr. Fuller, of Massachusetts, said, that, in the admission of new States into the Union, he considered that Congress had a discretionary power. By the 4th article and 3d section of the Constitution, Congress are authorized to admit them; but nothing in that section, or in any part of the Constitution, enjoins the admission as imperative, under any circumstances. If it were otherwise, he would request gentlemen to point out what were the circumstances or conditions precedent, which being found to exist, Congress must admit the new State. All discretion would in such case be taken from Congress, Mr. F. said, and deliberation would be useless. The honorable Speaker (Mr. Clay) has said, that Congress has no right to prescribe any condition whatever to the newly organized States, but must admit them by a simple act, leaving their sovereignty unrestricted. [Here the Speaker explained—he did not intend to be understood in so broad a sense as Mr. F. stated.] With the explanation of the honorable gentleman, Mr. F. said, I still think his ground as untenable as before. We certainly have a right, and our duty to the nation requires, that we should examine the actual state of things in the proposed State; and, above all, the Constitution expressly makes a republican form of government in the several States a fundamental principle, to be preserved under the sacred guarantee of the National Legislature. [Art. 4, sec. 4.] It clearly, therefore, is the duty of Congress, before admitting a new sister into the Union, to ascertain that her constitution or form of government is republican. Now, sir, the amendment proposed by the gentleman from New York, Mr. Tallmadge, merely requires that slavery shall be prohibited in Missouri. Does this imply anything more than that its constitution shall be republican? The existence of slavery in any State is so far a departure from republican principles. The Declaration of Independence, penned by the illustrious statesman then and at this time a citizen of a State which admits slavery, defines the principle on which our National and State Constitutions are all professedly founded. The second paragraph of that instrument begins thus: "We hold these truths to be 'self-evident—that all men are created equal—'that they are endowed by their Creator with 'certain inalienable rights—that among these 'are life, liberty, and the pursuit of happiness." Since, then, it cannot be denied that slaves are men, it follows that they are in a purely republican government born free, and are entitled to liberty and the pursuit of happiness. [Mr. F. was here interrupted by several gentlemen, who thought it improper to question in debate the republican character of the slaveholding States, which had also a tendency, as one gentleman (Mr. Colston, of Virginia,) said, to deprive those States of the right to hold slaves as property, and he adverted to the probability that there might be slaves in the gallery listening to the debate.] Mr. F. assured the gentleman that nothing was further from his thoughts than to question on that floor the right of Virginia and other States, which held slaves when the Constitution was established, to continue to hold them. With that subject the National Legislature could not interfere, and ought not to attempt it. But, Mr. F. continued, if gentlemen will be

patient, they will see that my remarks will neither derogate from the Constitutional rights of the States, nor from a due respect to their several forms of government. Sir, it is my wish to allay, not to excite local animosities; but I shall never refrain from advancing such arguments in debate as my duty requires, nor do I believe that the reading of our Declaration of Independence, or a discussion of republican principles on any occasion, can endanger the rights, or merit the disapprobation of any portion of the Union.

My reason, Mr. Chairman, for recurring to the Declaration of our Independence, was to draw from an authority admitted in all parts of the Union a definition of the basis of republican government. If, then, all men have equal rights, it can no more comport with the principles of a free Government to exclude men of a certain color from the enjoyment of "liberty and the pursuit of happiness," than to exclude those who have not attained a certain portion of wealth, or a certain stature of body; or to found the exclusion on any other capricious or accidental circumstance. Suppose Missouri, before her admission as a State, were to submit to us her constitution, by which no person could elect, or be elected to any office, unless he possessed a clear annual income of twenty thousand dollars; and suppose we had ascertained that only five, or a very small number of persons had such an estate; would this be anything more or less than a real aristocracy, under a form nominally republican? Election and representation, which some contend are the only essential principles of republics, would exist only in name—a shadow without substance, a body without a soul. But if all the other inhabitants were to be made slaves, and mere property of the favored few, the outrage on principle would be still more palpable. Yet, sir, it is demonstrable that the exclusion of the black population from all political freedom, and making them the property of the whites, is an equally palpable invasion of right and abandonment of principle. If we do this in the admission of new States, we violate the Constitution, and we have not now the excuse which existed when our National Constitution was established. Then, to effect a concert of interests, it was proper to make concessions. The States where slavery existed not only claimed the right to continue it, but it was manifest that a general emancipation of slaves could not be asked of them. Their political existence would have been in jeopardy; both masters and slaves must have been involved in the most fatal consequences.

To guard against such intolerable evils, it is provided in the Constitution "that the migration or importation of such persons, as any of the existing States think proper to admit, shall not be prohibited till 1808." Art. 1, sec. 9. And it is provided elsewhere, that persons held to service by the laws of any State, shall be given up by other States to which they may have escaped, &c. Art. 4, sec. 2.

These provisions effectually recognised the right in the States, which, at the time of framing the Constitution, held the blacks in slavery, to continue so to hold them, until they should think proper to meliorate their condition. The Constitution is a compact among all the States then existing, by which certain principles of government are established for the whole and for each individual State. The predominant principle, in both respects, is, that all men are free, and have an equal right to liberty, and all other privileges; or, in other words, the predominant principle is republicanism, in its largest sense. But, then, the same compact contains certain exceptions. The States then holding slaves are permitted, from the necessity of the case, and for the sake of union, to exclude the republican principle so far, and only so far, as to retain their slaves in servitude, and also their progeny, as had been the usage, until they should think it proper or safe to conform to the pure principle by abolishing slavery. The compact contains on its face the general principle and the exceptions. But the attempt to extend slavery to the new States is in direct violation of the clause which guaranties a republican form of government to all the States. This clause, indeed, must be construed in connexion with the exceptions before mentioned; but it cannot, without violence, be applied to any other States than those in which slavery was allowed at the formation of the Constitution.

The honorable Speaker cites the first clause in the second section of the fourth article: "The citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States," which he thinks would be violated by the condition proposed in the Constitution of Missouri. To keep slaves—to make one portion of the population the property of another, hardly deserves to be called a privilege, since what is gained by the masters must be lost by the slaves. But, independently of this consideration, I think the observations already offered to the Committee, showing that holding the black population in servitude is an exception to the general principles of the Constitution, and cannot be allowed to extend beyond the fair import of the terms by which that exception is provided, are a sufficient answer to the objection. The gentleman proceeds in the same train of reasoning, and asks, if Congress can require one condition, how many more can be required, and where these conditions will end? With regard to a republican constitution, Congress are obliged to require that condition, and that is enough for the present question; but I contend, further, that Congress has a right, at their discretion, to require any other reasonable condition. Several others were required of Ohio, Indiana, Illinois, and Mississippi. The State of Louisiana, which was a part of the territory ceded to us at the same time with Missouri, was required to provide in her constitution for trials by jury, the writ of habeas corpus, the principles of civil and religious liberty, with several others peculiar to that State. These certainly are, none of them, more indispensable ingredients in a republican form of government, than the equality

of privileges of all the population; yet these have not been denied to be reasonable, and warranted by the national Constitution in the admission of new States. Nor need gentlemen apprehend that Congress will set no reasonable limits to the conditions of admission. In the exercise of their Constitutional discretion on this subject, they are, as in all other cases, responsible to the people. Their power to levy direct taxes is not limited by the Constitution. They may lay a tax of one million of dollars, or of a hundred millions, without violating the letter of the Constitution; but if the latter enormous and unreasonable sum were levied, or even the former, without evident necessity, the people have the power in their own hands—a speedy corrective is found in the return of the elections. This remedy is so certain, that the representatives of the people can never lose sight of it; and consequently an abuse of their powers, to any considerable extent, can never be apprehended. The same reasoning applies to the exercise of *all* the powers intrusted to Congress, and the admission of new States into the Union is in no respect an exception.

One gentleman, however, has contended against the amendment, because it abridges the rights of the slaveholding States to transport their slaves to the new States for sale or otherwise. This argument is attempted to be enforced in various ways, and particularly by the clause in the Constitution last cited. It admits, however, of a very clear answer, by recurring to the ninth section of article first, which provides, that "the migration or importation of such persons as any of the States then existing shall admit, shall not be prohibited by Congress till 1808." This clearly implies that the *migration* and importation may be prohibited *after* that year. The importation has been prohibited, but the migration has not hitherto been restrained; Congress, however, may restrain it when it may be judged expedient. It is, indeed, contended by some gentlemen, that migration is either synonymous with importation, or that it means something different from the transportation of slaves from one State to another. It certainly is not synonymous with *importation*, and would not have been used if it had been so. It cannot mean *exportation*, which is also a definite and precise term. It cannot mean the reception of *free* blacks from foreign countries, as is alleged by some, because no possible reason existed for regulating their admission by the Constitution; no free blacks ever came from Africa, or any other country, to this; and to introduce the provision by the side of that for the importation of slaves would have been absurd in the highest degree. What alternative remains but to apply the term "migration" to the transportation of slaves from those States where they are admitted to be held, to other States? Such a provision might have in view a very natural object. The price of slaves might be affected so far by a sudden prohibition to transport slaves from State to State, that it was as reasonable to guard against that inconvenience, as against the sudden interdiction of the importation. Hitherto it has not been found necessary for Congress to prohibit migration or transportation from State to State. But now it becomes the right and duty of Congress to guard against the further extension of the intolerable evil and the crying enormity of slavery.

The expediency of this measure is very apparent. The opening of an extensive slave market will tempt the cupidity of those who otherwise perhaps might gradually emancipate their slaves. We have heard much, Mr. Chairman, of the Colonization Society; an institution which is the favorite of the humane gentlemen in the slaveholding States. They have long been lamenting the miseries of slavery, and earnestly seeking for a remedy compatible with their own safety and the happiness of their slaves. At last the great desideratum is found—a colony in Africa for the emancipated blacks. How will the generous intentions of these humane persons be frustrated, if the price of slaves is to be doubled by a new and boundless market! Instead of emancipation of the slaves, it is much to be feared that unprincipled wretches will be found kidnapping those who are already free, and transporting and selling the hapless victims into hopeless bondage. Sir, I really hope that Congress will not contribute to discountenance and render abortive the generous and philanthropic views of this most worthy and laudable society. Rather let us hope that the time is not very remote when the shores of Africa, which have so long been a scene of barbarous rapacity and savage cruelty, shall exhibit a race of free and enlightened people, the offspring indeed of cannibals or of slaves, but displaying the virtues of civilization and the energies of independent freemen. America may then hope to see the development of a germ, now scarcely visible, cherished and matured under the genial warmth of our country's protection, till the fruit shall appear in the regeneration and happiness of a boundless continent.

One argument still remains to be noticed. It is said, that we are bound by the treaty of cession with France to admit the ceded territory into the Union, "as soon as possible." It is obvious that the President and Senate, the treaty-making power, cannot make a stipulation with any foreign nation in derogation of the Constitutional powers and duties of this House, by making it imperative on us to admit the new territory according to the literal tenor of the phrase; but the additional words in the treaty, "according to the principles of the Constitution," put it beyond all doubt that no such compulsory admission was intended, and that the republican principles of our Constitution are to govern us in the admission of this, as well as all the new States, in the national family.

Mr. P. P. BARBOUR, of Virginia, said that, as he was decidedly opposed to the amendment which had been offered, he asked the indulgence of the House whilst he made some remarks in addition to those which had fallen from the

Speaker, for the purpose of showing the impropriety of its adoption.

The effect of the proposed amendment is to prohibit the further introduction of slaves into the new State of Missouri, and to emancipate, at the age of twenty-five years, the children of all those slaves who are now within its limits. The first objection, said he, which meets us at the very threshold of the discussion, is this, that we have no Constitutional right to enact the proposed provision. Our power, in relation to this subject, is derived from the first clause of the third section of the fourth article of the Constitution, which is in these words: "New States may be admitted, by the Congress, into this Union." Now, sir, although, by the next succeeding clause of the same section, "Congress has the power to make all needful rules and regulations respecting the territory of the United States;" and although, therefore, whilst the proposed State continued a part of our territory, upon the footing of a Territorial government, it would have been competent for us, under the power expressly given, to make needful rules and regulations—to have established the principle now proposed; yet, the question assumes a totally different aspect when that principle is intended to apply to a State. This term State has a fixed and determinate meaning; in itself, it imports the existence of a political community, free and independent, and entitled to exercise all the rights of sovereignty, of every description whatever. As it stands in the Constitution, it is to be defined with some limitation upon that principle of construction which has reference to the subject-matter. The extent of the limitation, according to this rule, is obviously this, that it shall enjoy all those rights of sovereignty which belong to the original States which composed the Federal family, and into an union with which it is to be admitted. Now, sir, although the original States are shorn of many of their beams of sovereignty—such, for example, as that of declaring war, of regulating commerce, &c.; yet we know that, even by an express amendment to the Constitution, all powers not expressly delegated are reserved to the States respectively; and of course the power in question, of deciding whether slavery shall or shall not exist. Gentlemen had said that slavery was prohibited in many of the original States. Does not the House, said Mr. B., at the first glance, perceive the answer to this remark? It is an argument from fact to principle, and in this its utter fallacy consists. It is true that slavery does not exist in many of the original States; but why does it not? Because they themselves, in the exercise of their legislative power, have willed that it shall be so. But, though it does not now exist, it is competent for them, by a law of their own enactment, to authorize it—to call it into existence whenever they shall think fit. Sir, how different would be the situation of Missouri, if the proposed amendment be adopted. We undertake to say that slavery never shall be introduced into that State. The State of Missouri, then, would obviously labor under this disadvantage in relation to the other States: that, though for the time being the fact might be the same in it as in them—that is to say, slavery might be alike prohibited, and not at all exist, yet, as the prohibition of it in other States was repealable at their own will, it might be altered whensoever they chose; whereas, if this prohibition were enacted by Congress, and were required as a *sine qua non* to their admission into the Union, that State could not repeal it, unless, indeed, another opinion was correct, which had been advanced, that, though we did require this provision in their constitution, as indispensable to their admission, yet they might forthwith change their constitution, and get rid of the difficulty. If that be the case, sir, as has been justly remarked, we were doing worse than nothing to legislate upon the subject. But, sir, this provision would be in violation of another principle of the Constitution, to be found in the first clause of the second section of the fourth article; by which it is declared that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." Now, he would ask, whether a citizen of the State of Missouri, who (if this amendment prevail) cannot hold a slave, could, in the language of the section which he had just quoted, be said to enjoy the same privileges with a citizen of Virginia who now may hold a slave, or even with a citizen of Pennsylvania, who, though he cannot now hold one, yet may be permitted by the Legislature of his own State? Sir, it would be a solecism in language, a contradiction in terms. This part of the Constitution, then, also forbids the adoption of the amendment under discussion.

But, said he, if we pursue this reasoning still further, and follow it up to all the consequences to which it will lead, we shall be more forcibly struck with its impropriety. If we have a right to go one step in relation to a new State, beyond the footing upon which the original States stand; if we have a right to shear them of one beam more of sovereignty, we have the same right to take from them any other attribute of sovereign power. Thus, sir, we should equally possess the power to require as an indispensable condition of their admission, that the departments of their Government should be organized in a particular way; for example, that their Chief Executive Magistrate should or should not have either a complete or a qualified veto upon the acts of their Legislature; that their Legislature should consist either of one or two chambers, as in our discretion we thought right. Would gentlemen advocate this doctrine? If they did not, they must abandon this amendment. Again, if we had the power to say that their constitution should provide that there should not be slavery, we had the same power over the converse of the proposition, and to require them to provide that there should be slavery; he believed this latter principle would not be contended for.

Gentlemen had, on this occasion, as many others, quoted precedents of former Congresses

upon this subject. He would enter his most solemn protest now, and at all times, against the force of legislative precedent. But let us examine them. It is said that the like prohibition has been enacted as it respects Ohio and the other States northwest of the river Ohio. In the first place, the House would recollect that an ordinance was passed by the old Congress, at a period anterior to the present Constitution, ordaining that as a fundamental article in relation to all the northwest territory, and therefore the precedent, if it would otherwise have any weight, failed in its application. But, he said, he did not hesitate to express it as his decided opinion, that the ordinance which he had just mentioned was utterly void, and, consequently, that those States might introduce slavery amongst them, if they so willed, because the territory which composes them originally belonged to Virginia. She had conquered it by her arms; she ceded it to the United States upon the express condition that it should be formed into States, as free, sovereign, and independent as the other States. The prohibition of slavery was ordained by the Continental Congress, after the cession had been made, which would unquestionably render those States less sovereign than the original States of the Federal Union. But it has been said that we imposed conditions on the admission of the State of Louisiana into the Union. What were those conditions? That civil and religious liberty should be established, and the trial by jury secured. It cannot be necessary to remind the House, that these several provisions attached also to the original States, by the most explicit declaration to that effect, in the first, fifth, and seventh amendments to the Constitution of the United States. These requisitions, then, were in perfect consistency with his principle. All that he contended for was, that we could impose no condition upon the new States, which the Constitution had not imposed upon the old ones; as those which were imposed upon Louisiana were clearly of that description, they were within our power; but, as the prohibition of slavery was not of that description, he thought it was as clearly beyond our power. The gentleman from Massachusetts had said that it was competent to the State Legislatures to declare that the progeny of all slaves should be free when they attained a given age; and hence he inferred that Congress might do the same, in relation to the proposed State. Sir, said Mr. B., there is no sort of analogy between the cases; the State Legislatures can do it, because to them appertains the whole business of municipal legislation, and this regulation would be embraced within it; and Congress could do the same, in relation to its Territorial governments, because over them we possess the whole power of municipal legislation; not so in the present case; for the question now before us, is not what regulation we shall prescribe for a territory which is to continue as such, but upon what forms and conditions we will admit a State into the Union. Our business is, then, to create a political community of a particular character, as prescribed by the Constitution; to itself it will belong to regulate its interior concerns, and, amongst others, to decide whether it will or will not admit involuntary servitude.

Mr. B. said he had endeavored to show that we had no power to require the condition embraced in this amendment; he would now beg leave to present to the House some other views of the subject, for the purpose of showing that, if it were within our power, we were forbidden from exercising it, by every consideration of humanity, of justice, and sound policy. Upon the subject of humanity, he had scarcely anything to add to what had been said by the Speaker; he had shown, in the most satisfactory manner, that the condition of the slaves would be greatly improved by their being spread over a greater surface, and by being carried to a country whose fertility was such as to furnish food and everything necessary for their maintenance, in a much more abundant, and, consequently, cheaper degree, than could be produced in the Atlantic States.

But, as it respected the justice of the measure, he would beg leave to submit some remarks to the House. Throughout all the Southern States, it was well known a very large portion of the population consisted of slaves, who, at the same time, stood towards the white population of the same States in the relation of property; although they were held as property, yet they were considered and treated as the most valuable, as the most favored property; their masters remembered that they were men, and although certainly degraded in the scale of society, by reason of their servitude, we felt for them those sympathies which bind one man to another, though that other may be our inferior. We were attached to them, too, by our prejudices, by our education and habits; in short, such were the feelings of the Southern people towards their slaves, that nothing scarcely but the necessity of the master, or the crime of the slave, would induce him to sell his slave. If the master emigrated, he would carry his slaves with him, not only for the various reasons which he had already stated, but because, going into a wilderness, where much labor was necessary to clear the country, they were, on that account, peculiarly necessary. Under these circumstances, a prohibition of the importation of slaves would, in almost every instance, be tantamount to a prohibition of the emigration of the Southern people to the State of Missouri. He asked whether it could be just to adopt such a regulation as would open an illimitable tract of the most fertile land to the Northern part of the United States, and, in effect, entirely shut out the whole Southern people? If it were correct in relation to Missouri, it would be equally so as to the whole tract of country lying west of the Mississippi. He hoped, from this view of the subject, the House would be struck with its monstrous injustice.

But he came now to the question of policy, and he thought he should be able to show that, in this respect, the amendment would meet as

decided reprobation as in any other aspect in which he had presented it.

Let it be remembered that we are not now called upon to decide, whether slavery shall be introduced into this country; it existed at the formation of the Constitution, and was recognised by that instrument, in reference both to representation and taxation. Nor, sir, are we called upon to decide whether there shall be an increase of the number of our slaves by importation from abroad. The Constitution authorized Congress to prohibit the importation of them after the year 1808, and Congress, accordingly, have actually passed a law to that effect. But the real question is, what disposition shall we make of those slaves who are already in the country? Shall they be perpetually confined on this side of the Mississippi, or shall we spread them over a much larger surface by permitting them to be carried beyond that river? The consequences which would flow from the different systems would furnish a satisfactory answer to these inquiries. The slaves, in the Southern States, bear a very considerable proportion to the whole population. He believed that by the last census, they were, in Virginia, as about three hundred and ninety thousand to about five hundred thousand. He did not mean to be arithmetically correct, but he was sufficiently so, for the conclusion which he meant to draw. Now, sir, in relation to the physical force of the country, if ever the time shall come when we shall be engaged in war, and they should be excited to insurrection, it is obvious that there must be an immense subduction from the efficiency of the slaveholding section of our country; its actual efficiency would consist only, or nearly so, in the excess of the white beyond the black population; by spreading them over a more extended surface, you secure these advantages; first, by diminishing the proportion which the slaves bear in point of numbers to the whites, you diminish their motives to insurrection. Secondly, that if that event ever should occur, it would obviously be much more easily and certainly suppressed, because, upon the supposition which he had made, they would have a much smaller relative proportion of physical force. He thanked God, he felt no alarm upon that subject at present; and that he slept quietly in his bed, notwithstanding the apprehension which some gentlemen seemed to entertain. But, in making the remarks which he did, he looked along the line of time, and wished that our measures should be adapted to the future circumstances of our country. Again, he would ask if it can be good policy to perpetuate fixed boundaries, either natural or artificial, between the slaveholding and non-slaveholding States? He had thought that the great object of our Federal compact was union. The surest possible mode of securing our political union, next to promoting the common defence and general warfare, is to give, as far as possible, every facility to the intercourse between the different sections of this extensive Republic; that, by the attrition which will be the result of that intercourse, the asperities of our mutual prejudices and jealousies may be rubbed off; that the face of our society may present the smooth surface of harmony and good will; and, in short, that we may be knit together by a sympathy of feelings, by a community of habits and manners which ought to bind us together as brothers of the same great political family. Already is the northern part of our country, together with that northwest of the river Ohio, divided from us by those distinguishing names of slaveholding and non-slaveholding. Let us not make the Mississippi another great natural boundary, for the purpose of perpetuating the same distinctions, and dividing our country into castes. Gentlemen mistake when they suppose that, if slaves be permitted to be carried to Missouri, the Northern people will not emigrate to that State; look at the fact in the Southern States; the Northern hive is continually pouring forth its swarms of emigrants, and many of them, especially of the mercantile class, alight and settle amongst us; they soon become familiar with our habits and modes of life, prosper in an eminent degree, far beyond our own people, and, indeed, he hesitated not to say, were entirely satisfied and happy, although they were in a slaveholding State. Gentlemen equally mistake, when they suppose that their countrymen of the North, who are obliged to labor, would be degraded to a level with the slaves. Sir, our experience proves the contrary; we, too, have some of our citizens who are unable to purchase slaves, and who, therefore, till the ground with their own hands. But, sir, notwithstanding this, they have all that erectness of character which belongs to them as freemen, conscious of their political and civil rights; and he who should dare to treat them with disrespect, because fortune had not poured as much wealth into their laps as into his, would draw down upon him the execration of all good men.

Another effect of this amendment would be, in an essential degree to affect the value of the countless millions of public lands beyond the Mississippi. He said he had already endeavored to show, that it would obstruct the emigration from the Southern States. Precisely in proportion as it produced this effect, it would, of course, lessen the number of purchasers, and diminish the competition. Now, if the quantity of land in the market be the same, and the number of purchasers be diminished, the consequence must certainly be, a reduction of the price of the public lands below what would otherwise be their natural level; and to place this in a more striking point of view, he would further remark, that the *loss* which the whole people of the United States would sustain by the reduction in the price of the public lands, would be *profit* to that portion of the people who should emigrate there, and who, by the operation of the proposed amendment, if it should prevail, would have monopoly in the purchase. A gentleman from Massachusetts had objected, that, if slaves were permitted to be carried into this country, there would be a

much greater increase, than if they were retained in the States in which they now are. Does the gentleman, said Mr. B., perceive to what point this objection will carry him? The only reason why they will multiply more on the western than on the eastern side of the Mississippi is, that food is more abundant. Surely it cannot be the object of the gentleman, who is one of the most zealous advocates of humanity towards this unhappy class of people, to prevent their increase, even by shutting them out from food. If this cannot be the gentleman's intention, and he was sure it could not, then he must abandon his objection. Mr. B. said there was one other objection which he would urge against the proposed amendment—either it would be an act of supererogation or of downright injustice, to the people of Missouri; if they were themselves opposed to slavery, then it would be an act of supererogation, because they would prohibit it by their own legislation; if they were disposed to establish slavery, then it would be an act of injustice, because we should be legislating directly against the wishes of a people who were competent to legislate for themselves; and who must better understand their own happiness and welfare, than we can possibly do. Upon the whole, said Mr. B., I believe that we have no power to enact the proposed amendment; and that, if we had, it would be highly impolitic and unjust. I am, therefore, decidedly opposed to its adoption.

Mr. LIVERMORE spoke as follows: Mr. Chairman, I am in favor of the proposed amendment. The object of it is to prevent the extension of slavery over the territory ceded to the United States by France. It accords with the dictates of reason, and the best feelings of the human heart; and is not calculated to interrupt any legitimate right arising either from the Constitution or any other compact. I propose to show what slavery is, and to mention a few of the many evils which follow in its train; and I hope to evince that we are not bound to tolerate the existence of so disgraceful a state of things beyond its present extent, and that it would be impolitic, and very unjust, to let it spread over the whole face of our Western territory. Slavery in the United States is the condition of man subjected to the will of a master, who can make any disposition of him short of taking away his life. In those States where it is tolerated, laws are enacted, making it penal to instruct slaves in the art of reading, and they are not permitted to attend public worship, or to hear the Gospel preached. Thus the light of science and of religion is utterly excluded from the mind, that the body may be more easily bowed down to servitude. The bodies of slaves may, with impunity, be prostituted to any purpose, and deformed in any manner by their owners. The sympathies of nature in slaves are disregarded; mothers and children are sold and separated; the children wring their little hands and expire in agonies of grief, while the bereft mothers commit suicide in despair. How long will the desire of wealth render us blind to the sin of holding both the bodies and souls of our fellow men in chains! But, sir, I am admonished of the Constitution, and told that we cannot emancipate slaves. I know we may not infringe that instrument, and therefore do not propose to emancipate slaves. The proposition before us goes only to prevent our citizens from making slaves of such as have a right to freedom. In the present slaveholding States let slavery continue, for our boasted Constitution connives at it; but do not, for the sake of cotton and tobacco, let it be told to future ages that, while pretending to love liberty, we have purchased an extensive country to disgrace it with the foulest reproach of nations. Our Constitution requires no such thing of us. The ends for which that supreme law was made are succinctly stated in its preface. They are, first, to form a more perfect union, and insure domestic tranquillity. Will slavery effect this? Can we, sir, by mingling bond with free, black spirits with white, like Shakspeare's witches in Macbeth, form a more perfect union, and insure domestic tranquillity? Secondly, to establish justice. Is justice to be established by subjecting half mankind to the will of the other half? Justice, sir, is blind to colors, and weighs in equal scales the rights of all men, whether white or black. Thirdly, to provide for the common defence, and secure the blessings of liberty. Does slavery add anything to the common defence? Sir, the strength of a Republic is in the arm of freedom. But, above all things, do the blessings of liberty consist in slavery? If there is any sincerity in our profession, that slavery is an ill, tolerated only from necessity, let us not, while we feel that ill, shun the cure which consists only in an honest avowal that liberty and equal rights are the end and aim of all our institutions, and that to tolerate slavery beyond the narrowest limits prescribed for it by the Constitution, is a perversion of them all.

Slavery, sir, I repeat, is not established by our Constitution; but a part of the States are indulged in the commission of a sin from which they could not at once be restrained, and which they would not consent to abandon. But, sir, if we could, by any process of reasoning, be brought to believe it justifiable to hold others to involuntary servitude, policy forbids that we should increase it. Even the present slaveholding States have an interest, I think, in limiting the extent of involuntary servitude; for, should slaves become much more numerous, and, conscious of their strength, draw the sword against their masters, it will be to the free States that the masters must resort for an efficient power to suppress servile insurrection. But we have made a treaty with France, which, we are told can only be preserved by the charms of slavery.

Sir, said Mr. L., until the ceded territory shall have been made into States, and the new States admitted into the Union, we can do what we will with it. We can govern it as a province, or sell it to any other nation. A part of it is probably at this time sold to Spain, and the inhabitants of it may soon not only enjoy the comforts of slavery,

but the blessings of the holy inquisition along with them. The question is on the admission of Missouri as a State into the Union. Surely it will not be contended that we are bound by the treaty to admit it. The treaty-making power does not extend so far. Can the President and Senate, by a treaty with Great Britain, make the province of Lower Canada a State of this Union? To be received as a State into this Union, is a privilege which no country can claim as a right. It is a favor to be granted or not, as the United States may choose. When the United States think proper to grant a favor, they may annex just and reasonable terms: and what can be more reasonable than for these States to insist that a new territory, wishing to have the benefits of freedom extended to it, should renounce a principle that militates with justice, morality, religion, and every essential right of mankind? Louisiana was admitted into the Union on terms. The conditions, I admit, were not very important; but still they recognise the principles for which I contend.

An opportunity is now presented, if not to diminish, at least to prevent, the growth of a sin which sits heavy on the soul of every one of us. By embracing this opportunity, we may retrieve the national character, and, in some degree, our own. But if we suffer it to pass unimproved, let us at least be consistent, and declare that our Constitution was made to impose slavery, and not to establish liberty. Let us no longer tell idle tales about the gradual abolition of slavery; away with colonization societies, if their design is only to rid us of free blacks and turbulent slaves; have done also with bible societies, whose views are extended to Africa and the East Indies, while they overlook the deplorable condition of their sable brethren within our own borders; make no more laws to prohibit the importation of slaves, for the world must see that the object of such laws is alone to prevent the glutting of a prodigious market for the flesh and blood of man, which we are about to establish in the West, and to enhance the price of sturdy wretches, reared like black cattle and horses for sale on our own plantations.

The question being put on the motion of Mr. TALLMADGE to amend the bill, the vote was—for the amendment 79, against it 67.

So the amendment was agreed to.

The House then proceeded in the further consideration and maturing the provisions of the bill, which occupied the House until the usual hour of adjournment.

TUESDAY, February 16.

Mr. LIVERMORE presented a petition of the postmasters in the cities of Boston, Albany, New York, Philadelphia, Baltimore, and Washington, praying for a repeal of the fortieth section of the act passed on the 30th April, 1810, entitled "An act regulating the Post Office Establishment," or that their compensations may be increased, so as to be adequate to the services required of them.—Referred to the Committee on the Post Office and Post Roads.

The SPEAKER presented a petition of George Hadfield, late architect of the Capitol in the City of Washington, praying compensation for a plan of the public offices in said city, which he made by direction of the Commissioners of said city, in the year 1797.—Referred to the Committee of Claims.

Ordered, That the Committee on the Judiciary, to which was referred the bill from the Senate, entitled "An act more effectually to provide for the punishment of certain crimes, and for other purposes," be discharged from the further consideration thereof, and that it lie on the table.

The said committee were also discharged from the further consideration of the petition of General James Wilkinson, and it was referred to the Committee of Claims. They were also discharged from the consideration of all such matters and things to them referred, at the present session, upon which they have not acted.

The amendment proposed by the Senate to the bill, entitled "An act for the relief of Kenzie and Forsyth" was read, and referred to the Committee of Claims.

Bills from the Senate, of the following titles, to wit: "An act for the relief of B. and P. Jourdan, brothers;" "An act for the relief of Edward McCarty;" "An act for the relief of Michael Hogan;" and "An act confirming the claim of Alexander Macomb to a tract of land in the Territory of Michigan"—were severally read the first and second time, and referred—the first to the Committee of the Whole, to which is referred the report of the Committee of Claims, made at the last session, on the petition of Samuel Hughes; the second and third to the Committee of Claims; and the fourth to the Committee on Private Land Claims.

An engrossed bill, entitled "An act for the relief of Patrick Callan," was read the third time, and passed.

A motion was made by Mr. WILLIAMS, of North Carolina, to proceed to the further consideration of the resolution submitted by him to reduce the Army of the United States; which was rejected, by a majority of about forty votes.

ADMISSION OF MISSOURI.

The House then proceeded to the consideration of the amendments reported by the Committee of the Whole to the bill authorizing the people of the Territory of Missouri to form a constitution and State government, and for the admission of the same into the Union.

The whole of the amendments made in Committee of the Whole were agreed to, with the exception of that which prohibits slavery or involuntary servitude in the proposed State.

On this question the debate which commenced yesterday was renewed, and prosecuted with considerable spirit—Mr. SCOTT, Mr. COLSTON, Mr. TALLMADGE, Mr. STORRS, Mr. TAYLOR, Mr. SIMPKINS, Mr. MILLS, Mr. SPENCER, Mr. HOLMES,

Mr. BARBOUR, Mr. CAMPBELL of Ohio, Mr. BUTLER of Louisiana, Mr. TERRY, and Mr. BEECHER, taking part in it.

Mr. SCOTT, of Missouri, said, he trusted that his conduct, during the whole of the time in, which he had the honor of a seat in the House had convinced gentlemen of his disposition not to obtrude his sentiments on any other subjects than those in which the interest of his constituents, and of the Territory he represented, were immediately concerned. But when a question, such as the amendments proposed by the gentlemen from New York, (Messrs. TALLMADGE and TAYLOR,) was presented for consideration, involving Constitutional principles to a vast amount, pregnant with the future fate of the Territory, portending destruction to the liberties of that people, directly bearing on their rights of property, their State rights, their all, he should consider it as a dereliction of his duty, as a retreating from his post, nay, double criminality, did he not raise his voice against their adoption. After the many able and luminous views that had been taken of this subject, by the Speaker of the House and other honorable gentlemen, he had not the vanity to suppose that any additional views which he could offer, or any new dress in which he could clothe those already advanced, would have the happy tendency of inducing any gentleman to change his vote. But, if he stood single on the question, and there was no man to help him, yet, while the laws of the land and the rules of the House guarantied to him the privilege of speech, he would redeem his conscience from the imputation of having silently witnessed a violation of the Constitution of his country, and an infringement on the liberties of the people who had intrusted to his feeble abilities the advocation of their rights. He desired, at this early stage of his remarks, in the name of the citizens of Missouri Territory, whose rights on other subjects had been too long neglected and shamefully disregarded, to enter his solemn protest against the introduction, under the insidious form of amendment, of any principle in this bill, the obvious tendency of which would be to sow the seeds of discord in, and perhaps eventually endanger, the Union.

Mr. S. entertained the opinion that, under the Constitution, Congress had not the power to impose this or any other restriction, or to require of the people of Missouri their assent to this condition, as a prerequisite to their admission into the Union. He contended this from the language of the Constitution itself; from the practice in the admission of new States under that instrument; and from the express terms of the treaty of cession. The short view he intended to take of those points would, he trusted, be satisfactory to all those who were not so anxious to usurp power as to sacrifice to its attainment the principles of our Government, or who were not desirous of prostrating the rights and independence of a State o chimerical views of policy or expediency. The authority to admit new States into the Union was granted in the third section of the fourth article of the Constitution, which declared that 'new States may be admitted by the Congress into the Union." The only power given to the Congress by this section, appeared to him to be that of passing a law for the admission of the new State, leaving it in possession of all the rights, privileges, and immunities enjoyed by the other States; the most valuable and prominent of which was that of forming and modifying their own State constitution, and over which Congress had no superintending control, other than that expressly given in the fourth section of the same article, which read, "the United States shall guaranty to every State in this Union a republican form of government." This end accomplished, the guardianship of the United States over the constitutions of the several States was fulfilled; and all restrictions, limitations, and conditions beyond this, was so much power unwarrantably assumed. In illustration of this position, he would read an extract from one of the essays written, by the late President Madison, contemporaneously with the Constitution of the United States, and from a very celebrated work:

"In a confederacy founded on republican principles, and composed of republican members, the superintending government ought clearly to possess authority to defend the system against aristocratic or monarchical innovations. The more intimate the nature of such an union may be, the greater interest have the members in the political institutions of each other, and the greater right to insist that the forms of government, under which the compact was entered into, should be substantially maintained. But this authority extends no farther than to a guarantee of a republican form of government, which supposes a pre-existing government of the form which is to be guarantied. As long, therefore, as the existing republican forms are continued by the States, they are guarantied by the Federal Constitution. Whenever the States may choose to substitute other republican forms, they have a right to do so, and to claim the Federal guarantee for the latter. The only restriction imposed on them is, that they shall not exchange republican for anti-republican constitutions; a restriction which, it is presumed, will hardly be considered as a grievance."

Mr. S. thought that those two clauses, when supported by such high authority, had they been the only ones in the Constitution which related to the powers of the General Government over the States, and particularly at their formation and adoption into the Union, could not but be deemed satisfactory to a reasonable extent; but there were other provisions in the Constitution, to which he would refer, that beyond all doubt, to his mind, settled the question. One of those was the tenth article in the amendments, which said that "the powers not delegated to the United 'States by the Constitution, nor prohibited by it 'to the States, are reserved to the States, respec-'tively, or to the people." He believed that, by common law and common usage, all grants giving certain defined and specific privileges or powers, were to be so construed as that no others should be intended to be given but such as were particularly enumerated in the instruments themselves, or indispensably necessary to carry into effect those designated. In no part of the Con-

stitution was the power proposed to be exercised, of imposing conditions on a new State, given, either in so many words, or by any justifiable or fair inference; nor in any portion of the Constitution was the right prohibited to the respective States, to regulate their own internal police, of admitting such citizens as they pleased, or of introducing any description of property, that they should consider as essential or necessary to their prosperity; and the framers of that instrument seem to have been zealous lest, by implication or by inference, powers might be assumed by the General Government over the States and people, other than those expressly given; hence they reserve, in so many terms, to the States and the people, all powers not delegated to the Federal Government. The ninth article of the amendments to the Constitution still further illustrated the position he had taken; it read, that "the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." Mr. S. believed it to be a just rule of interpretation, that the enumeration of powers delegated to Congress weakened their authority in all cases not enumerated; and that beyond those powers enumerated they had none, except they were essentially necessary to carry into effect those that were given. The second section of the fourth article of the Constitution, which declared that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States," was satisfactory, to his judgment, that it was intended the citizens of each State, forming a part of one harmonious whole, should have, in all things, equal privileges; the necessary consequence of which was, that every man, in his own State, should have the same rights, privileges, and powers, that any other citizen of the United States had in his own State; otherwise, discontent and murmurings would prevail against the General Government, who had deprived him of this equality.

For example, if the citizens of Pennsylvania or Virginia enjoyed the right, in their own State, to decide the question whether they would have slavery or not, the citizens of Missouri, to give them the same privileges, must have the same right to decide whether they would or would not tolerate slavery in their State; if it were otherwise, then the citizens of Pennsylvania and Virginia would have more rights, privileges, and powers, in their respective States, than the citizens of Missouri would have in theirs. Mr. S. said he would make another quotation from the same work he had before been indebted to, which he believed had considerable bearing on this question. "The powers delegated by the proposed constitution to the Federal Government are few and defined; those which are to remain in the State governments are numerous and indefinite; the former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce—with which last the powers of taxation will, for the most part be connected. The powers reserved to the several States will extend to all the objects, which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State." The applicability of this doctrine to the question under consideration was so obvious that he would not detain the House to give examples, but leave it for gentlemen to make the application. He would, however, make one other reference to the Constitution before he proceeded to speak of the practice under it; in the second section of that instrument it was provided that "representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons." This provision was not restricted to the States then formed, and about to adopt the Constitution, but to all those States which might be included within this Union, clearly contemplating the admission of new States thereafter, and providing that to them also should this principle of representation and taxation equally apply. Nor could he subscribe to the construction, that, as this part of the Constitution was matter of compromise, it was to be limited in its application to the original States only, and not to be extended to all those States that might after its adoption become members of the Federal Union; and a practical exposition had been made by Congress of this part of the Constitution, in the admission of Kentucky, Louisiana, and Mississippi, as States, all of whom were slaveholding States, and to each of them this principle had been extended.

Mr. S. believed that the practice under the Constitution had been different from that now contended for by gentlemen; he was unapprized of any similar provision having ever been made, or attempted to be made, in relation to any other new State heretofore admitted. The argument drawn from the States formed out of the territory northwest of the Ohio river he did not consider as analogous; that restriction, if any, was imposed in pursuance of a compact, and only, so far as Congress could do, carried into effect the disposition of Virginia in reference to a part of her own original territory, and was in every respect more just, because that provision was made and published to the world at a time when but few, if any, settlements were formed within that tract of country; and the children of those people of color belonging to the inhabitants then there have been, and still were, held in bondage, and were not free at a given age, as was contemplated by the amendment under consideration; nor did he doubt but that it was competent for any of those States, admitted in pursuance of the ordinance of 1787, to call a convention, and so alter their constitution as to allow of the introduction of slaves, if they thought proper to do so. To those gentlemen who had in their argument, in support of the amendments, adverted to the

instance where Congress had, by the law authorizing the people of Louisiana to form a constitution and State government, exercised the power of imposing the terms and conditions on which they should be permitted to do so, he would recommend the careful examination and comparison of those terms with the Constitution of the United States, when, he doubted not, they would be convinced that these restrictions were only such as were in express and positive language defined in the latter instrument, and would have been equally binding on the people of Louisiana had they not have been enumerated in the law giving them authority to form a constitution for themselves.

Mr. S. said he considered the contemplated conditions and restrictions, contained in the proposed amendments, to be unconstitutional and unwarrantable, from the provisions of the treaty of cession, by the third article of which it was stipulated, that "the inhabitants of the ceded 'territory shall be incorporated in the union of 'the United States, and admitted, as soon as pos-'sible, according to the principles of the Federal 'Constitution, to the enjoyment of all the rights, 'advantages, and immunities, of citizens of the 'United States, and, in the meantime, they shall 'be maintained and protected in the free enjoy-'ment of their liberty, property, and the religion 'which they profess."

This treaty having been made by the competent authority of Government, ratified by the Senate, and emphatically sanctioned by Congress in the acts making appropriations to carry it into effect, became a part of the supreme law of the land, and its bearings on the rights of the people had received a practical exposition by the admission of the State of Louisiana, part of the same territory, and acquired by the same treaty of cession, into the Union. It was in vain for gentlemen to tell him that, by the terms of the treaty of cession, the United States were not bound to admit any part of the ceded territory into the Union as a State; the evidence of the obligation Congress considered they were under, to adopt States formed out of that territory, is clearly deducible from the fact, that they had done so in the instance of Louisiana. But had no State been admitted, formed of a part of the territory acquired by that treaty, the obligation of the Government to do so would not be the less apparent to him. "The inhabitants of the ceded territory shall be incorporated in the Union of the United States." The people were not left to the wayward discretion of this, or any other Government, by saying that they may be incorporated in the Union. The language was different and imperative: "they shall be incorporated." Mr. S. understood by the term incorporated, that they were to form a constituent part of this Republic; that they were to become joint partners in the character and councils of the country, and in the national losses and national gains; as a territory they were not an essential part of the Government; they were a mere province, subject to the acts and regulations of the General Government in all cases whatsoever. As a territory they had not all the rights, advantages, and immunities, of citizens of the United States. Mr. S. himself furnished an example, that, in their present condition, they had not all the rights of the other citizens of the Union. Had he a vote in this House? and yet these people were, during the war, subject to certain taxes imposed by Congress. Had those people any voice to give in the imposition of taxes to which they were subject, or in the disposition of the funds of the nation, and particularly those arising from the sales of the public lands to which they already had, and still would largely contribute? Had they a voice to give in selecting the officers of this Government, or many of their own? In short, in what had they equal rights, advantages, and immunities with the other citizens of the United States, but in the privilege to submit to a procrastination of their rights, and in the advantage to subscribe to your laws, your rules, your taxes, and your powers, even without a hearing? Those people were also "to be admitted into the Union as soon as possible."

Mr. S. would infer from this expression, that it was the understanding of the parties, that so soon as any portion of the territory, of sufficient extent to form a State, should contain the number of inhabitants required by law to entitle them to a Representative on the floor of this House, that they then had the right to make the call for admission, and this admission, when made, was to be, not on conditions that gentlemen might deem expedient, not on conditions referable to future political views, not on conditions that the constitution, the people should form, should contain a clause that would particularly open the door for emigration from the North or from the South, not on condition that the future population of the State should come from a slaveholding or non-slaveholding State, but "but according to the principles of the Federal Constitution," and none other. The people of Missouri were, by solemn treaty stipulation, when admitted, to enjoy all the rights, advantages, and immunities of citizens of the United States. Can any gentleman contend, that, laboring under the proposed restriction, the citizens of Missouri would have all the rights, advantages, and immunities of other citizens of the Union? Have not other new States, in their admission, and have not all the States in the Union, now, privileges and rights beyond what was contemplated to be allowed to the citizens of Missouri? Have not all other States in this Government the right to alter, modify, amend, and change their State constitution, having regard alone to a republican form? And was there any existing law, or any clause in the Federal Constitution, that prohibited a total change from a slaveholding to a non-slaveholding State, or from a non-slaveholding to a slaveholding State? Mr. S. thought, that if this provision was proper, or within the powers of Congress, they also had the correlative right to say, that the people of Missouri should not be admitted as a State, unless they provided, in the formation of their State

constitution, that slavery should be tolerated. Would not those conscientious gentlemen startle at this, and exclaim, *What*, impose on those people slaves, when they do not want them! This would be said to be a direct attack on the State independence. Was it in the power of Congress to annex the present condition, Mr. S. deemed it equally within the scope of their authority to say, what color the inhabitants of the proposed State should be, what description of property, other than slaves, those people should or should not possess, and the quantity of property each man should retain, going upon the Agrarian principle. He would even go further, and say, that Congress had an equal power to enact to what religion the people should subscribe; that none other should be professed, and to provide for the excommunication of all those who did not submit.

The people of Missouri were, if admitted into the Union, to come in on an equal footing with the original States. That the people of the other States had the right to regulate their own internal police, to prescribe the rules of their own conduct, and, in the formation of their constitutions, to say whether slavery was or was not admissible, he believed was a point conceded by all. How, then were the citizens of Missouri placed on an equal footing with the other members of the Union? Equal in some respects—a shameful discrimination in others. A discrimination not warranted by the Constitution, or justified by the treaty of cession, but founded on mistaken zeal, or erroneous policy. They were to be bound down by onerous conditions, limitations, and restrictions, to which he knew they would not submit. That people were brave and independent in spirit, they were intelligent, and knew their own rights; they were competent to self government, and willing to risk their own happiness and future prosperity on the legitimate exercise of their own judgment and free will. Mr. S. protested against such a guardianship as was contemplated now to be assumed over his constituents. The spirit of freedom burned in the bosoms of the freemen of Missouri, and if admitted into the national family, they would be equal, or not come in at all. With what an anxious eye have they looked to the East, since the commencement of this session of Congress, for the good tidings, that on them you had conferred the glorious privilege of self-government and independence. What seeds of discord will you sow, when they read this suspicious, shameful, unconstitutional inhibition in their charter? Will they not compare it with the terms of the treaty of cession—that bill of their rights, emphatically their *magna charta*? And will not the result of that comparison be a stigma on the faith of this Government? It had been admitted by some gentlemen in debate, that, were the people of Missouri to form a constitution conforming to this provision, so soon as they were adopted into the Union it would be competent for them to call a convention and alter their constitution on this subject. Why, then, he would ask gentlemen, would they legislate, when they could produce no permanent practical effect? Why expose the imbecility of the General Government, to tie up the hands of the State, and induce the people to an act of chicanery, which he knew from principle they abhorred, to get clear of an odious restriction on their rights? Mr. S. had trusted that gentlemen who professed to be actuated by motives of humanity and principle would not encourage a course of dissimulation, or, by any vote of theirs, render it necessary for the citizens of Missouri to act equivocally to obtain their right. He was unwilling to believe, that political views alone led gentlemen on this or any other occasion; but, from the language of the member from New York, (Mr. TAYLOR,) he was compelled to suspect that they had their influence upon him. That gentleman has told us, that if ever he left his present residence, it would be for Illinois or Missouri; at all events, he wished to send out his brothers and his sons. Mr. S. begged that gentleman to relieve him from the awful apprehension excited by the prospect of this accession of population. He hoped the House would excuse him while he stated, that he did not desire that gentleman, his sons, or his brothers, in that land of brave, noble, and independent freemen. The member says that the latitude is too far North to admit of slavery there. Would the gentleman cast his eye on the map before him, he would there see, that a part of Kentucky, Virginia, and Maryland, were as far North as the northern boundary of the proposed State of Missouri. Mr. S. would thank the gentleman if he would condescend to tell him what precise line of latitude suited his conscience, his humanity, or his political views, on this subject. Could that member be serious when he made the parallel of latitude the measure of his good will to those unfortunate blacks? Or was he trying how far he could go in fallacious argument and absurdity without creating one blush, even on his own cheek, for inconsistency? What, starve the negroes, pen them up in the swamps and morasses, confine them to Southern latitudes, to long scorching days of labor and fatigue, until the race becomes extinct, that the fair land of Missouri may be tenanted by that gentleman, his brothers, and his sons? He expected from a majority of the House a more liberal policy, and better evidence that they really were actuated by humane motives.

Mr. S. said, he would trouble the House no longer; he thanked them for the attention and indulgence already bestowed; but he desired to apprize gentlemen, before he sat down, that they were sowing the seeds of discord in this Union, by attempting to admit States with unequal privileges and unequal rights; that they were signing, sealing, and delivering their own death warrant; that the weapon they were so unjustly wielding against the people of Missouri, was a two-edged sword. From the cumulative nature of power, the day might come when the General Government might, in turn, undertake to dictate to them on questions of internal policy; Missouri, now weak and feeble, whose fate and murmurs would excite but little alarm or sensibility, might

become an easy victim to motives of policy, party zeal, or mistaken ideas of power; but other times and other men would succeed; a future Congress might come, who, under the sanctified forms of Constitutional power, would dictate to them odious conditions; nay, inflict on their internal independence a wound more deep and dreadful than even this to Missouri. The House had seen the force of the precedent, in the mistaken application of the conditions imposed on the people of Louisiana anterior to their admission into the Union. And, whatever might be the ultimate determination of the House, Mr. S. considered this question big with the fate of Cæsar and of Rome.

Mr. Tallmadge, of New York, rose.—Sir, said he, it has been my desire and my intention to avoid any debate on the present painful and unpleasant subject. When I had the honor to submit to this House the amendment now under consideration, I accompanied it with a declaration, that it was intended to confine its operation to the newly acquired territory across the Mississippi; and I then expressly declared that I would in no manner intermeddle with the slaveholding States, nor attempt manumission in any one of the original States in the Union. Sir, I even went further, and stated that I was aware of the delicacy of the subject, and that I had learned from Southern gentlemen the difficulties and the dangers of having free blacks intermingling with slaves; and, on that account, and with a view to the safety of the white population of the adjoining States, I would not even advocate the prohibition of slavery in the Alabama Territory; because, surrounded as it was by slaveholding States, and with only imaginary lines of division, the intercourse between slaves and free blacks could not be prevented, and a *servile* war might be the result. While we deprecate and mourn over the evil of slavery, humanity and good morals require us to wish its abolition, under circumstances consistent with the safety of the white population. Willingly, therefore, will I submit to an evil which we cannot safely remedy. I admitted all that had been said of the danger of having free blacks visible to slaves, and therefore did not hesitate to pledge myself that I would neither advise nor attempt coercive manumission. But, sir, all these reasons cease when we cross the banks of the Mississippi, a newly acquired territory, never contemplated in the formation of our Government, not included within the compromise or mutual pledge in the adoption of our Constitution, a new territory acquired by our common fund, and ought justly to be subject to our common legislation.

Sir, when I submitted the amendment now under consideration, accompanied with these explanations, and with these avowals of my intentions and of my motives, I did expect that gentlemen who might differ from me in opinion would appreciate the liberality of my views, and would meet me with moderation, as upon a fair subject for general legislation. Sir, I did expect at least that the frank declaration of my views would protect me from harsh expressions, and from the unfriendly imputations which have been cast out on this occasion. But, sir, such has been the character and the violence of this debate, and expressions of so much intemperance, and of an aspect so threatening have been used, that continued silence on my part would ill become me, who had submitted to this House the original proposition. While this subject was under debate before the Committee of the Whole, I did not take the floor, and I avail myself of this occasion to acknowledge my obligations to my friends, (Messrs. Taylor and Mills,) for the manner in which they supported my amendment, at a time when I was unable to partake in the debate. I had only on that day returned from a journey long in its extent, and painful in its occasion; and, from an affection of my breast, I could not then speak; I cannot yet hope to do justice to the subject, but I do hope to say enough to assure my friends that I have not *left* them in the controversy, and to convince the opponents of the measure, that their violence has not driven me from the debate.

Sir, the honorable gentleman from Missouri, (Mr. Scott,) who has just resumed his seat, has told us of the *ides of March*, and has cautioned us to "*beware of the fate of Cæsar and of Rome.*" Another gentleman, (Mr. Cobb,) from Georgia, in addition to other expressions of great warmth, has said, "that, if we persist, the Union will be dissolved;" and, with a look fixed on me, has told us, "we have kindled a fire which all the waters of the ocean cannot put out, which seas of blood can only extinguish."

Sir, language of this sort has no effect on me; my purpose is fixed, it is interwoven with my existence, its durability is limited with my life, it is a great and glorious cause, setting bounds to a slavery the most cruel and debasing the world ever witnessed; it is the freedom of man; it is the cause of unredeemed and unregenerated human beings.

Sir, if a dissolution of the Union must take place, let it be so! If civil war, which gentlemen so much threaten, must come, I can only say, let it come! My hold on life is probably as frail as that of any man who now hears me; but, while that hold lasts, it shall be devoted to the service of my country—to the freedom of man. If blood is necessary to extinguish any fire which I have assisted to kindle, I can assure gentlemen, while I regret the necessity, I shall not forbear to contribute my mite. Sir, the violence to which gentlemen have resorted on this subject will not move my purpose, nor drive me from my place. I have the fortune and the honor to stand here as the representative of freemen, who possess intelligence to know their rights, who have the spirit to maintain them. Whatever might be my own private sentiments on this subject, standing here as the representative of others, no choice is left me. I know the will of my constituents, and, regardless of consequences, I will avow it; as their representative, I will proclaim their hatred to slavery in every shape; as

their representative, here will I hold my stand, until this floor, with the Constitution of my country which supports it, shall sink beneath me. If I am doomed to fall, I shall at least have the painful consolation to believe that I fall, as a fragment, in the ruins of my country.

Sir, the gentleman from Virginia (Mr. COLSTON) has accused my honorable friend, from New Hampshire, (Mr. LIVERMORE) of "speaking to the galleries, and, by his language, endeavoring to excite a servile war;" and has ended by saying, "he is no better than Arbuthnot or Ambrister; and deserves no better fate." Sir, when I hear such language uttered upon this floor, and within this House, I am constrained to consider it as hasty and unintended language, resulting from the vehemence of debate, and not really intending the personal indecorum the expressions would seem to indicate. [Mr. COLSTON asked to explain, and said he had not distinctly understood Mr. T. Mr. LIVERMORE called on Mr. C. to state the expressions he had used. Mr. C. then said he had no explanation to give.] Mr. TALLMADGE said he had none to ask; he continued to say, he would not believe any gentleman on this floor would commit so great an indecorum against any member, or against the dignity of the House, as to use such expressions, really intending the meaning which the words seem to import, and which had been uttered against the gentleman from New Hampshire. [Mr. NELSON, of Virginia, in the chair, called to order, and said no personal remarks would be allowed.] Mr. T. said, he rejoiced the Chair was at length aroused to a sense of its duties. The debate had, for several days, progressed with unequalled violence, and all was in order; but now, when at length this violence on one side is to be resisted, the Chair discovered it is out of order. I rejoice, said Mr. T., at the discovery, approve of the admonition, while I am proud to say, it has no relevancy to me. It is my boast that I never uttered an unfriendly personal remark on this floor, but I wish it distinctly understood that the immutable laws of self-defence will justify going to great lengths, and that, in the future progress of this debate, the rights of defence would be regarded.

Sir, has it already come to this; that in the Congress of the United States—that, in the legislative councils of republican America, the subject of slavery has become a subject of so much feeling—of such delicacy—of such danger, that it cannot safely be discussed? Are members who venture to express their sentiments on this subject to be accused of talking to the galleries, with intent to excite a servile war; and of meriting the fate of Arbuthnot and Ambrister? Are we to be told of the dissolution of the Union; of civil war, and of seas of blood? And yet, with such awful threatenings before us, do gentlemen, in the same breath, insist upon the encouragement of this evil; upon the extension of this monstrous scourge of the human race? An evil so fraught with such dire calamities to us as individuals, and to our nation, and threatening, in its progress, to overwhelm the civil and religious institutions of the country, with the liberties of the nation, ought at once to be met, and to be controlled. If its power, its influence, and its impending dangers have already arrived at such a point that it is not safe to discuss it on this floor, and it cannot now pass under consideration as a proper subject for general legislation, what will be the result when it is spread through your widely extended domain? Its present threatening aspect, and the violence of its supporters, so far from inducing me to yield to its progress, prompts me to resist its march. Now is the time. It must now be met, and the extension of the evil must now be prevented, or the occasion is irrecoverably lost, and the evil can never be contracted.

Sir, extend your view across the Mississippi, over your newly acquired territory; a territory so far surpassing in extent the limits of your present country, that that country which gave birth to your nation, which achieved your Revolution, consolidated your Union, formed your Constitution, and has subsequently acquired so much glory, hangs but as an appendage to the extended empire over which your republican Government is now called to bear sway. Look down the long vista of futurity. See your empire, in extent unequalled; in advantageous situation without a parallel; and occupying all the valuable part of our continent. Behold this extended empire, inhabited by the hardy sons of American freemen—knowing their rights, and inheriting the will to protect them—owners of the soil on which they live, and interested in the institutions which they labor to defend—with two oceans laving your shores, and tributary to your purposes bearing on their bosoms the commerce of your people. Compared to yours, the Governments of Europe dwindle into insignificance, and the whole world is without a parallel. But, sir, reverse this scene; people this fair dominion with the slaves of your planters; extend slavery—this bane of man, this abomination of heaven—over your extended empire, and you prepare its dissolution; you turn its accumulated strength into positive weakness; you cherish a canker in your breast; you put poison in your bosom; you place a vulture on your heart—nay, you whet the dagger and place it in the hands of a portion of your population, stimulated to use it, by every tie, human and divine. The envious contrast between your happiness and their misery, between your liberty and their slavery, must constantly prompt them to accomplish your destruction. Your enemies will learn the source and the cause of your weakness. As often as internal dangers shall threaten, or internal commotions await you, you will then realize, that, by your own procurement, you have placed amidst your families, and in the bosom of your country, a population producing at once the greatest cause of individual danger and of national weakness. With this defect, your Government must crumble to pieces, and your people become the scoff of the world.

Sir, we have been told, with apparent confidence, that we have no right to annex conditions to a State on its admission into the Union; and

it has been urged that the proposed amendment, prohibiting the further introduction of slavery is unconstitutional. This position, asserted with so much confidence, remains unsupported by any argument, or by any authority derived from the Constitution itself. The Constitution strongly indicates an opposite conclusion, and seems to contemplate a difference between the old and the new States. The practice of the Government has sanctioned this difference in many respects.

The third section of the fourth article of the Constitution says, "new States may be admitted by the Congress into this Union," and it is silent as to the terms and conditions upon which the new States may be so admitted. The fair inference from this silence is, that the Congress which might admit, should prescribe the time and the terms of such admission. The tenth section of the first article of the Constitution says, "the mi-'gration or importation of such persons as any 'of the States now existing shall think proper 'to admit, shall not be prohibited by the Congress 'prior to the year 1808." The words "now existing" clearly show the distinction for which we contend. The word *slave* is nowhere mentioned in the Constitution, but this section has always been considered as applicable to them, and unquestionably reserved the right to prohibit their importation into any new State before the year 1808.

Congress, therefore, have power over the subject, probably as a matter of legislation, but more certainly as a right, to prescribe the time and the condition upon which any new State may be admitted into the family of the Union. Sir, the bill now before us proves the correctness of my argument. It is filled with conditions and limitations. The territory is required to take a census, and is to be admitted only on condition that it have forty thousand inhabitants. I have already submitted amendments preventing the State from taxing the lands of the United States, and declaring all navigable waters shall remain open to the other States, and be exempt from any tolls or duties. And my friend (Mr. Taylor) has submitted amendments prohibiting the State from taxing soldiers' lands for the period of five years. And to all these amendments we have heard no objection; they have passed unanimously. But now, when an amendment prohibiting the further introduction of slavery is proposed, the whole House is put in agitation, and we are confidently told that it is unconstitutional to annex conditions on the admission of a new State into the Union. The result of all this is, that all amendments and conditions are proper, which suit a certain class of gentlemen, but whatever amendment is proposed, which does not comport with their interests or their views, is unconstitutional, and a flagrant violation of this sacred charter of our rights. In order to be consistent, gentlemen must go back and strike out the various amendments to which they have already agreed. The Constitution applies equally to all, or to none.

Sir, we have been told that this is a new principle for which we contend, never before adopted, or thought of. So far from this being correct, it is due to the memory of our ancestors to say, it is an old principle, adopted by them, as the policy of our country. Whenever the United States have had the right and the power, they have heretofore prevented the extension of slavery. The States of Kentucky and Tennessee were taken off from other States, and were admitted into the Union without condition, because their lands were never owned by the United States. The Territory Northwest of the Ohio is all the land which ever belonged to them. Shortly after the cession of those lands to the Union, Congress passed, in 1787, a compact which was declared to be unalterable, the sixth article of which provides that "there shall be *neither slavery nor involuntary servitude* in the said territory, otherwise than in the punishment for crimes, whereof the party shall have been duly convicted." In pursuance of this compact, all the States formed from that territory have been admitted into the Union upon various considerations, and among which the sixth article of this compact is included as one.

Let gentlemen also advert to the law for the admission of the State of Louisiana into the Union: they will find it filled with conditions. It was required not only to form a constitution upon the principles of a republican government, but it was required to contain the "fundamental principles of civil and religious liberty." It was even required, as a condition of its admission, to keep its records and its judicial and legislative proceedings in the English language; and also to secure the trial by jury, and to surrender all claim to unappropriated lands in the territory, with the prohibition to tax any of the United States lands.

After this long practice and constant usage to annex conditions to the admission of a State into the Union, will gentlemen yet tell us it is unconstitutional, and talk of our principles being novel and extraordinary? It has been said that, if this amendment prevails, we shall have an union of States possessing unequal rights. And we have been asked, whether we wished to see such a "chequered union?" Sir, we have already such an Union. If the prohibition of slavery is the denial of a right, and constitutes a chequered union, gladly would I behold such rights denied, and such a chequer spread over every State in the Union. It is now spread over the States northwest of the Ohio, and forms the glory and the strength of those States. I hope it will be extended from the Mississippi river to the Pacific ocean.

Sir, we have been told that the proposed amendment cannot be received, because it is contrary to the treaty and cession of Louisiana. "Article 3. The inhabitants of the ceded territory shall be incorporated in the union of the 'United States, and admitted as soon as possible, 'according to the principles of the Federal Con-'stitution, to the enjoyment of all the rights, 'advantages, and immunities of citizens of the

'United States; and, in the meantime, they shall 'be maintained and protected in the free enjoy-'ment of their liberty, property, and the religion 'which they profess.'' I find nothing, said Mr. T., in this article of the treaty, incompatible with the proposed amendment. The rights, advantages, and immunities of citizens of the United States are guarantied to the inhabitants of Louisiana. If one of them should choose to remove into Virginia, he could take his slaves with him; but if he removes to Indiana, or any of the States northwest of the Ohio, he cannot take his slaves with him. If the proposed amendment prevails, the inhabitants of Louisiana or the citizens of the United States can neither of them take slaves into the State of Missouri. All, therefore, may enjoy equal privileges. It is a disability, or what I call a blessing, annexed to the particular district of country, and in no manner attached to the individual. But, said Mr. T., while I have no doubt that the treaty contains no solid objection against the proposed amendment, yet if it did, it would not alter my determination on the subject. The Senate, or the treaty-making power of our Government, have neither the right nor the power to stipulate, by a treaty, the terms upon which a people shall be admitted into the Union. This House have a right to be heard on the subject. The admission of a State into the Union is a legislative act, which requires the concurrence of all the departments of legislative power. It is an important prerogative of this House, which I hope will never be surrendered. The zeal and the ardor of gentlemen, in the course of this debate, has induced them to announce to this House, that, if we persist and force the State of Missouri to accede to the proposed amendment, as the condition of her admission into the Union, she will disregard it, and, as soon as admitted, will alter her Constitution, and introduce slavery into her territory. Sir, I am not now prepared, nor is it necessary to determine what would be the consequence of such a violation of faith—of such a departure from the fundamental condition of her admission into the Union. I would not cast upon a people so foul an imputation as to believe they would be guilty of such fraudulent duplicity. The States northwest of the Ohio have all regarded the faith and the condition of their admission; and there is no reason to believe the people of Missouri will not also regard theirs. But, sir, whenever a State, admitted into the Union shall disregard and set at naught the fundamental condition of its admission, and shall, in violation of all faith, undertake to levy a tax upon the lands of the United States, or a toll upon their navigable waters, or introduce slavery, where Congress have prohibited it, then it will be in time to determine the consequence. But, sir, if the threatened consequences were known to be the certain result, yet would I insist upon the proposed amendment. The declaration of this House, the declared will of the nation, to prohibit slavery, would produce its moral effect, and stand as one of the brightest ornaments of our country. Sir, it has been urged, with great plausibility, that we should spread the slaves now in our country, and thus spread the evil, rather than confine it to its present districts. It has been said, we should thereby diminish the dangers from them, while we increase the means of their living, and augment their comforts. But, sir, you may rest assured that this reasoning is fallacious, and that, while slavery is admitted, the market will be supplied. Our coast, and its contiguity to the West Indies and the Spanish possessions, render easy the introduction of slaves into our country. Our laws are already highly penal against their introduction, and yet it is a well known fact, that about fourteen thousand slaves have been brought into our country this last year.

Sir, since we have been engaged in this debate, we have witnessed an elucidation of this argument, of bettering the condition of slaves, by spreading them over the country. A slave driver, a trafficker in human flesh, as if sent by Providence, has passed the door of your Capitol, on his way to the West, driving before him about fifteen of these wretched victims of his power. The males, who might raise the arm of vengeance, and retaliate for their wrongs, were handcuffed, and chained to each other, while the females and children were marched in their rear, under the guidance of the driver's whip! Yes, sir, such has been the scene witnessed from the windows of Congress Hall, and viewed by members who compose the legislative councils of Republican America!

Sir, in the course of the debate on this subject, we have been told that, from the long habit of the Southern and Western people, the possession of slaves has become necessary to them, and an essential requisite in their living. It has been urged, from the nature of the climate and soil of the Southern countries, that the lands cannot be occupied or cultivated without slaves. It has been said that the slaves prosper in those places, and that they are much better off there than in their own native country. We have even been told that, if we succeed, and prevent slavery across the Mississippi, we shall greatly lessen the value of property there, and shall retard, for a long series of years, the settlement of that country.

Sir, said Mr. T., if the Western country cannot be settled without slaves, gladly would I prevent its settlement till time shall be no more. If this class of arguments is to prevail, it sets all morals at defiance, and we are called to legislate on the subject, as a matter of mere personal interest. If this is to be the case, repeal all your laws prohibiting the slave trade; throw open this traffic to the commercial States of the East; and, if it better the condition of these wretched beings, invite the dark population of benighted Africa to be translated to the shores of Republican America. But, sir, I will not cast upon this or upon that gentleman an imputation so ungracious as the conclusion to which their arguments would necessarily tend. I do not believe any gentleman on this floor could here advocate the

slave trade, or maintain, in the abstract, the principles of slavery. I will not outrage the decorum, nor insult the dignity of this House, by attempting to argue in this place, as an abstract proposition, the moral right of slavery. How gladly would the "legitimates of Europe chuckle" to find an American Congress in debate on such a question!

As an evil brought upon us without our own fault, before the formation of our Government, and as one of the sins of that nation from which we have revolted, we must of necessity legislate upon this subject. It is our business so to legislate, as never to encourage, but always to control this evil; and, while we strive to eradicate it, we ought to fix its limits, and render it subordinate to the safety of the white population, and the good order of civil society.

Sir, on this subject the eyes of Europe are turned upon you. You boast of the freedom of your Constitution and your laws; you have proclaimed, in the Declaration of Independence, "That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that amongst these are life, liberty, and the pursuit of happiness;" and yet you have slaves in your country. The enemies of your Government, and the legitimates of Europe, point to your inconsistencies, and blazon your supposed defects. If you allow slavery to pass into Territories where you have the lawful power to exclude it, you will justly take upon yourself all the charges of inconsistency; but, confine it to the original slaveholding States, where you found it at the formation of your Government, and you stand acquitted of all imputation.

Sir, this is a subject upon which I have great feeling for the honor of my country. In a former debate upon the Illinois constitution, I mentioned that our enemies had drawn a picture of our country, as holding in one hand the Declaration of Independence, and with the other brandishing a whip over our affrighted slaves. I then made it my boast that we could cast back upon England the accusation, and that she had committed the original sin of bringing slaves into our country. Sir, I have since received, through the post office, a letter, post marked in South Carolina, and signed "*A native of England*," desiring that, when I again had occasion to repeat my boast against England, I would also state that she had atoned for her original sin, by establishing in her slave colonies a system of humane laws, ameliorating their condition, and providing for their safety, while America had committed the secondary sin of disregarding their condition, and had even provided laws by which it was not murder to kill a slave. Sir, I felt the severity of the reproof; I felt for my country. I have inquired on the subject, and I find such were formerly the laws in some of the slaveholding States; and that even now, in the State of South Carolina, by law, the penalty of death is provided for stealing a slave, while the murder of a slave is punished by a trivial fine. Such, sir, is the contrast and the relative value which is placed, in the opinion of a slaveholding State, between the property of the master and the life of a slave.

Sir, gentlemen have undertaken to criminate and to draw odious contrasts between different sections of our country; I shall not combat such arguments; I have made no pretence to exclusive morality on this subject, either for myself or my constituents; nor have I cast any imputations on others. On the contrary, I hold, that mankind under like circumstances are alike, the world over. The vicious and the unprincipled are confined to no district of country; and it is for this portion of the community we are bound to legislate. When honorable gentlemen inform us we overrate the cruelty and the dangers of slavery, and tell us that their slaves are happy and contented, and would even contribute to their safety, they tell us but very little; they do not tell us, that while their slaves are happy, the slaves of some depraved and cruel wretch, in their neighborhood, may not be stimulated to revenge, and thus involve the country in ruin. If we had to legislate only for such gentlemen as are now embraced within my view, a law against robbing the mail would be a disgrace upon the nation; and, as useless, I would tear it from the pages of your statute book; yet sad experience has taught us the necessity of such laws; and honor, justice, and policy, teach us the wisdom of legislating to limit the extension of slavery.

Sir, in the zeal to draw sectional contrasts, we have been told by one gentleman, that gentlemen from one district of country talk of their religion and their morality, while those of another practise it. And the superior liberality has been asserted of Southern gentlemen over those of the North, in all contributions to moral institutions, for Bible and missionary societies. Sir, I understand too well the pursuit of my purpose to be decoyed and drawn off into the discussion of a collateral subject. I have no inclination to controvert these assertions of comparative liberality. Although I have no idea they are founded in fact, yet, because it better suits the object of my present argument, I will, on this occasion, admit them to the fullest extent. And what is the result? Southern gentlemen, by their superior liberality in contributions to moral institutions, justly stand in the first rank, and hold the first place in the brightest page of the history of the country. But, turn over this page, and what do you behold? You behold them contributing to teach the doctrines of Christianity in every quarter of the globe. You behold them legislating to secure the ignorance and stupidity of their own slaves! You behold them prescribing, by law, penalties against the man that dares teach a negro to read. Such, sir, is the statute law of the State of Virginia. [Mr. Bassett and Mr. Tyler said that there was no such law in Virginia.] No, sir, said Mr. T., I have mis-spoken myself; I ought to have said, such is the statute law of the State of Georgia. Yes, sir, while we hear of a liberality which civilizes the savages of all countries, and carries the Gospel alike to the Hottentot and

the Hindoo, it has been reserved for the Republican State of Georgia, not content with the care of its overseers, to legislate to secure the oppression and the ignorance of their slaves. The man who there teaches a negro to read is liable to a criminal prosecution. The dark benighted beings of all creation profit by our liberality—save those on our own plantations. Where is the missionary who possesses sufficient hardihood to venture a residence to teach the slaves of a plantation? Here is the stain! Here is the stigma! Which fastens upon the character of our country; and which, in the appropriate language of the gentleman from Georgia, (Mr. COBB.) all the waters of the ocean cannot wash out; which seas of blood can only take away.

Sir, there is yet another, and an important point of view in which this subject ought to be considered. We have been told by those who advocate the extension of slavery into the Missouri, that any attempt to control this subject by legislation is a violation of that faith and mutual confidence upon which our Union was formed and our Constitution adopted. This argument might be considered plausible, if the restriction was attempted to be enforced against any of the slaveholding States, which had been a party in the adoption of the Constitution. But it can have no reference or application to a new district of country recently acquired, and never contemplated in the formation of the Government, and not embraced in the mutual concessions and declared faith upon which the Constitution was adopted. The Constitution provides that the Representatives of the several States to this House shall be according to their numbers, including three-fifths of the slaves in the respective States. This is an important benefit yielded to the slaveholding States, as one of the mutual sacrifices for the Union. On this subject, I consider the faith of the Union pledged, and I never would attempt coercive manumission in a slaveholding State.

But none of the causes which induced the sacrifice of this principle, and which now produce such an unequal representation of the free population of the country, exist as between us and the newly acquired territory across the Mississippi. That portion of country has no claims to such an unequal representation, unjust in its results upon the other States. Are the numerous slaves in extensive countries, which we may acquire by purchase, and admit as States into the Union, at once to be represented on this floor, under a clause of the Constitution, granted as a compromise and a benefit to the Southern States which had borne part in the Revolution? Such an extension of that clause in the Constitution would be unjust in its operations, unequal in its results, and a violation of its original intention. Abstract from the moral effects of slavery, its political consequences in the representation under this clause of the Constitution demonstrate the importance of the proposed amendment.

Sir, I shall bow in silence to the will of the majority, on which ever side it shall be expressed; yet I confidently hope that majority will be found on the side of an amendment, so replete with moral consequences, so pregnant with important politic results.

After a long debate on the subject, the question was taken on agreeing to the first member of the proposed amendment, in the following words:

"That the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes, whereof the party shall have been duly convicted."

Which question was determined in the affirmative—yeas 87, nays 76, as follows:

YEAS—Messrs. Adams, Allen, Anderson of Pennsylvania, Barber of Ohio, Bateman, Beecher, Bennett, Boden, Campbell, Clagett, Comstock, Crafts, Cushman, Darlington, Drake, Ellicott, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kinsey, Kirtland, Lawyer, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Marchand, Mason of R. Island, Merrill, Mills, Robert Moore, Samuel Moore, Morton, Moseley, Murray, Jeremiah Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Schuyler, Scudder, Sergeant, Sherwood, Silsbee, Southard, Spencer, Tallmadge, Taylor, Terry, Tompkins, Townsend, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Williams of Connecticut, Williams of New York, Wilson of Massachusetts, and Wilson of Pennsylvania—87.

NAYS—Messrs. Abbott, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Bassett, Bayley, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Cobb, Colston, Cook, Cruger, Culbreth, Davidson, Desha, Edwards, Ervin of South Carolina, Fisher, Garnett, Hall of North Carolina, Harrison, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Middleton, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Reed, Rhea, Ringgold, Robertson, Sawyer, Settle, Shaw, Simkins, Slocumb, S. Smith, Bal. Smith, Alex. Smyth, J. S. Smith, Speed, Stewart of N. Carolina, Stewart of Maryland, Storrs, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, and Williams of North Carolina—76.

The question was then taken on agreeing to the second member of the said amendment, which is in the following words:

"And that all children born within the said State, after the admission thereof into the Union, shall be free at the age of twenty-five years."

On which question the vote was, by yeas and nays—for the second part 82, against it 78, as follows:

YEAS—Messrs. Adams, Allen of Massachusetts, Anderson of Pennsylvania, Barber of Ohio, Bateman, Bennett, Boden, Clagett, Comstock, Crafts, Cushman, Darlington, Drake, Ellicott, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hopkinson, Hostetter, Hubbard, Hunter, Huntington,

Irving of New York, Kinsey, Kirtland, Lawyer, Lincoln, Livermore, W. Maclay, W. P. Maclay, Marchand, Merrill, Mills, Robert Moore, Samuel Moore, Morton, Moseley, Murray, Jeremiah Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Scudder, Sergeant, Sherwood, Silsbee, S. Smith, Southard, Spencer, Tallmadge, Taylor, Terry, Tompkins, Townsend, Upham, Wallace, Wendover, Whiteside, Wilkin, Williams of Connecticut, Williams of New York, Wilson of Massachusetts, and Wilson of Pennsylvania—82.

NAYS—Messrs. Abbot, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Bassett, Bayley, Beecher, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Campbell, Cobb, Colston, Cook, Cruger, Culbreth, Davidson, Desha, Edwards, Ervin of South Carolina, Fisher, Garnett, Hall of North Carolina, Harrison, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Lewis, Linn, Little, Lowndes, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Mason of Rhode Island, Middleton, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Reed, Rhea, Ringgold, Robertson, Sawyer, Settle, Shaw, Simkins, Slocumb, Ballard Smith, Alexander Smith, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Stuart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, and Williams of North Carolina—78.

So the whole of the amendments, as proposed by Mr. TALLMADGE, were agreed to.

Some other amendments having been made to the bill—

Mr. STORRS moved to strike out so much of the bill as says that the new State shall be admitted into the Union "on an equal footing with the original States." After the vote just taken, Mr. S. said, there was a manifest inconsistency in retaining this provision.

The motion was negatived.

Some remarks were made by Mr. DESHA, Mr. COBB, and Mr. RHEA, to show why they should now vote against the bill; and by Mr. PITKIN, on the other side.

Mr. SCOTT, and Mr. ANDERSON of Kentucky, greatly as they had been opposed to the insertion of the provision which had been so much debated, yet preferred taking the bill as it stood, to rejecting it.

The question on ordering the bill to be engrossed for a third reading was then decided in the affirmative—yeas 97, nays 56, as follows:

YEAS—Messrs. Adams, Allen of Massachusetts, Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Barber of Ohio, Bateman, Beecher, Bennett, Boden, Campbell, Clagett, Colston, Comstock, Crafts, Cruger, Cushman, Darlington, Drake, Ellicott, Fisher, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kinsey, Kirtland, Lawyer, Lincoln, Linn, Livermore, Lowndes, McLane of Delaware, W. Maclay, W. P. Maclay, Marchand, Mason of Rhode Island, Merrill, Robert Moore, Sam'l Moore, Morton, Moseley, Murray, Jeremiah Nelson, Ogden, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Schuyler, Scudder, Sergeant, Sherwood, Silsbee, S. Smith, Alexander Smith, Southard, Spencer, Tallmadge, Taylor, Terry, Tompkins, Townsend Upham, Wallace, Wendover, Westerlo, Whiteside, Whitman, Wilkin, Williams of Connecticut, Williams of New York, Wilson of Massachusetts, and Wilson of Pennsylvania—97.

NAYS—Messrs. Abbot, Austin, Ball, Barbour of Virginia, Bassett, Bayley, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Cobb, Crawford, Culbreth, Davidson, Desha, Edwards, Garnett, Hall of North Carolina, Harrison, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Little, McCoy, Marr, T. M. Nelson, New, Newton, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Reed, Rhea, Ringgold, Robertson, Settle, Shaw, Simkins, Slocumb, Ballard Smith, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of Kentucky, and Williams of North Carolina—56.

The bill was then ordered to be read a third time to-morrow.

WEDNESDAY, February 17.

Mr. RICH, from the Committee of Claims, to which was referred the amendment proposed by the Senate to the bill, entitled "An act for the relief of Kenzie and Forsyth," reported their agreement to the said amendment; which was ordered to be concurred in by the House.

Mr. WILLIAMS, from the same committee, to which was also referred the bill from the Senate, entitled "An act for the relief of the heirs of Edward McCarty," reported the same without amendment; and the bill was committed to the Committee of the Whole, to which is committed the report of the Committee of Claims, on the cases of Mary Sears and William B. Stokes.

Mr. ROBERTSON, from the Committee on Private Land Claims, to which was referred the bill from the Senate, entitled "An act confirming the claim of Alexander Macomb to a tract of land in the Territory of Michigan," reported the same without amendment; and the bill was ordered to be read a third time to-morrow.

A message from the Senate informed the House that the Senate have passed a bill of this House entitled "An act to incorporate a company to build a bridge over the Eastern Branch of Potomac, between the termination of Eleventh and Twelfth streets, east, in the City of Washington," with amendments. They have also passed a bill, entitled "An act respecting the location of certain sections of lands to be granted for the seat of government in the State of Indiana;" in which amendments and last mentioned bill they ask the concurrence of this House.

The amendments proposed by the Senate to the bill of the House last mentioned, were read, and concurred in by the House.

The bill from the Senate, entitled "An act respecting the location of certain sections of lands to be granted for the seat of government in the State of Indiana," was read twice and referred to the Committee on the Public Lands.