Congreſs of the United States.

HOUSE OF REPRESENTATIVES.

Thurſday, January 27, 1803.

Mr. Griſwold preſented the following memorial:

To the honorable the ſenate and houſe of repreſentatives of the United States, in congreſs aſſembled.

The underſigned moſt reſpectfully ſubmit the following repreſentation and memorial:

By an act of congreſs paſſed on the 13th day of February, in the year of our Lord one thouſand eight hundred and one, entitled "An act to provide for the more convenient organization of the courts of the United States," certain judicial offices were created, and courts eſtabliſhed, called circuit courts of the United States.

In virtue of appointments made under the conſtitution of the United States, the underſigned became veſted with the offices ſo created, and received commiſſions, authoriſing them to hold the ſame, with the emoluments thereunto appertaining, during their good behavior.

During the laſt ſeſſion, an act of congreſs paſſed, by which the above mentioned law was declared to be repealed; ſince which no law has been made for aſſigning to your memorialiſts, the execution of any judicial functions, nor has any proviſion been made for the payment of their ſtipulated compenſations.

Under theſe circumſtances, and finding it expreſsly declared in the conſtitution of the United States, that "The judges both of the ſupreme and inferior courts ſhall hold their offices during good behavior, and ſhall, at ſtated times, receive for their ſervices, a compenſation which ſhall not be diminiſhed during their continuance in office," the underſigned, after the moſt deliberate conſideration, are compelled to repreſent it as their opinion, that the rights ſecured to them by the conſtitution, as members of the judicial department, have been impaired.

With this ſincere conviction, and influenced by a ſenſe of public duty, they moſt reſpectfully requeſt of congreſs to review the exiſting laws which reſpect the offices in queſtion, and to define the duties to be performed by the underſigned, by ſuch proviſions as ſhall be conſiſtent with the conſtitution, and the convenient adminiſtration of juſtice.

The right of the underſigned to their compenſations, they ſincerely believe to be ſecured by the conſtitution, notwithſtanding any modification of the judicial department, which, in the opinion of congreſs, public convenience may recommend. This right, however, involving a perſonal intereſt, will cheerfully be ſubmitted to judicial examination and deciſion, in ſuch manner as the wiſdom and impartiality of congreſs may preſcribe.

That judges ſhould not be deprived of their offices or compenſations, without miſbehavior, appears to the underſigned to be among the firſt and beſt eſtabliſhed principles of the American conſtitutions, and in the various reforms they have undergone, it has been preſerved and guarded with increaſed ſolicitude.

On this baſis, the conſtitution of the United States has laid the foundation of the judicial department, and expreſſed its meaning in terms equally plain and peremptory.

This being the deliberate and ſolemn opinion of the underſigned, the duty of their ſtations requires that they ſhould expreſs it to the legiſlative body. They regret the neceſſity which compels them to make the repreſentation, and they confide that it will be attributed to a conviction, that they ought not voluntary to ſurrender rights, and authorities, intruſted to their protection, not for their perſonal advantage, but for the benefit of the community.

WM. TILGHMAN.

Mr. Griſwold moved a reference of the foregoing memorials to a ſelect committee.

Mr. Gregg obſerved that according to the uſual mode of tranſacting buſineſs, it ought to go to the committee of claims. He therefore made that motion.

Mr. Griſwold ſaid he entertained a high reſpect for the committee of claims, and was always in favor of referring to them petitions that merely involved demands for money. But he thought this memorial ſtood upon very different ground. It propoſes a reviſion of the laws, in order to aſſign the judges duties proper to be truſted to them; and it alſo propoſes the ſubmiſſion of the queſtion of compenſation to judicial deciſion. Theſe points are of a very diſtinct nature from thoſe referred to the committee of claims; for which reaſons he thought ſuch reference improper.

Mr. Randolph did not think a ſelect committee, or the committee of claims, a proper committee to whom to refer this memorial. What is its nature? Does it embrace any point of fact, on which a committee is to make enquiry? No. It is a broad conſtitutional queſtion. He was, therefore, in favor of having it examined where it muſt eventually be ſettled, in the houſe. If therefore the memorial had any reference, it ought to be referred to a committee of the whole houſe. To which effect he made a motion.

Mr. Bacon hoped this laſt motion would not obtain. He did not know what there was in this petition to diſtinguiſh it from any other petition from any citizens of the United States. It was ſuggeſted that it involved a great conſtitutional queſtion.—He did not know that this was the caſe. Any thing might be made a conſtitutional queſtion. But he thought this queſtion had been already determined by the whole legiſlature, on the moſt mature deliberation. He ſaw nothing to diſtinguiſh this petition from other petitions. He would not ſay that it would be doing it too much honor, but it would be making too wide a difference between ſimilar applications, to adopt this courſe. He was, therefore, for purſuing the common courſe.

Mr. Griſwold had no objection to a reference of the memorial to a committee of the whole. Perhaps that would be the better mode. It was true, as the gentleman from Virginia had ſtated, that a very important conſtitutional queſtion may ariſe on this memorial. Nor did he know, as repreſented by the gentleman from Maſſachuſetts, (Mr. Bacon) that all the conſtitutional queſtions involved in the ſubject had been ſettled by the deciſion of the laſt ſeſſion. He had underſtood the gentleman himſelf in his ſpeech during the laſt ſeſſion, to have ſaid that the queſtion of compenſation was a very different queſtion from that then under diſcuſſion. He was not abſolutely certain that that gentleman expreſſed ſuch an opinion, but he was certain that ſome gentleman of the majority did. As the memorial was couched in terms of great reſpect, he truſted there would be no objection on the part of the houſe to give it a proper attention.

Mr. Randolph would conciſely anſwer the gentleman from Maſſachuſetts. Does this queſtion involve an enquiry either into matter of expediency or of fact? With reſpect to fact they were all agreed. The judges make the queſtion turn on a conſtruction given to the conſtitution; it was, therefore, indubitably a conſtitutional queſtion, on which a committee could not decide. The houſe then muſt decide. It appeared to him to be the plaineſt caſe on earth. No doubt conſtitutional queſtions may ariſe on many points. He hoped, therefore, the houſe would itſelf decide it. For his part, he conſidered the deciſion as already made. He hoped the memorial would be taken up that day.

Mr. John C. Smith was decidedly againſt a reference to the committee of claims, and in favor of its going to a committee of the whole houſe.

Mr. Smilie was againſt refering the memorial to a committee of the whole. If the ſubject had not been already maturely conſidered, and diſcuſſed at the greateſt length, he ſhould be in favor of ſuch a reference. But it had been moſt fully diſcuſſed. If they meant to ſit there to the neglect of the important buſineſs, they ought to go into committee of the whole; but if they meant to do the public buſineſs, they ought not. Gentlemen would recollect the time ſpent in the diſcuſſion the laſt ſeſſion.

Mr. Dana thought the gentleman from Pennſylvania did not calculate correctly. The ſame object, as to debate, would be attained in the houſe as in a committee of the whole, For he would recollect that notwithſtanding the length of the debate of the laſt ſeſſion, and though the houſe were in committee, no gentleman had ſpoken more than once; and according to the rules of the houſe every member had a right to ſpeak twice.

Mr. Dana ſaid he agreed with the gentleman from Virginia in the ideas he had expreſſed.

Mr. Gregg ſaid he hoped the motion of reference to committee of the whole would not prevail, but that theſe memorials, like all others of a ſimilar nature, would be referred to the committee of claims. He would beg leave to read to the houſe one of the rules by which the duty of the committee of claims was deſignated. The rule was in theſe words:

"It ſhall be the duty of the ſaid committee of claims to take into conſideration all ſuch petitions and matters or things touching claims and demands on the United States, as ſhall be preſented, or ſhall or may come in queſtion and be referred to them by the houſe."

Now, ſaid he, can any perſon, after hearing the memorials, and the rule juſt read, undertake to ſay, that they are not completely within the province of that committee. Are they not a claim? Are they not a demand of money? Moſt aſſuredly they are. He conſidered the demand of their ſalaries the primary object of the memorialiſts, and not an incidental circumſtance, as had been ſtated. If the ſalaries had been paid moſt probably we ſhould have heard nothing of the memorial.

The queſtion was then taken on Mr. Randolph's motion to refer the memorial to a committee of the whole houſe, and carried—Ayes 53.

The Speaker inquired for what day it ſhould be made the order.

Mr. Randolph ſaid *to-day*.

Mr. Griſwold—*to-morrow*.

The queſtion was taken on Mr. Griſwold's motion, and loſt—Ayes 38—Noes 51.

Mr. Huger moved that it ſhould be the order for Monday. It muſt be evident, he ſaid, that the members had not yet ſufficiently attended to the ſubject to be prepared for a deciſion. It was a very different queſtion from that decided the laſt ſeſſion. It certainly required ſome little time to enable gentlemen to revolve it in their minds. It was not uſual to force deciſions in that way. If it was the object of gentlemen merely to vote it out, a majority muſt do as they pleaſe; but if they were diſpoſed to pay it ordinary reſpect, they certainly could not urge ſo precipitate a diſcuſſion.

Mr. Randolph aſked if it were in order, after the queſtion had been taken, to name another day. He ſaid, he would not have urged an immediate conſideration of the memorial, but for the conviction that the ſubject, in all its bearings, had undergone the matureſt inveſtigation, not only of every member on that floor, but of every thinking man in the United States.

The Speaker decided that the moving another day was not in order.

The queſtion on going into a committee of the whole this day was then carried without a diviſion.

Whereupon Mr. Randolph moved that the houſe ſhould go into committee immediately.

The Speaker ſaid the unfiniſhed buſineſs of yeſterday would be the firſt acted upon unleſs poſtponed.

Mr. Randolph moved the poſtponement of the unfiniſhed buſineſs till to-morrow.

Carried—Ayes 59.

The houſe then reſolved itſelf into a committee of the whole on the memorial.

Mr. Dawſon in the chair.

The memorial of William Tilghman was read; which was accompanied by ten other *verbatim* memorials ſigned by Oliver Wolcott, Jeremiah Smith, Richard Baſſet, Philip B. Key, George K. Taylor, Charles Magill, Samuel Hitchcock, Benjamin Bourne, Egbert Benſon, and William Griffiths.

Mr. Griſwold ſaid, he did not think it proper to enter into an extenſive diſcuſſion of the memorial. The haſte with which the conſideration of it was urged, appeared to him indicative of a diſpoſition to reject it altogether. Under ſuch circumſtances diſcuſſion would be uſeleſs. At the ſame time he would remark that it involved a queſtion very different from that decided at the laſt ſeſſion. It had then been decided that the legiſlature had the conſtitutional right to deprive the judges of all judicial power; but the queſtion never was ſettled, that notwithſtanding, the judges ſhould be deprived of all their judial powers, they were not entitled to the compenſation guaranteed by the conſtitution—This involved a diſtant point which ought not to be haſtily acted upon. The judges had never been heard before congreſs on this queſtion. They had a right by the conſtitution to be heard, and to be heard by counſel, he preſumed, if they deſired it. He had thought the houſe would have given time for them to be heard. But they had determined to proceed immediately. He ſhould, therefore, be content with moving two reſolutions.

Mr. Griſwold here read his reſolutions as follows:

Reſolved, That proviſion ought to be made by law to define the powers to be exerciſed by the judges of the circuit courts of the United States, who were appointed under an act entitled "An act to provide for the more convenient organization of the courts of the United States."

Reſolved, That proviſion ought to be made by law, for ſubmitting to judicial deciſion the right of the judges of the circuit court to their compenſations.

Mr. Griſwold ſaid, he would himſelf have preferred a reſolution to *make* the judges compenſation; but as they had thought it better to purſue a different courſe, he would follow their plan. He knew, there were many reſpectable law characters who thought the legiſlature were competent to deprive the judges of their powers, but not of their compenſation.

The reſolutions were read from the chair.

Mr. Nicholſon did not mean to enter into a diſcuſſion of the merits of the memorial for two reaſons; the one becauſe he was very much indiſpoſed; and the other becauſe, in his opinion, the ſubject had already been ſufficiently diſcuſſed. But as the gentleman from Connecticut who had moved the reſolutions, in the firſt recommended defining the duties of the judges, he ſuppoſed he had laid down ſome plan to that effect. As a member of the houſe, he would be much obliged to him for pointing out the plan he had formed.

Mr. Griſwold ſaid, he had not expected to have been called upon to define the plan that would be moſt agreeable to him; as he apprehended that ſuch a plan would lead to that diſcuſſion which gentlemen ſeemed deſirous of avoiding. But he would mention one plan—to reſtore the law which the legiſlature had at the laſt ſeſſion attempted to repeal. The definition of powers according to that plan the judges might exerciſe with perfect certainty. If this were not conformable to the ideas of the gentleman from Maryland, it was in his power to define ſome other plan.

Mr. Nicholſon ſaid this was juſt what he had expected; and he had put the queſtion to draw from the gentleman ſuch an anſwer. On the plan propoſed he was prepared to act, and he had no doubt every other member was alſo prepared.

Mr. Randolph. The proviſion deſired by the gentleman from Connecticut already exiſts. The legiſlature has defined the powers of the late circuit judges, and has decided that they ſhall not execute any powers. Thoſe powers are transferred to other courts. Unleſs the houſe had changed their opinion it was not neceſſary to go into any diſcuſſion on this point. The readieſt and faireſt courſe for gentlemen would be to propoſe to repeal the law of the laſt ſeſſion and reſtore the judges.

The queſtion was then taken on the *firſt reſolution*, and loſt; ayes 34; noes 56.

[*To be continued.*]

Friday, January 26.

Mr. Jones preſented a memorial from the chamber of commerce of Philadelphia reſpecting the injurious effects reſulting from a conſtruction given at the cuſtom-houſe at Philadelphia, of the 14th ſection of the revenue law reſpecting the recording and regiſtering of veſſels.

Referred to the committee of commerce and manufactures.

Mr. John C. Smith, from the committee of claims, made a report on the petition of George Maſon, a revolutionary ſoldier. The report ſtates that no proviſion appears to have heretofore been made for the allowance of penſions to ſoldiers of the South-Carolina line, of which the petitioner was one; and concludes with a reſolution that it is expedient to make proviſion by law for invalid penſioners of that line.

Referred to a committee of the whole on Tueſday.

Mr. Cutler preſented a petition from the merchants, ſhip-owners and ſhip builders of Newbury-Port, praying that the acts impoſing diſcriminating duties may not be repealed.

Referred to the committee of the whole on diſcriminating duties, and ordered to be printed.

Mr. Davis offered a reſolution, for inſtructing the committee of ways and means to enquire into the expediency of ſuſpending for a limited time the collection of all debts or duties due the United States from the citizens of Tenneſſee, Ohio, Kentucky, and the Indiana and Miſſiſippi territories.

Mr. Davis ſaid as the government had lately paſſed a law ſuſpending the payment of duties due by the citizens of Portſmouth in conſequence of a fire at that place, he thought the citizens of the weſtern country, from the peculiar ſituation in which they were placed, had as ſtrong a claim on the indulgence of congreſs. The produce on hand was the means with which they expected to pay debts due the United States. Many citizens in that country were indebted to the United States. If they were puſhed by the government, while the port of New-Orleans remained ſhut, and executed for debts which they were unable to pay from an inability to ſell their produce, great embarraſſment and uneaſineſs would be produced. On the other hand, if an indulgence ſhould be extended, until their ports were opened, the exiſting debts could be ſecured by counter ſecurities, under the direction of the ſuperviſor, or ſuch other officer as congreſs might authoriſe, by which the ultimate payment will not be affected. He concluded by ſaying he was perſuaded the United States could better afford to lay out of theſe monies, than the citizens of that country could afford, under their preſent circumſtances, to pay them.

The houſe immediately took up the reſolution, and agreed to it—Ayes 58.

Mr. Mitchill made a report from the committee appointed on the ſubject of docks—that under a law of the United States 50,000 dollars has been appropriated for docks to be expended under the direction of the preſident; which ſum having however, not been expended, had reverted to the treaſury. The report concludes with a reſolution declaring that it is expedient to appropriate the ſame ſum for the ſame object, to be placed under the direction of the preſident.

Referred to a committee of the whole on Monday.

Mr. Mitchill who had been appointed chairman of the committee on the Mint-eſtabliſhment, in the place of Mr. Dennis (who had requeſted to be excuſed), made an application to the houſe to report *by bill*. As he knew a diverſity of opinion exiſted on the ſubject, and there had been ſome diſcuſion already about it, he had brought the propoſition before the houſe in ſuch a form as to take their ſenſe upon it. If there was a majority againſt the exiſtence of the mint, they would now have it in their power to ſhew it by voting againſt the preſent motion. If there was on the other hand, a majority in favor of the domeſtic coinage, it might be ſhewn by granting leave to report a bill. That the houſe might the better comprehend his meaning, he would be a little more particular. The act concerning the mint, providing for its continuance at Philadelphia, paſſed in March 1801, would expire on the 4th of March 1803. That day would ſoon arrive; and it was deſirable to have ſomething done ſpeedily; unleſs proviſion was made by law, the mint could not continue at Philadelphia. It muſt be moved to Waſhington. Money would be neceſſary for that removal. The government now owned both real and perſonal eſtate in Philadelphia. If not occupied and employed there, legal regulation muſt be made for the ſale of it. On the other hand, if it ſhould be permitted to the committee to report, he was inſtructed to preſent a bill for continuing in operation the Mint eſtabliſhment in Philadelphia. By this means, the inconvenience and expence of breaking up this manufactory of money and moving it to Waſhington, would be avoided; and the mint would be continued at work at very little more than the ordinary appopriations. He wiſhed this queſtion had been ſettled by the houſe. The committee had been equally divided, and his caſting vote had been decided in favor of making the preſent application. In the preſent want of copper coin and ſmall ſilver for change, he did not chooſe to take the reſponſibility upon himſelf, of ſuffering the mint to ſtop for want of legiſlative conſideration and aid. The houſe ought to decide upon the propriety of the general queſtion of diſcontinuance. He would however mention that if leave was granted, it was his intention to report a further continuance of the exiſting law, and an appropriation of five hundred dollars, which the director had declared to be neceſſary for purchaſing horſes, and making repairs to the machinery.

Mr. Dawſon ſpoke againſt giving leave to the committee to report by bill.

On which queſtion the houſe divided—Ayes 45—Noes 32.

Much additional buſineſs was done, which our limits do not admit ſtating to-day.

Of this buſineſs was a letter received from colonel Humphreys deſiring congreſs to make diſpoſition of a preſent ſent to him by the dey of Algiers, and a preſent ſent to Mrs. Humphreys by the king of Spain, both of which are depoſited with the chief clerk in the department of ſtate.

Mr. Mitchill called up his motion reſpecting French depredations, as follows:

Reſolved, that a committee be appointed to enquire by what means the value or amount of property taken from citizens of the United States by the French during the late war in Europe, can be beſt aſcertained, and the ſeveral ſorts of captures diſtinguiſhed and claſſed, and report their opinion thereon to this houſe, to the end that indemnification be made.

Mr. Bayard offered an amendment, which was agreed to, ſtriking out the latter part of the reſolution, and inſtructing the committee to report their opinion whether indemnification ſhall be made.

After a very deſultory debate on referring the reſolution to a committee of the whole, or to a ſelect committee, and a rejection of the motion of reference to a committee of the whole, the queſtion was taken on the reſolution, as amended, which was determined in the negative—Ayes 34—Noes 39.

SALEM, January 24.

Arrived ſince our laſt, brig Cynthia, captain John Andrews, in a ſhort paſſage from St. Pierres, Martinico, via the Vineyard. Captain Andrews has politely favored us with the following ſhip news:

Liſt of veſſels left at St. Pierres, Martinico, December 24:

Ships Trent, Kinſman, of Salem, bound to Baltimore; John, Freeman, of Portland, for ditto; Pamelia, Driſcoll, of Baltimore, bound to leeward; ——, of Rhode-Iſland, maſter's name unknown; brigs Benjamin and Nancy, Stover, of Newburyport; Robert, Thomas, of do. Aurora, Allen, of Boſton; Laurel, Holmes, of do. ——, Keeſe, of do. Two Brothers, Dixcy, of Salem; ——, Cowrens, of Newport, R. I. Aurora, Bartlett, of Plymouth; Minerva, Perkins, of Portſmouth; ſchrs. ——, Rich, of Boſton; ——, Woodbury, of Beverly; Molly, Gardner, of Marblehead; Raven, Stevens, of do.

Left at Port Royal,

Schrs. ——, Dennis, of Boſton; William, Woodbury, of Beverly; brig ——, of Baltimore, Williams, late maſter, who died at St. Pierres; ſchr. ——, Moulton, of Portland, and ſeveral other veſſels, names not recollected. The ſchr. Yarmouth, captain Atwood, ſailed from St. Pierres in company, December 24, for Plymouth. January 11, ſpoke with a brig for London, for New-York, 66 days out.

BOSTON, January 20.

Arrived, the valuable ſhip Juno, capt. Dingley, 110 days from Bombay, via Vineyard.

January 21.

Arrived, ſhip Mary Somernolos, Eſtervan Famaula, from Havana, 29 days. Left the American brig ——, capt. Snow, juſt arrived.

Same day, ſch'r Liberty, capt. Downe, in 22 days from St. Croix.

Captain Wm. Bradſhaw, of the brig Plymouth, of Salem, from New-York, with flour, had tried the market at Barbados, Martinico, St. Lucia, St. Croix, and St. Thomas, which place he left Dec. 22, for a market.

Sch'r Suſan, Wm. Colver, of New-York, arrived at St. Croix, Dec. 24, to ſail in 10 days for Savannah.

Sch'r Succeſs, Reuben Allen, upſet on the night of Dec. 11, loſt her deck load, long boat and one cable, and righted, with 5½ feet water in the hold; part of her cargo damaged.

Sch'r Polly, of Boſton, arrived at St. Thomas 20th Dec. from St. Domingo, with Mahogany. The ſchooner and all of captain Chadwick's property were put into the dealing court, on account of capt. C's death.

The barque Atlantic, Joſeph Brown, of Newburyport, bound to Hamburg from Point-Petre (Guad.) put into St. Croix in great diſtreſs, having ſcarcely one hand well enough to work the ſhip, the head of her foremaſt ſprung—when the ſhip hove out ſignals of diſtreſs, and a number of the citizens of St Croix, with the Americans that were there, went on board, and bro't the ſhip to anchor—in letting go the beſt bower, a ſudden ſquall ſtruck the barque adrift, and ſlipped the cable, wich ſunk with its buoy—neither had been found when captain D. ſailed. She was laden with ſugar and coffee.

January 22.

Laſt evening arrived, the brig Laurel, captain Holmes, 22 days from Martinico. Left, Rebecca, Thomas, for Newbury-Port, in 20 days; ſchooner Nancy, Alden, of Portland, for Grenada, in 5 days; Rebecca, Bradbury, of Lynn, for Norfolk, in 20 days; Succeſs, Chadwick, for Boſton, in 25 days; Herald, Wildrige, of ditto; Mary, Robinſon, of ditto; ſch'r Joſeph, Eaſtman, bound to leeward. A number of veſſels touched at Martinico, and ſailed again to leeward for a market. American produce very low.

Same evening, brig Pacific, captain Haſtings, in 32 days from Jamaica. The ſchooner Neptune, Miller, arrived at Kingſton, 26 days paſſage.

Same evening, the ſchooner Trio, captain Wellman, 30 days from Aux-Cayes. Spoke, January 5, lat. 26, N. long. 74, W. the brig Bellona, captain Delano, 90 days out, from Hamburg, for New-York, in diſtreſs, was then ſtanding for New-Providence, or the neareſt port; it blowing freſh, could not give him aſſiſtance. All was quiet at Aux-Cayes.

Same evening, the ſchooner Eliza, captain Rich, 22 days from Martinico. Nothing new.

January 23.

This day arrived, the brig Unanimous,