INTERESTING DEBATE.

MR. ROSS'S SPEECH

IN THE SENATE OF THE UNITED STATES.

Monday, February 14, 1803.

After the ſenate had finiſhed its deliberations upon the legiſlative buſineſs before it,

Mr. Roſs roſe and ſaid, That although he came from a part of the country where the late events upon the Miſſiſippi had excited great alarm and ſolicitude, he had hitherto forborne the expreſſion of his ſentiments, or to bring forward any meaſure relative to the unjuſtifiable, oppreſſive conduct of the Spaniſh government at New-Orleans. He had waited thus long in the hope that ſome perſon more likely than himſelf to conciliate and unite the opinions of a majority of the ſenate, would have offered efficacious meaſures for their conſideration. But ſeeing the ſeſſion now drawing to a cloſe without any ſuch propoſition, he could not reconcile a longer ſilence either to his own ſenſe of propriety, or to the duty he owed to his conſtituents. He could not conſent to go home without making one effort, however feeble or unſucceſsful, to avert the calamity which threatened the weſtern country. Preſent appearances, he confeſſed, but little juſtified the hope that any thing he might propoſe would be adopted; yet it would at leaſt afford him ſome conſolation hereafter, that when the ſtorm was approaching, he had done his duty, by warning thoſe who had power in their hands, of the means they ought to employ in order to reſiſt it.

He was fully aware that the executive of the United States had acted. That he had ſent an envoy extraordinary to Europe. This was the peculiar province, and perhaps the duty, of the preſident. He would not ſay it was unwiſe, in this ſtate of our affairs, to prepare for remonſtrance or negociation, much leſs was he about to propoſe any meaſure which would thwart negociation or embrraſs the executive:—On the other hand he was convinced, that more than negociation was abſolutely neceſſary; that more power and more means ought to be given to the preſident, in order to render his negociation more efficacious. Could the preſident proceed further, even if he thought more vigorious meaſures proper and expedient? Was it in his power to repel or puniſh the indignity put upon the nation? Could he uſe the public force to redreſs our wrongs? Certainly not. This muſt be the act of congreſs. They are now to judge of ulterior meaſures. They muſt give the power and vote the means to vindicate, in a becoming manner, the wounded honor, and the beſt intereſts of the country.

Mr. R. ſaid he held in his hands certain reſolutions for that purpoſe, and, before he offered them to the ſenate, he would very fully explain his reaſons for bringing them forward and preſſing them with earneſtneſs as the beſt ſyſtem the United States could now purſue.

It was certainly unneceſſary to waſte the time of that body in ſtating that we had a ſolemn, explicit, treaty with Spain. That this treaty had been wantonly and unprovokedly violated, not only in what related to the Miſſiſippi, but by the moſt flagrant and deſtructive ſpoliatiation of our commerce on every part of the ocean where Spaniſh armed veſſels met the American flag. Theſe ſpoliations were of immenſe magnitude, and demanded the moſt ſerious notice of our government. They had been followed by an indignity and a direct infraction of our treaty relative to the Miſſiſippi, which bore an aſpect not to be diſſembled or miſtaken.

To the free navigation of that river we had an undoubted right from nature and from the poſition of our Weſtern country. This right and the right of depoſit in the iſland of New-Orleans, had been ſolemnly acknowledged and fixed by treaty in 1795. That treaty had been in actual operation and execution for many years. And now without pretence of abuſe or violation on our part, the officers of the Spaniſh government, deny the right, refuſe the place of depoſit, and add the moſt offenſive of all inſults by forbidding us to land or touch their ſhores, and ſhutting us out as a common nuiſance.

By whom has there outrage been offered? By thoſe who have conſtantly acknowledged our right, but now tell us they are no longer owners of the country! They have given it away! And becauſe they have no longer a right themſelves, therefore they turn us out who have an undoubted right. They diſpoſſeſs us of that in which they diſclaim all right themſelves. Such an inſult, ſuch unprovoked malignity of conduct, no nation but this would affect to miſtake; and yet we not only heſitate to take the courſe which intereſt and honor call us to purſue, but we bear it with patience, tameneſs, & apparent unconcern. Whom does this infraction of the treaty and the national rights of this country moſt intimately affect? If the wound of national honor be not ſenſibly felt by the whole nation, is there not a large portion of your citizens expoſed to immediate ruin by a continuance of this ſtate of things? The calamity lights upon all thoſe who live upon the Weſtern waters. More than half a million of your citizens are by this cut off from market. What would be the language—What would be the feelings of gentlemen in this houſe, were ſuch an indignity offered on the Atlantic coaſt? What would they ſay if the Cheſapeake, the Delaware, or the bay of New-York were ſhut up, and all egreſs prohibition by a foreign power? And yet none of theſe waters embrace the intereſts of ſo many as the Miſſiſippi. The numbers and property affected by ſhutting this river, are much greater than the blockade of any Atlantic river would extend to. Every part of the union is equally entitled to protection, and no good reaſon could be offered why one part ſhould be leſs attended to than another.

In the laſt year goods to the value of more than two millions of dollars had been carried into the weſtern country. Theſe goods were purchaſed on credit The conſumption of that merchandize afforded a revenue to our treaſury of more than three hundred thouſand dollars—The ſale of weſtern public lands was calculated upon as producing half a million of dollars annually—Large arrearages of internal taxes were due from that country—The people had juſt emerged from an Indian war—They had overcome the moſt frightful obſtructions which had ever preſented themſelves in the ſettlement of a new country; and although yet in their infancy, we might promiſe ourſelves an honorable and vigorous manhood, if they were protected as we led them to expect. After a little while their ſtrength and faculty of ſelf-preſervation would be complete; certainly however they yet needed the kind foſtering hand of their parent ſtates. But if that be now withdrawn, where is the revenue on which you calculate? How can they pay for your lands? How can they diſcharge arrearages of taxes? How are they to meet your merchants of Baltimore and Philadelphia? They cannot go to market—They have no reſources but the produce of their farms—You ſuffer the Spaniards to lock theſe up—You tell them their crops may, nay muſt rot on their hands, and yet they muſt pay you their debts and taxes. Is this juſt? Will it be ſubmitted to? Theſe men bought your land in confidence that the Spaniſh treaty would be maintained. All or nearly all your ſales are ſince the date of that treaty. Now you ſuffer a wanton violation of it without an effort to remove the obſtruction, and yet call on them for payment! This cannot be expected—It would not be the rule between honeſt individuals; for the ſeller of an eſtate, ſuffering an eviction of the purchaſer, when he might and could prevent it, would not in conſcience be entitled to receive the purchaſe money.

If it comports with your calculations of intereſt or convenience to ſubmit tamely to this outrage, and to witneſs the ruin of one part of your country for the ſake of peace in the reſidue; ſurely your ideas of juſtice will compel you to abſolve the weſtern people from all obligation to pay what it would ruin them to advance. Will you proſecute them in your courts? Will you ſell their little all by your public officers? Will you not be content with the loſs of all the lively hopes they had entertained, of gaining a new fortune and another name in the wild, but auſpicious new countries of the weſt? Is it not enough that their day is darkening and cloſing at noon? Surely it will not be thought reaſonable to exact impoſſibilities. It is undeniable, however, that by their ruin many of your own merchants on the Atlantic coaſt will be inevitably involved: And great as this evil may be (certainly of immenſe magnitude) yet the loſs of the affections of a whole people, the deſtruction of enterprize, and the end of induſtry and hope in the weſtern world, is incalculably greater.

It may be ſaid that this is an overcharged deſcription of the evil ſide of our affairs, without offering any remedy.

Mr. R ſaid that was far from his intention, and he would now examine that ſubject, becauſe to his mind the remedy was obvious.

The experience of all time has proved, that with nations, as well as with individuals, ſubmiſſion to aggreſſion and inſult uniformly invites a repetition and aggravation of the miſchief. To repel at the outſet is more eaſy, as well as more honorable for the injured party.

Fortunately for this country, there could be no doubt in the preſent caſe. Our national right had been acknowledged and ſecured ſolemnly by treaty. The treaty had been in a ſtate of execution. It was now violated and denied without provocation or apology. Treaty then was no ſecurity. The invaded right was one, the ſecurity of which ought not to be precarious—it was indiſpenſible that the enjoyment of it ſhould be placed beyond all doubt. The power with whom you have the treaty is either too week or too unjuſt to obſerve it. He declared it, then to be his firm and mature opinion, that this right would never be ſecure while the mouth of the Miſſiſippi was excluſively in the hands of the Spaniards. From their caprice or enmity we had to apprehend conſtant interruption and miſunderſtanding. From the very poſition of our country, from its geographical ſhape, and from motives of complete independence the command of the navigation of that river ought to be in our hands. We are now wantonly provoked to take it. Hoſtility, in its moſt offenſive ſhape, has been offered by thoſe who diſclaim all right to the ſoil and ſovereignty of that country, an hoſtility fatal to the well-being of the weſtern world. Why not ſeize then what is ſo eſſential to us as a nation? Why not expel the wrongdoers?—Wrongdoers by their own confeſſion, to whom we can therefore do no injury. Paper contracts or treaties have proved to feeble: Plant yourſelves on the river—fortify the banks; invite thoſe who have an intereſt at ſtake to defend it; do juſtice to yourſelves, when your adverſaries deny it, and leave the event to HIM who controls the fate and fortune of nations.

Why ſubmit to a tardy, uncertain negociation as the *only means* of regaining what you have loſt? A negociation, with thoſe who declare they have no right, at the moment they ſtrip you of yours? When in poſſeſſion, you will negociate with more advantage--You will then be in a condition to keep others out---You will be in the actual exerciſe of juriſdiction over your whole claim---Your people will have the benefits of a lawful commerce---When your determination is known, you will make an eaſy and honorable accommodation with any other claimant. The preſent poſſeſſors can have no pretence to complain, for they have no right to the country by their own confeſſion---The weſtern people will diſcover that you are making every effort they could deſire for their protection. They will ardently ſupport you in the conteſt, if a conteſt becomes neceſſary---Their all is at ſtake, and neither their zeal nor their courage can be doubted.

Look at the memorial from the legiſlature of the Miſſiſippi territory now on your table. That ſpeaks a language and diſplays a ſpirit not to be miſtaken. Their lives and fortunes are plighted to ſupport you. The ſame may with equal truth be aſſerted of Kentucky, Tenneſſee, and the weſtern people of Virginia and Pennſylvania. Is this a ſpirit to be repreſſed or put aſleep by negociation? If you ſuffer it to be extinguiſhed, can you recal it in the hour of diſtreſs when you want it? After negociation has failed; after a powerful, ambitious nation ſhall have taken poſſeſſion of the key of your weſtern country & fortified it: after their garriſons are filled with the veterans who have conquered in the eaſt, will you have it in your power to awake the generous ſpirit of that country, and diſpoſſeſs them? No. Their confidence in ſuch rulers will be gone. They will be diſheartened, divided, and will place no further dependence upon you. They muſt abandon thoſe who loſt the precious moment of ſeizing, and forever ſecuring their ſole hope of ſubſiſtence and proſperity. From neceſſity they muſt then make the beſt bargain they can with the conqueror.

It may be added, that the poſſeſſion of the country on the eaſt bank of the Miſſiſippi will give a compactneſs, an irreſiſtable ſtrength to the United States; and in all future wars, we ſhall be more dreaded, and of conrſe more courted and more reſpected, than we can ever hope to be without it.

Suppoſe that this courſe be not now purſued. Let me warn gentlemen how they trifle with the feelings, the hopes, and the fears of ſuch a body of men as inhabit the weſtern waters. Let every honorable man put the queſtion to himſelf, how would half a million round him be affected by ſuch a calamity, and no means taken by the government to redreſs it. Theſe men have arms in their hands—the ſame arms with which they proved victorious over their ſavage neighbors. They have a daring ſpirit—They have ample means of ſubſiſtence—No market for thoſe means—and they have men diſpoſed to lead them on to avenge their wrongs. Are you certain that they will wait the end of negociation? When they hear that nothing has been done for their immediate relief, they will probably take their reſolution and act. Indeed, from all that we have heard, there is great reaſon to ſuppoſe that they will, or, perhaps, that they may have already acted—They know the nature of the obſtruction—They know the weakneſs of the country. They are ſure of preſent ſucceſs—and they have a bold river to bear them forward to the place of action. They only want a leader to conduct them, and it would be ſtrange, if with ſuch means, and ſuch ſpirit, a leader ſhould not ſoon preſent himſelf.

Suppoſe they do go—That they do chace away the preſent wrong-doers—That you give them no ſupport—and, that they in the end they are overpowered and defeated by a ſtronger foe than the preſent feeble poſſeſſors. They will never return to you, for you cannot protect them. They will make the beſt compromiſe they can with the power commanding the mouth of the river, who in effect has thereby the command of their fortunes. Will ſuch a bargain be of light or trivial moment to the Atlantic ſtates? Bonaparte will then ſay to you, My French Weſt-India colonies, and thoſe of my allies, can be ſupplied from my colony of Louiſiana, with flour, beef, pork, lumber and every neceſſary. Theſe articles can be carried by my own ſhips, navigated by my own ſailors. If you on the Atlantic coaſt wiſh to trade with my colonies in theſe articles, you muſt pay fifteen or twenty per cent. of an impoſt; we want no further ſupplies from you, and revenue to France muſt be the condition of all future intercourſe. What ſay you to this? It will be vain to addreſs your weſtern brethren, and complain that your revenue dwindles; your commerce is ruined, your condition deſperate. They will reply—you came not to our aſſiſtance at the only moment you could have ſerved us—That you then balanced between forbid intereſt and duty—That you ſuffered them to be borne down and ſubdued at a time when, for a trifle you could have ſecured the Miſſiſippi. Now their intereſt muſt be conſulted, and it forbids any aſſiſtance to you when following in the ſame train of rum which overwhelmed them.

If the evil does not immediately proceed the full length of abſolute diſunion, yet the ſtrength, the unity of exertion, the union of intereſt will be gone, we are no more one people, and repreſentatives from that portion of our country, in our public councils, will partake of the ſpirit, and breathe the ſentiments of a diſtinct nation. They will rob you of your public lands: They will not ſubmit to taxes: They will form a girdle round the ſouthern ſtates which may be denominated a foreign yoke, and render that whole country very precarious as to its peace and preſent connexions. Indeed, every aſpect of ſuch a ſtate of things is gloomy and alarming to men who take the trouble of reflecting upon it. But, ſir, ſaid Mr. R. I have heard it ſuggeſted that there is another mode of getting rid of this criſis in our affairs. If we remain perfectly quiet and paſſive, ſhew no ſymptoms of uneaſineſs and diſcontent: If we give no offence to the new and probable maſters of the Miſſiſippi—May be they will *ſell!!!* To me it is utterly incredible that ſuch an effect would flow from ſuch a conduct. They might probably ſell if they found us armed, in poſſeſſion and reſolved to maintain it: They would ſee that even conqueſt would be a hard bargain for ſo diſtant a country. Our poſſeſſion would be evidence of a fixed reſolution. But when we have no army, no military preparation, no ſemblance of reſiſtance, what would induce them to ſell? SELL, ſir! for how much? Why, ſir, although there is no information on that ſubject before this houſe, yet I have ſeen it ſtated in a newſpaper, that thoſe who claim that country may perhaps be perſuaded to ſell by diſtributing *two millions of dollars* among certain influential perſons about the————

Here Mr. Wright, of Maryland, called Mr. Roſs to order, and ſaid that he tho't it improper to debate upon confidential information, which in his opinion ought to be kept ſecret.

Mr. Roſs knew of no confidential communication to that houſe on this ſubject.

The vice-preſident ſaid there was no confidential information about this buſineſs before the ſenate that he recollected, and that he perceived nothing improper or out of order in what had been ſaid.

Mr. Nicholas ſaid he hoped the galleries would be cleared. It appeared to him that the gentleman was about to diſcuſs points which ought to be kept ſecret.

Mr. Roſs hoped not---and would give his reaſons.

Mr. Nicholas objected, that it would not be in order for the gentleman to give reaſons.

Mr. Roſs. I will never ſpeak upon this ſubject, ſir, with cloſed doors. The moment you ſhut your doors I ceaſe---and when they are opened I will proceed. There is nothing of a ſecret or confidential nature in what I have to ſay. Mr. Roſs concluded by calling for the yeas and nays upon the queſtion of cloſing the doors.

Mr. Wright read one of the rules of the ſenate, to ſhew that a vote was not neceſſary for cloſing the doors.

Mr. Wells enquired whether it was in order to interrupt a gentleman while ſpeaking, and to make a motion while he was in poſſeſſion of the floor.

The vice-preſident thought that in ſuch a caſe, where a ſenator thought that the ſubject required ſecrecy, it might be done. The doors muſt be cloſed at the requeſt of any ſenator, and afterwards the ſenate would determine by vote whether or not the buſineſs ſhould proceed with cloſed doors. He then ordered the galleries and lobby to be cleared. The doors remained cloſed for ſome time, when they were again opened and the ſenate adjourned.

Tueſday, February 15.

Upon reading the minutes of the preceding day, the following entry was found to have been made by the ſecretary:

"Mr. Roſs ſtated in his place, that he had ſeveral reſolutions to ſubmit to the conſideration of the ſenate, on the infraction of the treaty by the government of Spain, in withholding the right, from the citizens of the United States, to depoſit their produce in the Spaniſh territories; upon which, while he was proceeding in ſome introductory obſervations,

On motion made and ſeconded, the galleries wete cleared and the doors were ſhut."

The above entry on the minutes Mr. Clinton, of New-York, moved to ſtrike out, and the motion was carried.

After ſome of the ordinary legiſlative buſineſs of the ſenate had been diſpatched, Mr. Nicholas moved that the galleries be cleared, and the doors of the ſenate were cloſed till two o'clock. They were then opened and the ſenate adjourned.

A great number of ladies and gentlemen had attended in expectation of hearing the debate reſpecting the Miſſiſippi continued.

Wedneſday, February 16.

After the reading of two or th[illegible]ls, on which there was no debate, M[illegible]k-enridge moved to have the gal[illegible] and the doors cloſed, which w[illegible] cordingly.

At one o'clock, the doors [illegible]en were opened, and in a few mi[illegible]es afterwards

Mr. Roſs roſe and proceeded. [The remainder of Mr. Roſs's ſpeech will appear in this Gazette to-morrow.]

[*U. S. Gazette.*]

Congreſs of the United States.

HOUSE OF REPRESENTATIVES.

Wedneſday, February 16.

Debate on the motion of Mr. Elmer to ſtrike out the firſt ſection of the bill to amend an act entitled an act to amend the judicial ſyſtem of the U. States.

Mr. Elmer thought greater inconveniences would ariſe from the change propoſed in this bill than from the preſent arrangements.

Mr. Bayard ſaid the principal object of the bill was to accommodate judge Waſhington, by altering the allotment of the judges of the ſupreme court, which would be effected without diſaccommodating the other judges, and with their entire approbation.

Mr. Leib ſaid he had ſeconded the motion to ſtrike out the ſection, and he hoped it would prevail. He was not of opinion that the convenience of the judges ſhould alone be conſulted. The public convenience ſhould alſo be regarded. He hoped the preſent diſtribution of the judges would continue; becauſe one of the judges (judge Chaſe) was ſo precious in the eſtimation of Maryland, where he now acted, he was in favor of continuing him there, in preference to tranſlating him to Pennſylvania, where he might not perhaps be held in ſo precious a point of view.

Mr. Smilie was in favor of ſtriking out the firſt ſection. The convenience of the judges ought to be attended to; but if by the arragements of this bill a greater inconvenience will attach to the people, the judges ought to endurge their preſent inconvenience rather than expoſe the nation to one that would be greater. He conſidered the convenience of the people the more important. It would not give ſatisfaction to the people of the ſtate he repreſented (Pennſylvania) to make this alteration: They were ſatisfied with their preſent judge (Mr. Paterſon). They would not be ſatisfied with the judge propoſed to be given them. He hoped, therefore, the houſe would not impoſe upon them what they would deem an evil.

Mr. Mott was for ſtriking out the firſt ſection, to kill the bill altogether. He did not think the accommodation of one judge was a ſufficient ground for the bill. The ſtate he repreſented (New-Jerſey) would be diſpleaſed with the change propoſed by the bill, as there was not in the union a man more obnoxious in that ſtate than the judge contemplated to be given them.

Mr. Euſtis was againſt the motion to ſtrike out the firſt ſection, as it was calculated to remove a great inconvenience attached to the duties of a particular judge; and as there was no reaſon offered in favor of it which ought, in his opinion, to influence the houſe. In the aſſignation of duties, the congreſs ought not to know any of the judges; but ought to preſume that they were all equally learned and agreeable to the people.

Mr. Rutledge obſerved that the duties aſſigned to judge Waſhington were extremely inconvenient. He was obliged to ride from Virginia to Vermont. The judges, he preſumed, were all learned and upright. If any of them failed to diſcharge their duty, the regular courſe of proceeding was known to the houſe. He had never underſtood the cauſe of the arrangement which ſubmitted judge Waſhington to this inconvenience, until he learned that that gentleman had ſome time ſince contemplated a reſidence in Connecticut; under which impreſſion the preſent arrangement had been made.

Mr. Elmendorf viewed the ſubject differently from any gentleman who had ſpoken on the ſubject. It appeared to him that a judge by being permanently aſſigned to a particular circuit would become better acquainted with the laws of the ſtates embraced within his circuit. He therefore thought congreſs ſhould legiſlate but once in making a proper diſtribution of the judges.

Mr. Bayard ſaid it muſt be apparent that the whole diſcuſſion conſiſ[illegible] in what might be termed *argumentum ad homonem.*

After making ſome remarks on the propriety of the change contemplated in the bill, he ſaid that he believed an upright judge would always be inimical to traitors, inſurgents and libellers. He believed judge Chaſe had been conſidered as in ſome meaſure harſh in his treatment of this deſcription of perſons. But in civil caſes, he had never heard the leaſt imputation throwa upon his conduct even by his enemies. The laws under which thoſe proſecutions were conducted, were now expired, and conſidering the mildneſs of the preſent adminiſtration, he did not conceive that there was any danger of falling under the laſh of the learned judge. It was extremely evident this was a matter with which the people had nothing to do; as the only queſtion was whether they ſhould have for their judge A. or B. It had been well obſerved by a gentleman from Maſſachuſetts (Mr. Euſtis) that the houſe ought to conſider every judge equally learned and upright. It was, therefore, not regular or delicate to make ſuch remarks. The boon prayed was very ſmall, as in the event of the death of any one judge, the judges would themſelves have the right of allotting themſelves. He could not believe that any gentleman entertained ſuch hoſtility to the judges as to wiſh to defeat a meaſ[illegible]e barely becauſe it would promote their [illegible]nvenience, and on which they were all [illegible]reed.

Mr. Holland obſerved that he would be in favor of this law, inaſmuch as it promoted the convenience of judge Waſhington, were it not that it interfered with the convenience of two reſpectable ſtates.

Mr. Smilie was ſorry that he was obliged to aſſign the reaſons for the opinions he had advanced. But this became neceſſary from the remarks of the gentleman from Delaware (Mr. Bayard.) That gentle[illegible] has ſaid the judge alluded to may have been harſh in his treatment of traitors, inſurgents and libellers. In the remarks he had to make, Mr. Smilie ſaid he ſho[illegible]d paſs over whatever related to libels and ſedition, and confine himſelf to the obſervations of the gentleman that related to treaſon. He hoped he ſhould never ſee the time when the character of any judge ſhould be conſidered too ſacred to be noticed on fit occaſions in that houſe. It was not that he had on this occaſion any thing to ſay becauſe the judge (Chaſe) had been too ſevere upon traitors, inſurgents, or libellers; but becauſe he had conſtrued an act of inſurgency into treaſon. This was eſſentially a different thing. There was an inſurrection in Pennſylvania, in the county of Northampton.

Mr. Varnum aſked if there was any propriety in the diſcuſſion of the queſtion before the committee in commenting on the character of a judge.

Mr. Randolph hoped the gentleman would proceed.