

Debates in Congress.

HOUSE OF REPRESENTATIVES.

FRIDAY, November 9.

BATE on the bill, making further appropriation for the support of the navy during the year 1807.

(Continued.)

Mr. Quincy said, that the question he had raised was so simple and direct that he could see how the chairman of the committee ways and means or any other member had mistaken it. These articles had purchased three months ago; was it clear that there was interest due on the chase? how was it to be paid? if no interest due, the monies of the United States been applied; if the interest was due, he was the specific appropriation to pay. He asked these questions for information, and not with a design to create difficulty, to the passage quoted by the gentleman from Vermont, with a design to show the clarity of the proposed measure to be adopted, that it was an expense incurred by law, for which a sum had been appropriated by law, but which was not sufficient to cover the expenditure; this was an expenditure which had not been authorized.

Mr. Randolph said, if the gentleman from Tennessee had not before played a round game, he appeared now to have done it. The gentleman might explain away what he had said, but he did not make his argument different from what he had understood.

He thanked the gentleman from Vermont (Mr. Fisk) for having referred him to a former report of the committee of ways and means, in which he, as chairman of that committee, had made a similar application to the secretary of the navy for information to the now recommended, and to which a definite answer was given. He supposed the gentleman by quoting only a part of the letter which he wrote to the secretary for information; and his reply. Mr. R. said at that session he reprehended the conduct of that officer, and in this very particular.

Mr. R. certainly understood the gentleman from Tennessee to say, that it did not matter whether the secretary of the navy had paid for the extraordinary supplies in question in bank notes or specie, or whether they were paid for at all now, he was of opinion that it did matter very materially. He reminded the gentleman that he did not appear in opposition on this occasion. He went into the house without knowing what question was before it. He was told he had heard doctrines delivered which he considered subversive of opinions, which he and the republicans with whom he had acted, had always considered sacred. But he was not advocating principles which the gentleman from Tennessee had opposed. He never recollected to have seen him in opposition; he meant to cast no such imputation upon him. Mr. R. said he did not mean to oppose the present appropriation; for though he should do it reluctantly, he meant to vote in favor of it. But he felt the same reluctance in giving this vote, that he should feel in paying a gambling debt to a swindler. He considered the navy of the United States disgraced, and he felt the same kind of reluctance in appropriating money for its support, which a master felt at paying the expenses of an unprofitable and disgraced servant.

Mr. Smith said, the gentleman from Massachusetts had inquired, whether money had been actually paid for these specific articles, or were contracts only made for them; on this point they could not satisfy the gentleman. He thought the only question on the passage of this bill was, would the house cover these expenditures, by an appropriation or not? They had a right to answer this plain question in the affirmative or negative; but it appeared doubtful whether they would answer at all. He thought he perceived from the questions of the gentleman from Massachusetts, an intention to cast some imputation of a criminal nature on the president of the United States, or on the secretary of the navy; whether such criminality existed or not, was not the question before the house. It had been customary, whenever the secretary of the navy or any other officer of the government had made disbursements which were not authorized to cover them by an appropriation. This question therefore did not necessarily involve any inquiry of the kind which had been made.

He did not mean to point out the propriety or impropriety of the arguments which the gentleman had used. If they believed that the conduct of the executive had not been correct, they would not vote for the appropriation. It had been said that congress should have been convened immediately; it was true the President had a right to call them sooner if he had thought the interest of the country required it; but he had postponed the meeting till the fermentation should have subsided, and an answer might have been received from Great Britain to the demand which had been made for reparation. If he had convened them so early in the season as the month of August they could not have come there to legislate without danger to their health.

Mr. S. was in favor of specific appropriations, and against the practice of drawing money from the treasury without appropriations previously made; but every gentleman knew that there were cases in which this form must be dispensed with, and in this instance he thought the circumstances of the case justified the measures adopted.

Mr. Dana perceived it was not in the power of the chairman of the committee of Ways and Means to answer the inquiries which had been made, because he would not permit himself to indulge a thought that he possessed the desired information, and yet withheld it. He thought that the want of this information might lead to a misstatement of facts; and though he did not pretend to be in the secrets of the cabinet, he was inclined to the opinion that a full disclosure would be more satisfactory to the house, to the executive, and to the people. If this were made, they would be de-

nied the liberty of roving at will, conjecturing as they chose. But, said he, are we not called upon to grant money, and shall we not know for what purpose? Does the president call upon us for an appropriation, and shall we not have leave to inquire what expenses it is intended to cover? The very act they were about to pass was declaratory of their approbation of the conduct of the executive; they were therefore entitled to information on the subject. As the representatives of the people, the peculiar guardians of the public treasury, they were entitled to it.

He believed that no blame should attach to the secretary of the navy, or any other person on account of this expenditure; but in every case in which money had been expended without order, the least that could be expected was a fair disclosure of the circumstances attending the transaction. Could not the executive and departments trust to the candor and liberality of the house? Did they refuse to confide in the house? Mr. D. was desirous of the fullest information, which he thought would redound more to the credit of the administration than this silence on the subject.

Waving the right to make these inquiries, he thought then two questions occurred for consideration. The first was the great broad question, whether or not it was proper for congress to make appropriations to cover expenditures of public money not previously authorized by law. Prior to the year 1801, expenses were incurred with the express sanction of congress; they were incurred with a view to the public service in cases of emergency. It was then discretionary with congress either to approve or disapprove this conduct; if they approved it they passed a bill making an appropriation to cover the expenditure. In 1801, from the highest authority, a doctrine, the reverse of this, was avowed; that it was a part of political prudence to discontinue and disallow all applications of money to purposes not authorized by law, so that if money destined for one object was applied to another, or money unappropriated was applied to any object without being authorized by law, this doctrine went to disallow it. In 1807, when public expectation was directed to the executive, it had been thought proper to incur certain expenses for insuring the public safety. A public officer, who, in a moment of public exigency undertakes to purchase supplies may rely on public support. If the legislature countenances the purchase, the officer must bear the loss. Would you, said Mr. D., had you been assembled at this time, with a knowledge of all the existing circumstances, would you have authorized these expenses to be incurred? This was the fair question, and was presented to them under favorable circumstances for determination. In 1801, this doctrine had been contradicted, disavowed; it was with satisfaction he now observed that practice taking place under high authority, which had before been denounced. He felt highly gratified with this change, and certainly would not reproach gentlemen for it; they had learned wisdom by an experience of six years, which had taught them the error of their doctrines; the privilege of being wiser on this day than five years since ought not to be denied. He declared then, that as respected the general principle, he concurred decidedly with the executive.

The second question was on the particular subject; should they advocate expenditures for these particular purposes, supposing that they had particular information on this subject? As respected the subsistence for seamen, repairs for vessels, &c. they were previously authorized by law. The president was authorized to increase the number of seamen, but the appropriation already made would not cover the additional expense. It was beyond all question, that this power had been given to the president, congress were pledged to cover the expenditure. The next article was for pay and subsistence of the marine corps. There was a clear power vested in the president to increase this corps; and as congress had authorized that increase, they were pledged to defray the additional expenses. Passing by ordnance and military stores, the last article was for timber for the navy. He could have wished that this article had been something more explicit; he apprehended it was timber for gun-boats; if so on that subject there seemed to be some question. He found in the estimate of the naval expenditures, timber for 73 gun-boats; he did not doubt but they might be useful; but they were not designated by name in the bill, and should they be found to be useless, the stigma might be cast on the navy generally. As respects this timber, for gun-boats, he asked had there been any authority given to the executive of the U. S. to purchase such timber? At the last session of this body, there was before the House a bill authorizing, (among other objects) the building a number of gun-boats, but which failed of success. A motion was made by himself to strike out the words "for building gun-boats," so as to authorize the provision of timber for general naval purposes. Against this motion he found a long list of names, for it had no high authority to recommend it. They could have the whole number of gun-boats that were necessary, built in one month, even if it were a thousand. For himself he was now clearly in favour of timber for gun-boats, not because he considered them an adequate defence for the U. S. but as they might be useful in some cases to a certain extent, as a subordinate part of a system of defence; this was their true character. Thence it was that the erection of gun-boats gave so much amusement to mischievous tongues and editors, when considered as forming in themselves a system of defence. He was clearly in favour of pursuing the same plan as that for which he had before voted; and the gentlemen who had condemned the measure proposed by himself last session might vote for the same now, as it was backed by higher authority.

Mr. Thomas wished the chairman to state the question before the house, that gentlemen might see how far they wandered from it.

The chairman stated the question to be on the rising of the committee in order to report the bill.

[To be Continued.]

JUDGE MARSHALL.

From the Virginia Gazette.

So much abuse has been bestowed upon the chief justice, throughout the United States, for his opinion in the trial of Aaron Burr for Treason, and the points upon which that decision took place, has been so uniformly misstated, that I am really inclined to think that the most of those who have animadverted upon the subject, have not read the opinion.

A writer in a New-York paper, who calls himself *Common Sense*, says the judge prevented the evidence from going to the jury, declaring it insufficient to convict Burr, and triumphantly asks how he knew it? Another writer in a Trenton paper, says, the judge wrested the evidence from the jury; that he deprived them of their constitutional right to hear all the testimony; that he declared it insufficient to convict Burr before he knew what it was; and concludes with telling the public, that there never was a case where, after a jury was sworn, the judge could prevent them from hearing all the evidence: For says he, to reject it is to judge of it, which belongs exclusively to the jury. With all due submission to the talents of so great a lawyer as this gentleman appears to be, I will tell him that the people of Virginia, do not extend the rights of jury quite so far.

The great author of *Common Sense*, will also pardon me for telling him he is not so fortunate in the sentence to which I allude, as he has been in many of his former publications: For the fact was, Judge Marshall did know that no evidence whatever could convict Burr under the indictment, and knowing this, he very properly put an end to the trial. The cause had progressed so far, as to demonstrate an impossibility of conviction and whenever this is the case, in any criminal prosecution; whenever it is manifest that the accused cannot be convicted, all further evidence becomes illegal, and ought to be rejected. A fact was admitted by the prosecutor, which, in the opinion of the court, rendered it impossible to support the indictment, it was this—Aaron Burr was indicted for assembling with others, for a treasonable purpose, at Blannerhassett's Island on the 10th day of December; it was admitted that he was on that day, and had been for two months before, in the state of Kentucky, three hundred miles distant from the place laid in the indictment. The question before the court was, whether when a man is indicted for doing a criminal act, by himself, it be sufficient for his conviction, to prove that the act was done by others; the court decided that it would not. But Aaron Burr might have caused others, to commit, at Blannerhassett's Island, the crime with which he was charged. So he might, and so I verily believe he did, but this is a distinct offence, for which he was not indicted. When the proceedings in this trial are laid before congress, the defect will be found to exist, neither in the law nor in the administration of the law, nor perhaps in the evidence, but in the place of trial, which should have been in Kentucky or Ohio. I do not mean by this, to cast the smallest imputation on the able and eloquent counsel who conducted the prosecution. He very probably, never heard the testimony until he heard it in the court; it was then too late. The evidence was rejected because it was admitted, that the charge, as laid in the indictment, not only could not be proved, but that in fact, Aaron Burr was not guilty of the act of assembling at Blannerhassett's Island on the 10th of December.

ONE OF THE JURY.

HAMBURG, Sept. 12.
We believe here that an attempt for a general peace has been made at St. Petersburg; and the point or the greatest difficulty is the liberal principle that the French emperor wishes to have adopted in favour of commerce and navigation in general.
September 21.
It is confirmed, that the king of Sweden speaks in strong terms against the English expedition; and is very much affected by the reduction of Copenhagen.

KIEL, Sept. 15.

We hear that the king of Sweden is attacked with a nervous disorder.
HAGUE, Sept. 24.
Yesterday our king returned to this place, from his long tour.
New Decree.
The king—seeing the necessity of removing all doubts, respecting the decree of Aug. 28, for the confiscation of vessels with false papers, or having on board English merchandise—decrees:

"That all vessels that enter the ports of Holland, having cargoes consisting in whole, or in part of English merchandise, or coming from an enemy's port, shall be confiscated."

The storms of last week were unfortunate for the vessels on our coast. Several were stranded.

SALEM, November 13.

Arrived, schooner Essex, Fabens, from Baltimore.

Ship Friendship, Israel Williams, from Leghorn. Left Oct. 1, ships Spartak, Poor, & Richmond, Bartlett, of Baltimore; Herty, Day, Alexandria; Louisa, Smith, Baltimore; just arrived; Rebecca, Wilson, Alexandria; Neptune, Patrick, Baltimore, on shore; Alexander, Langhton, Alexandria, cleared; Fair American, Hoar, of Norfolk from Messina. A Baltimore sch'r on shore, name unknown.

BOSTON, Nov. 16.

Arrived, sch'r. Ocean, capt. Appleton, from Demarara, Port Royal, (Mart.) and St. Thomas, 25 days from latter place, sugar, rum, &c. Left at Martinico, Oct. 14, sch'r Boston, Smith, for Boston, 5 days; Jack Tar, for C. Ann. do. brigs, —, captains Strout and Brazier for Portland; and a sch. belonging to Beverley, capt. Hatch. Left a number of vessels at St. Thomas, being but a few hours in port, could not learn their names.—Capt. Appleton, just before he went into St. Thomas, was boarded by the capt. of an English Cruiser who gave him leave to go in and land a passenger, which was effected in about 2 hours, when he got under sail, stood out, and was taken possession of by the above mentioned cruiser and ordered to Tortola, a prize master and four men put on board. Capt. A. on the same evening took possession of his vessel, put the 4 men on shore, and brought prize master to this port. The British commander informed capt. A. that he had orders to capture all vessels bound to or from St. Thomas.

Brig Samuel, captain Adams, 29 days from Trinidad, (Mart.) sugar, &c. Left Lucas, Phillips, of Salem; sch'r. Fox, of Newburyport. At Rupert Bay, brig Manchester, of Portland; McIntosh, Spoke, lat. 37, 48, long. 67, 40, brig Cyrus, 3 days from New-York.

Schooner William, of Wiscasset, captain Lean, 70 days from Liverpool, salt. Spoke, October 7, lat. 45, long. 43, 66, ship Union, 16 days from Philadelphia for Holland.

Schooner Little Mary, of Duxbury, capt. Weston, 65 days from Bayonne, brandy and feathers. Spoke, Oct. 18, lat. 41, 50, long. 35, sch'r. Lucy, from Philadelphia. 20th, lat. 43, 30, long. 47, 50, brig Mac, Davis, 36 days from St. Ubes, for Portsmouth.

A ship, said to be the Mount Vernon, from Liverpool, 37 days out, and a new ship, are below.

NEW-YORK, Nov. 19.

Arrived within the Hook, the ship Vigilant Clay, 50 days from Algiers, wine. Sch'r. Hero, Smith, Savannah, cotton.

Still below, the Vasp, the Vigilant, a brig and schooner—and in the Offing, 2 ships. Wind, a gale from the Northward.

Ship Peter, bound out, was at anchor in the Bay last evening. She went to sea on Tuesday, but the wind being to the northward returned.

Cleared sch'r Raynard, Hurlburt, South America.

PHILADELPHIA, Nov. 20.

Arrived, sloop Prosperity, Moore, New-York. 4 days, merchandise; brig Ruth, Reed, Rhode-Island, barley.

Cleared, sch'r Hanna Loretto, Morris, Antigua.

FEDERAL GAZETTE.

SATURDAY, NOVEMBER 21.

Extract of a letter from a respectable house in England, to a gentleman in Baltimore, dated Liverpool, September 28.

"Notwithstanding the various alarming rumours respecting the result of our unfortunate disagreement with America, some of which no doubt are transmitted by letters to you, I cannot from my own judgment, nor from that of those who ought to be well informed upon the subject draw any conclusion less favorable to an amicable adjustment than heretofore; on the contrary, if we consider the general sense of the country, the particular disposition of the present ministers, or, as far as it is known, the temper and progress of the discussions in London, I certainly should risk an opinion that at the present period a war ought to be less apprehended than at any time since the unfortunate affair of the Chesapeake. This opinion I believe is not in unison with that generally sent out to America and in giving it, I take it for granted that both countries are alike amicably disposed."

NEW PROJECTS.

We perceive in some of the democrats a disposition to take advantage of what they suppose a favourable opportunity to break down the characters and standing of some of the most respectable citizens. Indeed the study and vociferous declaimers against the just restraints of law, appear disposed to sacrifice high characters on either side, who present themselves as barriers to the strong current of licentious innovation.

Let it not be supposed, that all this uproar, this loud cry of persecution, persecution! is the patriotic expression of honorable and laudable opposition to any real grievance. The reflecting part of the citizens—and they are the great majority—will scrutinize narrowly the professions and the practice of such men, as play double, and think all manner of things as they wish to effect or to defeat a particular measure.

Those orthodox democrats, who think they act as such, in denouncing General Stricker, for the aid which he so promptly afforded the constituted authorities, will do well to peruse the communication from "A Citizen of Baltimore," in this evening's Gazette; and let them then ask a Pantheon Committee, what change has taken place in the science of politics and in the nature of civil law, since the year 1803?

Extracts from London papers, by the Pochahtah, received at the office of the Federal Gazette.

The American schooner Revenge is arrived at Portsmouth from Plymouth, where she is to remain until Mr. Munroe is fully prepared to take his departure for the United States. Mr. Munroe had not yesterday received the final answer of the British government to his memorial; but as he had the strongest reasons for believing that the answer would be delivered to him in the

course of the present week, he has made every preparation for his departure from Portsmouth, to avoid the inconvenience of a longer journey by land to Plymouth.

[Sept. 30.]

Government, it is said, has determined to make the Island of Curacao the grand military depot of military stores and provisions in the West Indies. The troops on their first arrival from Europe, are also to be quartered there, until they become seasoned to the climate.

Freiste and Fiume are said to have been taken possession of by French troops—and Bonaparte, who kept Brannau in his hands merely till Cattaro was surrendered to him, not only keeps Brannau still, though he has got Cattaro, but has seized two other towns belonging to Austria.

[Sept. 23.]

The damage done to the city of Copenhagen has not been by any means, so great as was supposed, nor has the number of killed been so large. About 700 of the inhabitants were killed. The fine cathedral & the college were consumed, and about 250 houses were destroyed.

[Sept. 29.]

After having attacked the Expedition to Copenhagen with such violence—after having characterised as an act of Brigandage not surpassed by any act done even by France herself—after having denied the necessity of it, and asserted that it would be productive of the most disastrous consequences, the late ministers and their supporters have published the following article, in an opposition paper of this morning.—"The conditions of the peace of Tilsit, it should seem, admit of different interpretations; and those of Alexander and of Bonaparte are said to differ widely! Certain it is, that movements of a very suspicious nature have taken place in the French armies yet in Poland, which threaten a renewal of hostilities. Whether it be owing to this cause, or to the recent success of the British Armament in the Baltic, we can positively assure our readers of the truly desirable circumstance (upon which our information is indubitable) that the Emperor of Russia certainly sees with satisfaction the opportunity which the capture of the Danish fleet affords him of abandoning those engagements he had entered into with France, for forming an Armed Neutrality in the north of Europe, on the avowed purpose of enforcing the doctrine of the 'Mare Liberum.'"

"We may therefore, with confidence pronounce, that this threatened, and indeed awful combination is at an end! As far as agreement and arrangement could go it was complete. It is to this Confederacy that the mysterious threatening article, which appeared some time back in the *Monitor*, and which we gave in our columns, refers: the principal Articles of the Compact were as follow:

"Sweden was to have been attacked, and forced to surrender twelve ships of the line to France as the price of peace—these vessels, added to an equal number from Russia, and as many more from Denmark, which were to be joined by eight from Holland, and seven furnished by Antwerp, would have formed a force of Fifty Ships of the line, such an one as we could not have prevented the junction of, and which might have even been increased if necessary. This formidable project is now at an end, for it is most clear, that the Russian fleet cannot and will not join that of Holland; and the Swedes will laugh at Bonaparte's invitation."

The number of letters received yesterday at the general post-office was greater than has ever been known; the mere postage amounted to 4000l. [Sept. 29.]

To the PUBLIC.

Colonel William Lowry, whose democracy has never been doubted to be of the purest kind, and who commands the 27th regiment of militia in Baltimore county, did, on the 9th day of December, 1805, issue the following orders, which were published in the Federal Gazette:

From the Federal Gazette, of Dec. 9, 1805.

TWENTY-SEVENTH REGIMENT.
The citizens enrolled in this regiment will please to hold themselves in readiness to form alternate patrols, for the protection of the district to commence duty at 6 o'clock in the afternoon of the 11th instant.

This duty, so particularly incumbent on our citizens at present, will commence with the first company of the first battalion, who will furnish a patrol of thirty men, exclusive of officers, to do duty on the night of the 11th, and an equal number the night of the 12th. The 2d company of the same battalion commences duty the night of the 13th, and so on in succession. The first company of the 2d battalion are to be ready the night of the 19th, and so on alternately. The patrols are to protect Hanover-street and the intermediate space between that street and South-street, to the precincts; and the majors of each battalion will issue the necessary orders in succession. Officers commanding patrols are particularly requested to guard against any irregularity in their several commands.

Wm. LOWRY, lieutenant, col. commandant.

On the 10th December, in the same year, appeared the following observations in the same paper:

From the Federal Gazette of Dec. 10, 1805.

We are authorized to state that the civil authority or police officers had no previous knowledge of, or concern in the militia orders in last evening's Gazette.

And on the next day, was published by Col. Lowry, the following card:

From the Federal Gazette of Dec. 11, 1805.

A CARD.
The commanding officer of the 27th reg. Maryland militia, presents his compliments to Messrs. Yundt and Brown, and begs to learn by what law it is necessary for him to ask permission of the "civil authority" or the "police officers" of the city of Baltimore, before he issues orders of military duty to his regiment, not injurious to the