On the ensuing day, a motion made by Mr. Griswold, to take up this motion for consideration was lost, without debate—Yeas 35—Nays 39.

On the 15th, the order of the day on the bill for repealing the internal taxes having been called for, Mr. Griswold moved its postponement till the next day, for the purpose of previously taking up the above resolution.

The motion of Mr. Griswold was advocated by Messrs. Griswold, Lowndes, John C. Smith, Dana, Bayard, and Rutledge; and opposed by Messrs. S. Smith, Mitchell, Gregg, Eustis, and Bacon; in a debate which continued until the usual hour of adjournment.

Those who advocated the motion observed that though it was nearly two months since the select committee had been raised to whom petitions for indemnity had been referred, that committee had not yet met; that it was full time to attend to a subject so interesting as that involved in them; that as the principle of indemnity was of a general abstract nature, it was not so proper for the decision of a select committee as for that of a committee of the whole; that it was important before a decision was had on the repeal of the internal taxes, that the extent of the indemnities allowed by the government should be ascertained. It was contended that the claims of the merchants could not be rejected, as they were too just to be disregarded. The sole object of the resolution was to bring the principle of indemnity before the House, unfettered, that its decision might not be embarrassed by details; and supposing that there might be an indisposition to pledge the nation to an unlimited extent, the words used were "towards indemnifying." It was, therefore, insisted that gentlemen, who were disposed to do any thing, could feel no objection to a resolution so qualified, as to extend only to cases where losses had been renounced by the treaty.

It was said to be cruel at once, without a hearing, to decide against the claims of our merchants; and that it was evident, that whoever voted for taking up at that time the bill for the repeal of the internal taxes, would vote not only against indemnifying, but even against hearing; because, by voting for a repeal of the internal taxes he would vote away all means of indemnification. The repeal of the internal taxes, being the least pressing of all the business before the House, ought to be postponed to the last period of the session; nor ought it to be then adopted without the fullest assurance of our ability to dispense with the product of those taxes. How was it possible, in the existing state of things, to determine this point, when the appropriations required for the year had not been made, and when the extent of these demands had not been ascertained.

With regard to the amount of the claimed reparation, it was alleged that that was a consideration which ought to be placed altogether out of the question, as common honesty required that every just debt should be paid, whether it was one dollar or one hundred million of dollars, wherever an ability to pay existed; and it was added that these claims were the more just as the government of the United States had received an ample remuneration for any demands which it might satisfy, in the abandonment on the part of the French government of our previous guarantee of the French West India possessions. It was finally declared, that a refusal to take up the subject at this time would be considered as an actual refusal to attend to it.

Those who opposed the motion denied the assertion, made on the other side, that this subject had been neglected. The truth was that the first petition presented had been immediately referred to a committee, to whom all the subsequent petitions had likewise been referred. That committee had made progress, but had considered it improper to decide until all the similar petitions expected should be received. There was not a doubt but that as the subject merited, so it would receive a measure of attention commensurate to its importance. But the present resolution offered, was so broad and vague as entirely to defeat its avowed end; whereas the reference, which had been already made, was the most correct, inasmuch as it instructed the committee to examine all the documents connected with the subject, and to report their opinion upon them, on receiving which opinion the house would be sufficiently informed to make an enlightened decision; while, on the other hand, the present proposition went to commit the house on the whole extent of the subject without the least examination into its details.

The claims made for spoliated property were extremely various and dissimilar; and though it might be just to grant indemnity for some, there were other claims not founded on any just pretensions. The best way of insuring the success of just claims was to avoid all precipitate steps; for before any claims could be sanctioned, it was necessary to analise and classify, on mature consideration and full examination, the various descriptions of demands.

It was observed that it was not so clear, as some gentlemen imagined, that our merchants had been deprived of valuable rights by the mode in which the French convention had been ratified. Gentlemen were called upon to recollect the mass of depredation committed by Great Britain, and her engagements, under treaty, to make reparation. Yet to that day reparation had been evaded under a variety of pretexts. Suppose the French convention had contained the same provisions with the British; would they have insured payment? No. The operations under one treaty might have gone on in the same manner as under the other, and with like effect.

With regard to the repeal of the internal taxes, that formed a subject of entirely distinct consideration. But if, in compliance with the unequivocal wishes of the people, they should be repealed, no prejudice would attach to the just claims of our merchants, the examination of which would be a work of years, and which would, without doubt, be indemnified, even if it should be necessary to restore the repealed taxes.

General S. Smith closed the debate in a speech of much energy, the latter part of which was couched in the following terms:

"It is not my purpose, said he, at this time to enter into a discussion of the claims of our merchants, because I think this is not the proper occasion. But I will tell gentlemen, that if they were disposed to destroy those claims, they could not have pursued a plan more effectually calculated to do it. Had such been my intention, I would have offered a resolution so broad and vague as to alarm the whole community as to the amount of indemnity. I would have endeavored to throw the censure attached to their losses on the present administration. I would have opposed their claims to the wish of the nation to repeal the internal taxes. All these steps I would have taken to frustrate any indemnity; and they are just the steps taken by gentlemen, who profess so strong a regard for the merchants. Let me tell those gentlemen, until they shall pursue a far different plan, we must doubt whether they are in earnest to pay the merchants for their losses.

"If the public business is to be thus perpetually procrastinated, I hope the gentlemen with whom I act will be firm enough, after rejecting this motion, to pursue the other business even to a late hour."

The question was then taken on Mr. Griswold's motion, and lost—Yeas 33—Nays 54.

For the National Intelligencer.

Remarks occasioned by Mr. Adams's Letters.

It has been often said, and as often denied, that there are men in this country attached to monarchy. The charge has been pronounced the calumny of party, while those who made it have declared it to be the honest conviction of their judgments, established in part upon evidence which they were at liberty to divulge, in part upon that which a sentiment of honor forbade them to publish. The former they have stated; while they have suppressed the latter.

On this point public opinion has been greatly divided. It is, however, firmly believed that the change of the last administration was in a great degree effected by the general sentiment that there were men in the government whose *views* were subversive of republicanism, and that the *measures* of the government were calculated to further these views. Still the existence of such *views* and this tendency of measures, were denied; and the friends of the administration avowed an unequivocal preference of the republican, over all other systems of government.

To account for such denial, it may be recollected that at that period, a predilection for republicanism not only existed *here*, but was vigorously active *abroad*. French ardour for liberty had not then been subdued by the bayonet; and the republican system still promised to fix its roots in that country, and thence to ramify its branches over Europe.

But the face of things has recently changed, and liberty has vanished from France. Dazzled by the military glory of the usurper, or fearing the overwhelming extent of his power, the French nation have submitted every political right to the mercy of the sword. In short the republic is subverted, and monarchy has returned.

It has not escaped observation that this mighty transformation has been effected without violence or contention; it has been distinctly seen that a nation of irresistible power has abandoned all its love for liberty, or has sunk into a state of apathy totally inconsistent with its enjoyment or security.

It has been inferred that what has been thus easily effected in France may not be difficult of execution in this country. Hence the publication of these letters.

Hitherto they have courted the obscurity of a rigid concealment. Their contents have been virtually denied. *Now* they are ushered into day-light by these very men, who had previously manifested the strongest solicitude to conceal them. And not suffered silently to pass the stream of observation, their appearance is attended with applause and admiration.

These letters can be published but from two motives; either to damn the political character of Mr. Adams; or to furnish a rallying point to the disaffection to republicanism that exists in the country. If the former be the motive, then, indeed, the writer will have as much ground to condemn the perfidy of his federal friends—for the publication is from that quarter—as the republicans, the great body of the nation, will have reason to rejoice in the exhibition of a danger, which loses more than half its terror by publicity.

The political character of Mr. Adams is a point of no national concern. That character has long been fixed. The singular and capricious movements of a mind without principle can no more excite the derision of a friend or the indignation of a foe. An early grave has consigned that character to a state of harmless impotence.

But, though all apprehension from this source is gone, the nation is still interested in the principles contained in his letters; nor can it cease to be interested while it retains its freedom.

These principles are irrefragably monarchic. The writer may repeat as often as he pleases "I am a friend to a republican government—I prefer it to all others;"—if his principles are such as are inconsistent with its existence, if they are such as subvert it, then will these artful observations be considered in no other light than as gilded pills intended to deceive the patient who swallows the poison.

Let us now analise the letters.

The *first* letter commences with the following expressions:

"What is this world about to become? Is the millenium commencing? Are the kingdoms of it about to be governed by reason?"—

This, so far, is the language of irony. Let it be recollected, that this letter was written in the year 1790, when the French revolution had just burst upon the world in all the effulgence of its glory. The edifice of despotism had fallen without a groan; the privileged orders had disappeared without resistance; an oppressive superstition was annihilated. On these sublime events a spirit of congratulation had gone through the whole civilized world. No quarter of Europe but rejoiced in them; and in America it was believed there was not a heart that did not feel rapture in them. We beheld a new republic rising with the calmness and dignity of truth on the ruins of a system which had long been execrated by mankind. We hailed the splendid event as the guarantee of our own liberties. The illustrious Washington mingled his accents with those of the American Congress, in conveying to our gallant allies, the sympathy, the affection, the admiration of the American people.

Yet, at this period of universal joy and honest enthusiasm, the man, who had once stood the pillar of liberty in this country, is found to have cherished sentiments hostile to it in other countries.

"Every thing will be pulled down—so much seems certain. But what will be built up? *Are there any principles of political architecture?*"

Strong language from the lips of him who having co-operated in pulling down in this country one system, had also cooperated in building up another! Will he say there is no principle of political architecture in this system—in the constitution of the United States? Believing this, as it is probable he does, will he dare to say so? And if there be no principles of political architecture in this system, where are those principles to be found? The answer must be, *no where unless in a system of monarchy.* We have a people, but without a king and nobles, we are nothing! Liberty, according to him, consists not in a nation's doing what it wills, but in its being prevented from doing what it would by the wills of a king and nobles. Dishonorable sentiment! Ignoble offspring of an enfeebled mind! Libel upon liberty, upon all that is sacred in America! Venerable sage of Massachusetts, hide thyself in the deepest obscurity! Court not the avenging eye of a free people! Cease to obtrude thy tarnished glory on the public eye! Blot from thy own, and from the recollection of thy fellow-citizens whatever thou hast been since the era of the revolution, if thou wouldst enjoy either the thought or the reputation of having served thy country.

National Intelligencer.

Speech of Mr. Anderson in the Senate of the United States on the passage of the Judiciary Bill.

Mr. President, When the subject now under consideration was first brought before the Senate, I did not intend to have taken any part in the debate. But the alarm, which the gentlemen in the opposition have attempted to excite, and the impression they have endeavoured to make upon the public mind, impels me to offer a few reasons in justification of the vote I mean to give; and in offering these reasons I will endeavour to shew, that if this law should not be repealed, it will, from the circumstances under which it passed, establish a precedent dangerous to the independence of this body, and subversive of the true principles of the constitution. The gentleman from Pennsylvania, (just seat down) hath said that we cannot make use of lawful means to obtain an unlawful end. We do not mean to attempt it. But I trust, that the reverse of the gentleman's position, is equally correct. That this House ought not to have made use of *unlawful* means, to have obtained a lawful end. It was lawful for Congress to have passed the law under consideration. But I cannot admit that either House were at liberty to make use of *unlawful* means to effect it.

In order to shew that such means have been used, in the passage of the law, I must refer to the admission of a *fact*, by the honorable member from New-York. He hath conceded, and it was well understood, that if any amendment had been made to this law, when in the shape of a bill before the Senate, and the bill had thereby been returned to the House of Representatives, the voice of the people would there have been spoken—their veto would have been given, and the bill would never have passed into a law. It must further be admitted, for your Journals prove it, that several amendments to the bill would have obtained, had not three of your Senators, who were appointed judges, in consequence of the passage of this law, voted against the amendments—and I believe it will not be denied, that if this law had not passed, no new judicial offices would then have been created, and that if those three Senators had not voted upon the bill, the law would not have passed. It then fairly follows, that the votes of those Senators created new offices, which thereby made places for themselves. I mean not to impeach the integrity of those gentlemen. But thus I conceive, that unlawful means have been used, to effect the passage of this law. Means, in my judgment, directly contrary to the true intent and meaning of the constitution; for by article Ist, section 6th, it is declared, that no Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof, shall have been encreased during such time. I believe, sir, it was intended by this clause, that no member of Congress, should be capable of giving any vote, that might directly or indirectly put him into office, and yet we have seen three Senators, under this very law, put into offices by the effect of their own votes. The honorable member from New-York hath told us, that he would wish us to be as virtuous as Romans; I, sir, would wish to see every member of this Senate, not only virtuous, but without suspicion. In the passage of this law, and the appointments made out of this body in consequence thereof, I conceive the constitution to have been dangerously infringed. I therefore consider it highly expedient, in order to preserve the sacred principles of our government, to preserve the character and independence of the Senate, that this law, which hath *thus* passed, should be repealed—for if the Senate do not shew their marked disapprobation by its repeal, it will countenance the practice which hath been adopted, and virtually sanction the rights of the President, to select members from this body and place them in offices, which have been created by their own votes, and thereby establish a precedent subversive of the true intent and meaning of the constitution, and destructive of the independence of the Senate; for it is a maxim in all governments, that what hath been once done, and acquiesced in, from thenceforth becomes a precedent. May we not then expect that some future President, desirous of carrying some favourite point, will have recourse to the same expedient, to provide for his warm friends or favourites, and thus from *time* to *time*, by enlisting a sufficient number of members in his interest may he not acquire a very dangerous ascendency, and thus most injuriously extend executive patronage—than which, nothing is more dangerous to the principles of a free government. It is laid down by Paley a very able writer upon the subject of free governments, "that patronage universally is power—that he who possesses in a sufficient degree, the means of gratifying the desires of mankind after wealth and *distinction*, by whatever checks and forms his authority may be limited or disguised, will direct the management of public affairs. Whatever be the mechanism of the political engine he will guide the motion." Let us then keep the executive power within its due constitutional limits,—less I wish it not to have, and more I am unwilling to give.

I will now, Mr. President, offer a few observations upon the constitutionality of repealing this law.

The gentlemen opposed to the repeal of this law, upon constitutional grounds, have said, that it will destroy the *independence* of the judges, and in order to support this position, much pains hath been taken, so to blend and consolidate the whole judicial power, as to make the offices of the judges of the supreme and inferior court rest upon the same tenure. This, sir, is highly politic; for if the gentlemen could really persuade some of us, that this doctrine is correct, they might prevent the repeal. But, sir, from the most impartial examination which I have been able to give this question, I am of opinion, that the supreme court is created, ordained and established by the constitution, and must continue to exist; and *there* is centred that independence, so much desired by the gentlemen in the opposition, and absolutely necessary, in my opinion, in every free and well regulated government. The constitution contemplates the existence of *the* supreme court, from the very first organization of the government:—for it not only says, the judicial power of the United States shall be vested in *one* supreme court, and such inferior courts as Congress *may*, from *time to time*, ordain and establish; but it expressly says, there shall be a chief justice, and that when the President of the United States is tried, the chief justice shall preside. Thus is the chief justice as expressly spoken of in the constitution, as the President, and I do believe that we might as well attempt to abolish the office of President as that of chief justice. Assistant justices are also necessary, to fill up the true meaning of the constitution, for without them, there could not properly be a chief justice; there might be a justice, but he could not be a chief, unless there were subordinate justices. Our constitution was formed at a time, when parties did not exist—the framers, no doubt, expected our *first* legislature would organize the government in all its parts, in conformity with the true intent and meaning of the constitution, according to the principles of sound reason and common sense. Upon those principles hath our supreme court been organized, and the judges thereof must, in my opinion, continue to hold their offices, independent of the legislature, and cannot be removed, but by impeachment. But, sir, the courts intended to be abolished by the repeal of this law, having been created by legislative will, and not by the constitution, they are, in my opinion, in the power of that body who created them, in the same manner as the judges of the supreme court are in the power of the people, who created the constitution, by which they hold their offices, and from which they can be removed by the people whenever they chose to change their constitution. The power of Congress over the inferior courts, having been very ably elucidated, by several gentlemen who have preceded me, and with whom I accord in opinion, it being now late, I will make but few more observations before I conclude. I mean however, Mr. President, to extend my views to that country from which we derive almost our whole system of jurisprudence, which hath uniformly been acknowledged the best in the world, and principally on account of the great independence of the judges, and compare the independence of the judges of England, with that of the American judges. I have said that our supreme judges are in office by the constitution, consequently not removable at the will of the legislature. The English judges are differently situated—they have no fixed constitution to protect them, and are liable to be removed in two ways, either by the address of parliament, or by the repeal of the law—yet have they long been considered as independent, because they are no longer removable at the *pleasure* of the king. But, sir, the judges of our inferior courts, are more independent than those of England, for the judges of our inferior tribunals cannot be removed from office, but by a repeal of the law which created their offices, or by impeachment. I have thought proper to take this concise view, and thus to compare the independence of the American judges with those of England, because from that country have we borrowed our ideas of the necessary and proper independence of a judge, and on the comparison we find, that under the construction we give to the constitution, the American judges are infinitely more independent than those of England. The fears, therefore, of the gentlemen in the opposition, which they have painted in so lively colours, most certainly be unfounded, and believing that it is both expedient and constitutional to repeal the law, I shall give my vote for the passage of this bill.

IMPORTED

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H. INGEL.

June 28, 1802. 3tw3w 1wd