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CONGRESS.

HOUSE OF REPRESENTATIVES.

Monday, October 24, 1803.

Call for papers.

(Continued.)

Dr. Mitchill said he rose to express his sentiments against the whole body of the resolution under debate. But his inclination to adopt it did not arise from any doubts of the right of the house politically to call upon the executive for information. He had no hesitation to ask the President for papers whenever it was necessary to obtain them. And it was equally clear to him that whenever that dignified officer was properly applied to, he would comply cheerfully with the request of Congress, or either branch of it. He owned that in some cases, it would be the duty of the House to parlee this mode of enquiry and equally would it be the duty of the head of the executive department to give his aid and countenance.

In the perfect flight of the proceedings relpecting the treaty and conventions with France concerning Louisiana, he dreamed it improper or unbecoming the house, by an unfavorable call upon the executive for papers. The President had already communicated various information on this subject, in his message to the full ing of the fessions. Additional information was given in his message of the 17th, wherein he told the House that the ratification and exchanges had been made. This was accompanied with documents of credit and authenticity, transmitted at Paris between our ministers and the agents of the French Republic. All this information we had already on our tables. Thus the President informed the House in full detail from his own lenit of duty. This obligation was imposed on him by the constitution, which declares that he shall from time to time, give to Congress information of the state of the union, recommend to their consideration such measures as he shall judge necessary and expedient. Mr. M. had he had a firm belief that the President had complied with his constitutional injunctions. He had communicated such intelligence as he had received; and if the was possessed of any other intelligence of the foreign relations of the House, he was willing to think, he chief significant of the union would by spontaneously imparted it.

The gentleman from Connecticut (Mr. Griswold) however says, that the call is expected in the treaty, as not affirm at all, but a mere presence. He say that our title is derived from Spain, who has no title whatever to Louisiana, and of course can convey none to the United States. He differed in opinion with that gentleman entirely. The treaty contained internal evidence enough for him to ask upon. And it was accompanied with certain, genuine circumstances, of great publicity. The united evidence of these we could not refill without rejecting all human testimony, and falling into absolute Scepticism.

Let us review, Sir, what the form of this information amounts to. By the first article of the treaty which has lately been laid before us, we have a recital of that part of the treaty of St. Ildefonso, concluded October 1, 1800, whereby his Catholic Majesty promises and engages to cede to the French Republic, the colony or province of Louisiana, with the same extent that it now has in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other states. Here is a promise to cede; but the fulfilment is accompanied with a condition which, as is alleged by the mover of the resolution, has never been performed. This condition, he should not expected at large in the first article, is well understood to be the establishment of the Duke of Parma, in the full and entire possession of Tuscany, and the making this a monarchy under the sway of the King of Etruria. This has been done in the face of all Europe, and the deliberations in the House of Bourbon, concerning German indemnities, show that the Prince who was turned out of this country to make room for a younger member of the blood royal of Spain, was one of those who suffered a loss of domains and revenue, when Italy was borne down by the victorious arms of France. Mr. M. said he would not enter into the detail of European politics, but dwell upon the brief campaigns which had been made beyond the Alps. He would only urge upon the attention of the House, that France had put the Duke of Parma on the throne of Etruria, and had thereby acquired a title to sovereignty. This was the confederation or price, with which the Ancient Province of Louisiana was conceded from Spain. But the right of France to Louisiana does not rest here—it is not a mere promise; for from its effective measures have been adopted to carry it into operation, by adding possession to right. A commissioner has been sent to New-Orleans, on the part of the French Republic, to receive the Province of Louisiana from Spain. This officer has been received in the city of New-Orleans officially recognized; and has had formal audiences and interviews. He may be confirmed as completely in possession, and equipping, as far as the treaty or compact, admits of the contract. If even a petition by twig and turf was required, the French Republic really seized to have been permitted by the government of Spain to have such possessory establishment. A title then so perfected, and accompanied by an allowed and peaceful possession, is about to be granted to the United States. The provisions to the completion of this object are fixed in the fourth article of the treaty, which provides that there shall be first by France a commissary to Louisiana, to receive the Province from necessitary, as well to receive from the officers of his Catholic Majesty the full country and its dependencies, in the name of the French Republic, it is but just and proper, that the commissary, in the name of the French Republic to the commissary or agent of the United States.

An objection had been raised on the ground the accession of the Province of Louisiana. He did not feel the force of this. In the ignorance in which the treaty was published to the people of American geography, he should indeed receive a little *qualm*, from an it was generally understood or usually reputed to be. He perfectly well knew it had been a Spanish province, and he had travelled over by surveyors with chain and compass. Uncertainly overhung the infinite, but he would be dissipated by degrees as the unknown regions should be visited and delineated. He might then proceed to adjust the limits in a manner similar to that we had recently adopted with respect to the present territory of the United States. As provinces proceed from time to time appointed to fetide our boundaries on the southern, northeastern, and northwestern frontiers, he might every geographical difficulty as to the extent of Louisiana, be removed by commissioners appointed under the authority and powers.

Previously however, to receiving the perfect transfer and possession on our part, it is necessary that we should make arrangements to pay for it. For adopt by the second article of the first convention, it is stipulated that the sum of fifteen millions be assessed before Louisiana shall be taken possession of in the name of the Government of the United States—yet, as no money can be paid, but by the act of appropriations made by law, it is important to Congress forthwith to declare, whether they will make the appropriation, or not. The stipulation is not made by law, there is an end of the treaty, and of all the expectations which it has given rise. On the other hand, if duly and promptly made, the stipulations will be entirely fulfilled, by the provisions contained in the fifth article, to receive from the commissary of the Republic, the certificate of the polis of New-Orleans, and other parts of the United territory, and to fix the troops of France and Spain, who may be there, withdraw from the country, and embark for home. It is thought by Congress already possessed of such information as was requisite to act with propriety and wisdom on the great question before them.

Acknowledging, he did, the right of the House, to request the President to give the copies of papers mentioned in the resolution, under discretion—his opinion to it arose merely from the peculiar delicacy, that they were unnecessary, and some of them impossible to be had. Some papers were called for, which he was confident did not exist in the hands of the President, or any where else. It would be as agreeable to Mr. Mitchill, both as to the honor and to the relation, to examine their papers minutes of national quality, or documents of authentic history. But now was not the time for little secondary relations, however minding they might be. Greater subjects demanded our immediate attention, and there might be danger in delay. The operation of the resolution, if adopted, would certainly be to procrastinate and embarrass; and he did not dissent what good would be wrought at that time by agreeing to it. The resolution was an affirmative, and that a very weighty one, for refusing the mentary, at this time. By the terms of the treaty, it must be ratified in good and due form, and the ratification exchanged within six months after execution. The date of this deed of cession is the 30th of April last. Consequently the limited time would expire on the 30th of the current month. A doubt had been expressed by some gentlemen, for whose judgment he entertained great respect, whether the ratification would be confirmed in *good and due form*, unless the declaration and act of this House were laid before the determination of the President and Senate. Mr. M. thought it unfortunate, that as there were but a few days left to decide on the question, which involved the sovereignty of the United States, and the adjacent country on both its banks, it would be better to proceed without delay to comply with the treaty conditions. At a future day, he would have no objection to assist his brethren with the proffer of the papers contained in the resolution; but at present, he thought the members should be left to their notion our time to figure.

Mr. M. Findlay was concluded by moving a postponement of the resolution until the 30th day of May next. The motion was seconded.

Mr. Findlay had he was opposed to the postponement. He would rather force the resolution and decide upon it at once. If this House thinks it expedient to call for the papers, they are inexpedient, they will manifest their opinion. It was one of those who considered the resolution as not the *necessary* or expedient. It was in the power of the House, to call for testimony or people to govern; but we were required to carry a treaty into effect that was made by the Chief Magistrate, and the Senate. Doubts had been lugubrious, that the treaty was not ratified, that doubts be put in competition with official papers? It was not, however, a question to be decided by the House, a discussion of this point on which full time was allowed, and which had been noticed an allusion made to the proceedings of a former Congress. It was proper that they should be considered as ratified. When he looked around him, he saw more than one eighth of the members of the House at the time referred to. It has been laid by a gentleman (Mr. Griswold, Connecticut, Mr. Thatcher) that the House, in the cafe of the British treaty, claimed to decide on treaties. In answer to this observation, he begged leave to read the reply of the House to the President, which was resident; full observing that the council was respecting the discretion of the House, and that the House would not grant money for carrying them into effect. Mr. Findlay said that he did not contendent there was no such discretion. The following are the proceedings on the resolution.

"The house according to the order of the day, resolved itself into a committee of the whole house on the papers from the President of the United States relative to the treaty with Great Britain, in compliance with the resolution of this house of the 26th ultimo requesting a copy of the instructions, correspondence and other documents, relative to the treaty made between the United States and Great Britain and after some time spent therein, Mr. Sprigg reported, that he had, in the committee, agreed to a resolution, that the house, according to order, again had the said message under consideration and come to two resolutions, therefore, that the house, in the first place, will take whether the same were read as follows:

"*Resolved*, That it being declared by the second section of the second article of the treaty between the United States, that have power, by, and with the advice and consent of the Senate, to make treaties, and that under advice and consent of Senators prefent concur," the House of Representatives do not claim any agency in making treaties; but that when treaty stipulates regulations on any of the subjects, which it is the duty of Congress, and it is the constitutional right and duty of the House of Representatives, in all such cases, to deliberate as the expediency or inexpediency of carrying such treaty into effect, and to determine and act thereon as to their judgment, may be most conducive to the public good."

This resolution was carried by a majority of 57 to 35. From this fact, it was evident that the point at that day in dispute was, not whether the House had a right to verify treaties, but whether they had a right to grant money; for, in the instance they had not the force deference on this, as on other occasions. Mr. Findley concluded by observing that he was himself prepared, with the information before them, to carry the present treaty into effect.

Mr. Griswold Gaively believed the Gentleman from New-York (Mr. Mitchill) serious in his motion to postpone this resolution. However it was proper to decide it, it was certainly proper to decide it now. If ever the information required was wanted, it was for the purpose of legislating correctly on the subject of the message. If it is not wanted, the House will not hesitate to negative the resolution. In my judgment, said Mr. Griswold, it is wanted for the purpose of legislating correctly on those subjects that are before us.

am one of those, who do new believe, and always have believed that the executive right of forming treaties relied in the President and Senate; and that, when ratified, it is the duty of every department of the government to carry them into effect. This treaty then, fairly and constitutionally made, is a law of the land, and we are bound to execute it. But it is necessary to know its nature and effects to carry it into execution. Hitherto we have been in the dark; it is necessary for any laws whatever. Hence the necessity of knowing precisely its nature and effects, that we may be able to pass the necessary laws for carrying it into effect. Gentlemen will not deny this. If the treaty itself it is their respects uncertain, they will admit the necessity of having recourse to other documents to decide what we are to do to carry it into effect. If the judgment the treaty is uncertain. I am not able to fay from the light it implies, whether we acquire by it a good or bad or fair title, or if the gentleman from Pennsylvania (Mr. Findlay) thinks we have always understood that all persons living under every description of governments were bound to obey it, and of course were liable, and that the term was applicable to a republic as to a monarchy. We find upon a treaty that it not necessary to ascertain the nature and effects of this treaty, I ask, if it is not little cavedly reflecting it? What does the gentleman say in his message? He fays, "it is for your consideration, whether you will not forthwith make fuch temporary provisions for the protection, in the mean while, of order and tranquility in the country, as the case may require." He falls upon us, and bids us with to legislate. If we have acquired the country and people, it is necessary proper to pass laws for the preservation of order and tranquility; but if we have acquired nothing, we are guilty of guilty of pulling fuch laws? It would be improper; it would be absurdity. We contend that the treaty does not contain these points; gentlemen differ from us in opinion. But I beg them seriously and fairly to attend to its language. By the first article it appears that Spain ceded to cede, Louisiana to France on certain stipulations; the promises to cede. Gentlemen contend that the import of the language. It is a promise, not a cession. Will it be faid that France acquired nothing by the promise. This cannot be contended. The treaty then contains certain stipulations stipulated by France have been complied with, or whether the cession was actually made. The Senate of the treaty are "wherea, in pursuance of the treaty, and particularly of the third article thereof, the commissaries, duly constitutible title, &c."—Will gentlemen, fay that this attention, on the part of France, gives her a title? It gives her no title. An affirmation by France cannot affect Spain.

But, by gentlemen, Louisiana is ceded to France, and a commissary to receive Louisiana from Spain, and to carry into it to me. What is the amount of this arrangement? It is an agreement to receive and transfer. But suppose France do not find the country, or Spain refuses to deliver it, what then? If gentlemen are correct in the conclusion they give to the treaty, it is clear that we have acquired a good title, will not the House look the language of the gentleman from Maryland (Mr. Nicholson) and say, what do we care for Spain? I therefore consider the fourth article as amounting to nothing. The consideration enforces the motion I have put into honor to twenty seconds, if gentlemen and that we have acquired a good title, and if the treaty shall appear to be fairly and constitutionally made and ratified, we have a right, in virtue of every principle of the law of nations to enforce our title.

The president has called upon us to legislate, to provide for the preservation of order and tranquility in the territory. Should we not then seriously enquire into the validity of our title? for we have no right to exercise jurisdiction over it if the title is not rightful. Suppose France had ceded to us the island of Great Britain. Would the mere offering give us the right to the land and jurisdiction of that country? Before we pass laws, they are allowed to be necessary, we ought to ascertain whether the people of Louisiana are allegiance to us, or to Spain.

Gentlemen say, though they are content to call for the treaty of Louisiana there are other parts of the resolution, to which they cannot assent, and particularly that which relates to Spain. In one view this information is important. If it be true the cession of Spain to the cession to us, it is requisite that an abandonment, to far revolutes to us, of the dispositions made to the Spaniards and all that remains for us to do, is to organize a government over the people of that territory. But if Spain retains her cession, and remains in possession, and if it is doubtful whether, till the day this determination is perfected, it may be necessary to reflect to other measures. For that purpose I have thought it proper to call for papers that may afer this subject. Hitherto we have seen the engrossed "deed of cession," in any not, perhaps, by the mail apt; and it will be probably agreeable to gentlemen (with the word "inhabitants," if that should be more agreeable to gentlemen.) I may leave to add that with regard to all these documents, no doubt can be entertained of their being in the possession of the Executive. When making this inquiry I thought it proper to impose the instrument to know whether the nation ceding has a right to fell, and that right could be established upon the ground of fair title. Let not gentlemen alcribe to me the end of my proposition, the motives of them. This mention cannot be fairly ascribed. The treaty of Ildefonso must be a public record from the nature of it, and the no correspondence with the government of Spain I should perhaps that that cannot be known. But if the President fail for that Spain has adhered to or differed from the treaty of Ildefonso, that will be sufficient for me. For this reason I draw the adoption of the resolution at this time inopportune, and that it is consequently improper to postpone it to a distant day. I prefer gentlemen to deferred to carry this treaty into effect without delay. I am not the least disposed to Indulge idle wishes; and when these documents shall be received, if gentlemen persist them to be received, we shall be consulted, and ready to decide whether the treaty calls for any particular law to carry into execution.

Mr. Randolph said, that when the gentleman from Connecticut introduced the resolution, he was not than so strongly irregular, but as it had not received any amendment from the House, he could not be felt greatly disposed to favor the actual latitude in debate, especially on the ground that the effect of the House by just offered no objection to the resolution which had been purchased; which it appeared to him that the subject bring in the proffered of the committee. Mr. R. said that he had indeed been more regular to have moved a previous discharge of that committee, and to have taken the resolution in that committee, by way of shewing that it was not evidentiary to the constitutional powers, rather than on its own merits. He had been induced to wish the House to decide the principle of resolution before them, by debating others of a nature similar to it. He had hoped that there he should be excused in following the extensive but desultory track of the gentleman from Pennsylvania (Mr. Findlay) he felt entirely at a loss how to reply to the three or four subjects of the gentleman. He regretted that he had not that ease he has in one hour boldly forward to the consideration of the treaty into effect, also fighting behind into obscurity which prompted his exertion, which they did not over his back that change of inconsistency against which he vainly endeavored to shield himself. Mr. R. regretted, therefore, that the gentleman has given any provoke pledge which tendeth at this stage, to fetter his application to the treaty—He felt himself at a loss for a reply to the fund an expression which had been repeatedly and emphatically uttered—If the treaty were constitutionally entered