prevention; but that also, has not been productive of the purposes contemplated, from not meeting that support from the citizens, which the laws of the government ought. This is indeed, a circumstance to be lamented, but such is the true state of the situation, and therefore it becomes a subject worthy of your consideration, and one that I trust will engage your endeavors to render equally energetic in every part of the state, that law, which experience has proved partial in its operation, and which is oppressive upon such citizens in the interior districts, as hold it an object of desire, to augment their capital in the accumulation of that property.

I attended with the committee appointed to examine and burn the paper medium of circulation in the state, and destroyed the sum of forty-seven thousand six hundred and seventeen pounds, equal to 204,072 dollars 85 cents. As the desire of the legislature thus manifested, has nearly destroyed all the circulating money, not immediately represented by specie, it would comport with consistency, and meet the wishes and expectations of the citizens to continue the procedure until the whole shall be destroyed. As a subject that appertains to the foregoing, it would not be improper that your attention should be given to the lands mortgaged for that money, and to direct the sale of such as have been bought in for the state, in order that that branch of our finances may be brought to as early a close as possible.

In pursuance of the resolution of the 15th December last, I communicated with the governor of the state of North-Carolina, upon the subject of the boundary line between that state and the state of South Carolina, and have expressed the desire on the part of this state, for the adjustment of a difference which has so long existed a subject of contention, and which has been manifested by the repeated endeavors of preceding legislatures to effect an amicable determination of. So soon as I receive information from the executive of that state respecting the business of boundary, it shall accompany my letter on that subject, and be transmitted you.

I have conferred with the comptroller general respecting the claim brought to the view of the legislature at their last session, which it appeared this state had against the Spanish government, for the services of the South Carolina frigate; who, at that period had received no information to communicate, sufficient to authorize my pursuing the measures prescribed by the resolution on that business; whenever such shall be made me by that officer, it will engage my immediate and unremitted attention, to obtain an adequate remuneration.

One other subject remains, to which I must call your attention. By the judiciary law, the courts of justice for the district of Charleston, are authorized to continue in session five weeks; the jurors who are drawn from various parts of the district, (many the most remote from where the courts are held) are called forth to attend thereon that tedious term, and often leave their domestic occupations, at the most critical seasons of the year with the agricultural part of the community. In this discharge of duty, as necessary as it is important, every individual no doubt, is disposed to yield a proportion of his time for the benefit of the community, and for the exercise of one of the grand privileges guaranteed by the constitution; but when this becomes a burthen of magnitude, it becomes the endeavor of every citizen to avoid that duty by every possible means; and when no excuse will longer avail, the fines imposed by law, are paid by every individual living remote, whose situation will admit of it, to prevent the compliance with that duty which is deemed oppressive. Hence arise the many and frequent delinquencies of jurors summoned to attend the courts in Charleston; and hence the great oppression upon those citizens, whose residence is contiguous thereto. To obviate this evil, if the fines were increased in that particular district, to render more compulsory the attendance of jurors, it would have an appearance of partiality, and present a mode still more oppressive, without effecting the purposes intended, of affording the courts of that district the benefit of those excellent juries which it is so capable of producing. To remedy a disadvantage to the courts, and the oppression to the citizens, which appeared to your judges of magnitude and moment, they adopted a regulation of drawing a jury for each week that the courts were entitled to sit, which had a tendency to augment the fine, and equalize the duty of a juror, with those of every other district in the state.—This has been found to produce beneficial consequences, it has reduced the delinquencies, and been the means of furnishing the courts of that district, the best juries they have ever had since the operation of the late judiciary system. I therefore suggest the propriety of your legalizing the plan pursued by the courts, as the best calculated from experience, to produce the valued objects sought.

Suffer me, fellow-citizens, to urge your attention to the expeditious dispatch of public business, the firm establishment of the credit of your state, by a prompt discharge of her debts, and to the encouragement of a nervous cement with the general government. These are objects of the first consideration, as such must impress your minds, and when made the leading measures of your systems, will secure with the blessings of Divine Providence, our safety and happiness, and enable us to hand to posterity, those regulations, which will merit imitation. My co-operations shall be prompt and steadfast in every measure that rests with the executive department.

JAMES B. RICHARDSON.
Columbia, Nov. 24, 1803.

CONGRESS.

HOUSE OF REPRESENTATIVES.

TUESDAY, Dec. 6, 1803.

The order of the day, for the House to resolve itself into a committee on the AMENDMENT TO THE CONSTITUTION, received from the Senate, was called for.

MR. R. GRISWOLD. The House of Representatives some time since passed a resolution, amendatory of the constitution, and sent it to the Senate for their concurrence. Of this resolution the Senate have taken no notice; but have sent us, a different resolution on the same subject. This proceeding is, I think, unprecedented and unparliamentary: and I think we ought not to decide upon this resolution until the Senate shall have answered our resolution. I move, therefore, a postponement of the resolution from the Senate, until to-morrow.

MR. ELLIOT hoped the consideration of the resolution from the Senate would not be postponed until to-morrow. How far it was proper to impeach the correctness of the course pursued by that body, it was not for him to say. Should they, on any occasion, invade the rights or the dignity of that House, no member would be found more ready to repel the invasion. In this case the Senate have sent us a proposition, embracing the same principle contained in our amendment, with other principles. He hoped, therefore, the House would immediately proceed to give the subject that attention which its intrinsic merits deserved.

MR. DAWSON only rose to correct the gentleman from Connecticut as to precedent. It must be in the recollection of every gentleman on the floor, that the Senate have frequently sent us bills on the same subject with bills sent by us to them.

MR. R. GRISWOLD wished the gentleman from Virginia would name an instance. He never knew a bill sent to the Senate, which they neglected acting on, and in the room of which sent one of their own.

The question was then taken on Mr. Griswold's motion, and lost—Ayes 32.

MR. R. GRISWOLD. I will submit another motion, to wit: that the committee of the whole be discharged from the further consideration of the resolution of the Senate. My grounds for this motion are these;—that this resolution has not been transmitted to us by a constitutional number of Senators, and therefore, that the House cannot act upon it.

Mr. Dawson enquired if the motion were in order.

Mr. Speaker said it was in order.

Mr. R. Griswold. The principle, I assume, is that this resolution has not passed the Senate by a constitutional majority of that branch of the legislature. By a certificate, obtained from the secretary of that body, it appears that the resolution was passed by the votes of twenty two members in favor of it; twenty two voting in the affirmative, and ten in the negative. It is known to every gentleman that the Senate consists of 34 members, and that it consequently requires twenty three to constitute two thirds of its members. The principle, I assume, is that it requires two thirds of the members of each House to pass a resolution proposing to alter the Constitution. The article of the constitution on this point is the 5th. It is thus expressed: "The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution."—The question is what is here meant by a House? Is it merely a majority of the Senators or Representatives; or is it the whole and entire number? To decide this point, we must refer to other parts of the constitution where the word *House* is used. I hope gentlemen will critically attend to the words used, and from that attention form their opinions. The 3rd section of the 1st article is thus expressed: "The Senate of the United States shall be composed of two Senators from each state." Two Senators then from each state are declared to constitute a Senate. A Senate of the United States cannot, therefore, be composed but of two Senators from each state. One *House* referred to in the 5th article is the Senate. If then it be necessary that there should be two members from each state to compose a Senate, the House of the Senate cannot be composed but of two members from each state. This is corroborated by other parts of the Constitution. In the 5th section of the 1st article, it is said, "Each House shall be the judge of the elections, returns and qualifications of its own members; and a majority of each shall constitute a quorum to do business."—A majority of each—Of what?—Of each House shall constitute a quorum to do business. This expression is a fair commentary on the other section which I have read. "A majority of each House shall constitute a quorum to do business." The inference is that the constitution, when it declares that, "the Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this constitution," requires that the proposing them shall be made by two thirds of the whole number of members constituting the Senate.

There are cases in the constitution, where the concurrence of two thirds of each branch of the legislature is required for the performance of certain acts, which is a further commentary on this article of the constitution. In the case of impeachments it is provided that the Senate shall try all impeachments; but no person shall be convicted without the concurrence of two thirds of the *members present.* The word *present* is introduced. For what purpose, if it was not the opinion of the framers of the constitution that, without it, two thirds of all the members of the body would be necessary to a conviction?

The same expression is used in the case of treaties. The President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the *Senators present concur.*" Why use here this expression "two thirds of the Senators *present,*" unless it was considered necessary to qualify the expression, from the conviction that otherwise it would mean two thirds of the whole body?

On this ground I apprehend that this resolution has not come constitutionally before us. It has not passed the Senate with the concurrence of two thirds of the whole body. It has only received the votes of twenty two Senators, which do not make two thirds. I therefore move that the committee of the whole be discharged from the further consideration of it.

Mr. J. RANDOLPH. There are frequent occasions, on which it is necessary to answer doctrines advanced, not on account of their intrinsic merit, but on account of the weight of character of those by whom they are advanced. This is one of those cases. Had the arguments delivered to day by the gentleman from Connecticut fallen from a less respectable quarter, I should have deemed them unworthy of reply, and have satisfied myself with a silent vote.

The gentleman, with an ingenuity peculiarly unfortunate, has quoted the very clauses and sections of the Constitution which disprove the opinions he has advanced. To these I beg the attention of the House for a moment. He has attempted to sustain the position that *two thirds of both Houses* must imply two thirds of the whole number of each House respectively—If I have misstated the gentleman, I beg to be corrected [Mr. R. here paused.] As there is no disposition to correct my statement, I presume I am correct. If this be the case, are we at this moment a House? If the term *House* means the whole number of members, can there be a House unless the whole number are present? Can there, therefore, be a House or a Senate so long as a single member is absent.

But it is said that the Constitution, wisely foreseeing this dilemma, has provided that a majority of each House shall constitute a quorum to do business—Now I ask is a majority a quorum or a House? If it is not a House, but merely a quorum, it will be absolutely necessary that we alter our language as well as our journals, and say, not that the House, but a quorum met to transact business, &c.

"Each House may determine the rules of its proceedings, punish its members for disorderly behaviour, and with the concurrence of two thirds, expel a member." Will the gentleman hold on this floor that it requires two thirds of the whole body to expel a disorderly member? Will he deny that two thirds of those present may expel in such a case, and that they are competent in all cases mentioned in the Constitution? I will call the attention of the House to a fact. The session before the last, the House passed an amendment to the Constitution, similar in principle to the present, by the votes of two thirds of the members present; when too there was little more than a bare quorum present. I might answer the doctrine, advanced this day, by saying the practise under the Constitution is already settled. I might ask the gentlemen where was this constitutional objection then? Why was it then permitted to sleep? Why was the House permitted to do so unconstitutional an act, when there was but a bare quorum? I should be glad to receive to these questions a satisfactory answer.

"Each House shall keep a Journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgement require secrecy; and the Yeas and Nays of the members of either House on any question, shall, at the desire of one fifth of those present, be entered on the Journal."—Now, according to the doctrine of the gentleman, unless the whole body is present, the Yeas and Nays cannot be entered, because there is no House unless all the members are present.

The gentleman enquires why the Constitution has so sedulously directed that in certain cases the concurrence of two thirds of the members present shall be required. For an obvious reason. The Constitution could not ascertain the number of which the two Houses would consist, from their varying numbers, and therefore has required, that in certain cases, two thirds of those present shall be required.

The article of the Constitution, on which the gentleman relies, is that "Congress, whenever two third of both Houses shall deem it necessary, shall propose amendments"—When two thirds shall deem it necessary. The sense then in this case is to be determined by the exposition given to the term *House.* I again ask have, or have not the House met to-day? They have. I ask are we so met the House of Representatives? We undubitably are. I ask, whether it is not in order to move to expel a disorderly member, or to adjourn? And I ask if the solemn business on which we are now acting shall be defeated by a mere play upon words, that would much better fit a subordinate court than this body. Believing that no doubt can be entertained of the just meaning of this article of the Constitution either by the House or by the nation, I hope the Committee of the whole will not be discharged.

Mr. LOWNDES. I agree with the gentleman from Virginia that we are a House. The constitution says, that a majority shall constitute a quorum for the performance of ordinary business. But it appears to me very doubtful whether less than two thirds of the whole members of each House can pass an amendment to the constitution. It is possible that the practise of the House heretofore may settle the point. I hope therefore the House will refer it to a select committee to obtain its investigation. Until I took my seat I was not aware of the objection; but, since I have considered the subject, it does appear to me that two thirds of the whole members are necessary in this case. I will assign my reasons for this opinion. The framers of the constitution, I have no doubt, intended to oppose difficulties to the alteration of it, and therefore required the previous concurrence of two thirds of the whole members of each House, and three fourths of the legislatures of the respective states. And they did this very wisely. Without the existence of such obstacles to a change, not a session of Congress would pass away, without materially altering the national compact. If this construction be adopted, the result will be certain, and it will be in the power of every man to ascertain it. If it is not, the result will be perfectly uncertain. For even less than a majority of the whole body may, in such case, propose amendments. A majority of 34 is 18. Eighteen, therefore, is a majority of the Senate to do ordinary business. Two thirds of eighteen are twelve, which is less than a majority of all the members of the Senate. If then, the doctrine of the gentleman from Virginia prevail, less than a majority of all the members of the Senate and House of Representatives may propose amendments. This is not, in my opinion, the spirit of the constitution. For these reasons I am in favor of the motion with a view that the subject may be referred to a select committee.

Mr. EUSTIS. If the construction of the gentleman from Connecticut be correct, I will ask how it can be reconciled with the practise under the constitution, in the case of bills on which the President has put his veto. In the 7th section of the 1st. art. it is provided that "every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it. If after such reconsideration, two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a law." I will ask, if, according to the construction of the gentleman from Connecticut, it will be in the power of the two Houses, in any cases, to pass a bill, having thus received the President's veto, unless they consist of the full number of members, which I believe will never be the case. It appears to me that a bill under such circumstances can never pass. But this doctrine does not rest here. For by the constitution amendments shall be proposed, whenever two thirds of both Houses shall deem it necessary. Now if this doctrine applies to this legislature that it must be full, it appears to me that the same requisition will apply to the legislatures who are finally to adopt the amendments proposed by Congress. Has it ever been known that either this legislature, or the legislatures of the states, were completely full. Consequently the doctrine renders it impossible for any amendment ever to be carried.

Mr. THOMAS rose to state, from the Journals of the Senate in what light they contemplated the doctrine advanced by the gentleman from Connecticut. By the Journal of their proceedings in the year 1789, it appears that on amendments, made by the House of Representatives, a concurrence was voted, though there were only 15 members out of 26 present. There did not appear to be any division on the passage of the amendments; but the entry was in this form.

"*In Senate, Sept.* 9. 1789.

"Resolved, That the Senate do concur in the Resolve of the House of Representatives, on "Articles to be proposed to the legislatures of the States, as amendments to the Constitution of the United States," with the amendments, *two thirds of the Senators present concurring therein.*"

Mr. SMILIE. It is well enough to understand what is meant in the constitution by the term *House.* I believe that the general rule prescribed is that a majority of the House is capable of doing business. What business? All that is not specially excepted. I believe also that it is a sound principle that, whenever there is an exception to a general rule, it shall be construed strictly, and not be suffered to contravene the general rule but in the case of the exception. By Congress then is meant the two Houses in their organised forms, in which forms they are fully competent to all business except in cases where more than a majority is required. To this there are two exceptions, viz. in the case of treaties, and the election of a President, wherein a quorum is made to consist of a member or members from two-thirds of the states. There is also another exception in the case of impeachments. What is the reason, if it is the intention of the constitution that in proposing amendments, there should be two-thirds of the whole number of Senators elected present, it has not told us, as explicitly as in the case of impeachment, in the case of treaties, and the election of a President, it has provided the rule.—Gentlemen should likewise reflect how far this doctrine carries them. They ought to consider that it is possible that, under their construction, no amendment made to the constitution is valid. If some are, it is pretty certain that others are not.

Mr. THATCHER. I have examined the constitution as carefully as time will permit, in every instance in which the Senate is mentioned as a House. The Senate is defined as "composed of two Senators from each state." In this article there is a complete definition of the Senate. But there are two instances in which the members present are particularly designated. The first is in the last part of the 3d section in cases of impeachment. "The Senate shall have the sole power to try all impeachments." "No person shall be convicted without the concurrence of two-thirds of the members present."—The other instance is in the 2nd section of the 2nd article. "The President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." In these two instances the only allusion is to the members present. The other instances, in which the Senate is mentioned as a House are three. The first is in the case of the expulsion of a member, "Each House may, with the concurrence of two-thirds expel a member." Another instance is that in which the President puts his veto upon a bill. This part of the constitution has been already read and I need not repeat it. The last is the one under consideration. "The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments." I believe that in this clause it is intended by the constitution that two-thirds of the Senate, composed of two members from each state, should concur; that is, two-thirds of the whole body.

The idea of the gentleman from South-Carolina (Mr. Lowndes) has struck me very forcibly. He says that under the construction attempted to be put on the constitution, twelve members of the Senate will be sufficient to propose amendments. The same doctrine will apply to this House, where 48 members may propose amendments, although 72 are required to make a common quorum. Gentlemen will see at once that this could not have been the intention of the framers of the constitution. But my colleague (Dr. Eustis) says, that if our construction prevail, whereby the concurrence of two-thirds of the whole members of each House is required, the same construction will extend to the state legislatures. But the article in the constitution does not warrant this conclusion. Its language is that amendments shall be valid "when ratified by the legisla-