National Intelligencer.

& WASHINGTON ADVERTISER.

VOL. VIII. WASHINGTON CITY, PRINTED BY SAMUEL HARRISON SMITH, PENNSYLVANIA AVENUE. NO. 1157

FIVE DOLLARS PER ANNUM, WEDNESDAY, JANUARY 27, 1808. PAID IN ADVANCE.

CONGRESS.

HOUSE OF REPRESENTATIVES

DEBATE

On the Resolution for requesting the President to cause an enquiry to be made into the conduct of GENERAL WILKINSON.

THURSDAY, JANUARY 7

(CONTINUED.)

Mr. Burwell's motion for calling on Mr. Randolph and Mr. Clark for information being yet under consideration—

Mr. SMILIE said that it was a little strange, after all that had been heard in the House, that gentlemen would persist in treating this subject as though there were persons in the House averse to an enquiry. He had not heard from any man in the House a sentiment of that kind; and he was sure that there was not a man in the House more anxious for such an enquiry than he was himself; for he was certain, from the present situation of affairs, that an enquiry must be had. He had heard doctrines to-day from other gentlemen which he had heard at other times from the gentleman from New-York, (Mr. Gardenier) and he was not a little surprized at the opinion advanced by the gentleman from Kentucky (Mr. Rowan) that there were no limits to the power of the House but the public good. We are asked, said Mr. S. are we to suffer our country to be ruined because we will not step forward and relieve it? Great God! Is it possible that we have forgot that we act under a limited government!

The gentleman had contended that they did possess such power. Mr. S. was in hopes, while the gentleman was up, that he would have laid his finger on some part of the constitution by which he could support his assertion. The gentleman supposed that a power existed in this House to take the matters belonging to the superintendance of other departments into its own hands. Where did these powers exist? The gentleman had shewn no authority to prove it. It was impossible that any government could exist in such a situation. Was the gentleman aware how far his own doctrine would go? Was he not aware that if corruption was probable, it might exist in the legislative branch of government as well as any other? Had it not been the case in other governments? Had they not seen the Senate of an European nation (Sweden) the sport of British and French gold? Had they not seen a legislature of one of those states so corrupt, that but one man was found of integrity sufficient to resist bribery? And might it not be the case in this as well as in any other legislature? Every branch of this government was responsible to the people, and the constitution had provided the regular mode in which their conduct was to be called in question, judged and punished; and in that mode and in that alone could they act. Give up the principle, said he, that any one part of the government can take a range not warranted by the Constitution, and I can see no safety to any man. When I mentioned the Habeas Corpus, I mentioned it to shew how tender the convention had been of the rights of individuals, and not for the purpose which the gentleman had supposed; the friends of Mr. Burr might feel this great sensibility, but no others could. In saying so, he did not mean to allude to any gentleman within these walls. These officers of the government who departed from the line of the constitution were responsible to the government, and subject to prosecution; and if they could not shew that the step which they took was absolutely and imposingly required for the safety of the country, let them suffer.

As the gentleman had gone into suppositions, Mr. S. would also mention a case. Suppose this House was so corrupt that a majority of them was pensioned by foreign nations, and were to refuse supplies in time of need. Where was the remedy? Could any other department as a department interfere to correct the House of Representatives? The gentleman would not say this he presumed. If then no other department said Mr. S. has a right to interfere with this House, we certainly have no right to interfere with the functions of the Executive or any other department of the government.

Why should they take this blind step? Had any gentleman pretended to say that the President, whose province it was to take cognizance of the conduct of the officers whom he had appointed, had neglected his duty? The gentleman from Kentucky indeed has insinuated, said he, that the court of enquiry will not do its duty, and therefore *we* ought to appoint a court; I cannot understand the gentleman's observations in any other way. I never heard such a doctrine before advanced; I believe the longer the subject is considered, and the farther we go into it, the more we shall see the danger of this doctrine: if the House has a power to throw its weight into a prosecution against an individual there is no safety for any man in the country. I cannot see what may be my own fate, for I have been accused on this floor as holding the same language as a French agent. Well, let any man bring forward a few letters and papers, call them important information, and institute an enquiry—what will become of me? I might be expelled, have the whole nation prejudiced against me by the inflamatory speeches against my character, and then turned over to a prosecution in a court of justice to be punished. This would be my situation; and although perfectly innocent, I might suffer, from the prejudice, against me in consequence of the proceedings of the House. When I mention this possibility, it is necessary for me, though it has certainly nothing to do with the question at present under discussion, yet in justice to my own character, to state what I had said to elicit this aspersion. The observation was—that, as Great-Britain was distressing us beyond measure, claiming rights contrary to the law of nations, the absolute dominion of the sea, the effects of which we all knew; and, that as France was contending for the freedom of the seas, these two nations were at least entitled to equal justice from us. This was the expression, and the House will judge whether any thing which I said would warrant such an observation.

There is nothing I more earnestly wish, than that the gentleman will give me an opportunity in the presence of this House, to compare my public character with his; and I will ask but two years of his political life upon which to make my observations, and I will lay open to him the whole of my political conduct, and subject it to his scrutiny, and it will then be seen which of us has evinced the strongest attachment to any foreign nation.

Mr. ROWAN said, as to the charge of Burrism, the measures which he had taken in the western country to suppress it were well known; and it was also known that he had refused the offer of a large sum to defend Burr on his trial there; he could not therefore be charged with being under the influence of Burrism. Neither had he urged that this House had an unlimitted or unbounded power; he had urged the power of enquiry as incidental to that provision of the constitution which gave this House the exclusive control as to raising armies and making war. He was as great an enemy as any gentleman to dragging in the departments, and was not unapprized of the deference due from one department to the other; but should be extremely sorry if a department in which he was concerned should neglect such an important enquiry.

For one power to pension the commander in chief of another, was known to be cause for war. It was stated that Spain had pensioned the commander in chief of the American army. It remained therefore for this House to say whether Spain had done an act which was cause for war; and from the general constitutional provisions therefore proper to enquire, and on that ground they had power to make the enquiry.

It seemed to him important that an enquiry should be made at this time. It was generally supposed, that we were on the eve of a war with France and Spain, or with Great Britain, in case of which it would be necessary to increase the army. The commander in chief was said to be corrupt. Would the House vote money to support an army to serve under a commander under this imputation? Should the best blood of the nation be hazarded by such a circumstance as this? All their preparations for defence were unnecessary except they ascertained his fidelity or defection. Mr. R. did not mean to say that this man was guilty; he might be innocent: but notorious facts spoke strongly against him. It seemed astonishing that an enquiry had not heretofore been made. A court of enquiry was indeed now ordered: he did not know what might be the power of this tribunal, or how it might be disposed; but the suggestion of the gentleman from Virginia, as to its being composed of subaltern officers, had great weight on his mind. He was therefore not for confining the power of making enquiry to any particular department, but he was for deducing from the fitness of things a power in this House to make the enquiry.

MR. WITHERELL had not heard any reluctance expressed on any side of the House to an enquiry into the character of the person implicated in the resolution, and he would not suffer himself to doubt of it. The only difficulty seemed to be as to what course was proper to be pursued. The different constructions of the constitution seemed to have distracted the House as to what course ought to be pursued on the one hand or on the other. In a debate on a former day the House were informed that a court had been instituted for the purpose contemplated by the resolution. If they all believed that an enquiry ought to be made, the question was narrowed down to a single point, whether the President, in ordering this enquiry, had gone out of his course? Perhaps this House had better pursue this business and send notice to the President that he had stepped out of his course, and that they would take it up. After a recurrence to the experience of every man who had ever snapt a pistol, or bitten the end of a cartridge, he would submit to their good sense to whose province this enquiry most properly belonged; whether to the Executive or to this branch of the government. If it belonged of right to the Executive all that they had to do, was, to say that they had been mistaken, and were happy to find themselves superceded by the proper branch. He did not believe, after the long and spirited debate which had taken place, that any other decision could be given. He should be satisfied, however, if they could here stop the subject, of which he did not believe they ever had cognizance. He should therefore vote against this resolution and against every other proposition on the subject, believing that every department of the government should act within its own jurisdiction.

MR. RHEA, Ten. said if he understood the gentleman from Kentucky correctly, he had said that it was cause for war, for one power to corrupt the commander in chief of another. Mr. R. observed that when he was up before on this subject he had stated what he knew to be correct—that Wilkinson was created a brig. gen. under gen. Washington, and appointed commander in chief under President Adams. This pension was charged to have been received during the administration of Washington: of course gen. W. was not commander in chief, but gen. Wayne was. As the whole argument of the gentleman from Kentucky in favor of the power of this House was bottomed upon the pension's having been given to the commander in chief, Mr. R. just suggested this fact as a complete answer.

The question having been put on the resolution calling upon Messrs. Randolph and Clark for information, was then decided by Yeas and Nays as follow:

YEAS—Messrs. W. Alston, Bassett, Bibb, Blount, Boyle, Burwell, Butler, J. Campbell, Carlton, Champion, Chittenden, M. Clay, Cobb, Crowninshield, Cutts, Davenport, Dawson, Deane, Desha, Durell, Elliot, Ely, Fisk, Franklin, Gardenier, Gardner, Garnett, Goldsborough, Gray, Green, Harris, Helms, Hoge, Holmes, Howard, Humphreys, Jenkins, Johnson, Jones, Kenan, Kirkpatrick, Lewis, Livermore, Lloyd, Love, Lyon, Macon, Masters, M'Creery, Milnor, D. Montgomery, N. R. Moore, T. Moore, Jer. Morrow, Mosely, Mumford, Newton, Pitkin Porter, Quincy, Randolph, Rea, Pen. J. Richards, Riker, Russell, Seaver, Smelt, Smilie, S. Smith, J. Smith, Southard Stanford, Sturges, Swart, Taggart, Taylor, Thomas, Thompson, Trigg, Troup, Upham, Van Allen, Van Dyke, Van Horne, Van Rensselaer, Wharton, Wilbour, M. Williams, Wilson, and Winn—90.

NAYS—Messrs. Bacon, Barker, Brown, Calhoun, Findley, Heister, Holland, Ilsley, Lambert, Marion, Nelson, Pugh, Rhea, Ten. M. Richards, Rowan, Sloan, J. K. Smith, Whitehill, and Witherell—19.

FRIDAY, JANUARY 8.

This morning Mr. RANDOLPH laid on the table the documents which he had read.

Mr. RANDOLPH having called up his resolution,

MR. FINDLEY said, that a few days ago when the enquiry into the causes of the failure of Gen. St. Clair's expedition in 1791, was introduced as a precedent for this case, he being one of the committee of enquiry on that case and alluded to, he had stated that it had no bearing on it as a precedent; that the resolution by which that committee was raised did not charge blame on the general, nor any other person concerned; that it was a measure of policy. The complete failure of that expedition had occasioned general discontent, and numerous paper publications, complaining of the failure of contractors, to do their duty, of the want of provisions, of the delay and insufficiency of the military apparatus, badness of gun powder, undue delay of sending money, &c. The committee sat till near the end of the session, and reported various causes that contributed to the failure of the expedition, but no specific charge against any person, but the statement of facts went to exculpate the general from blame. The House took no order on that report.

During the next session, at the request of the Secretary of War, and Commissary of Military Stores, who thought the statements of the former report bore hard on that department, the subject was referred again to a select committee, consisting chiefly of the same members, who made a report of facts nearly similar to the former, with some additions, accompanied by a great amount of testimony, and a statement at large by the parties, which yet remains sealed up in a large box, which, it is believed, has never been opened, nor was any order taken on it, nor use made of it, except for information to satisfy the public mind, and to determine Congress to change the plan of Indian warfare, which it is well known they did do, by raising a more numerous and permanent army, and providing more effectually for its supply. So far was stated on a former day, but not published.

Mr. F. said that the above had been stated from recollection, but that since that time he had examined the journals, by which it not only appeared that it was not only no precedent in favor of the question before the House, but decidedly against it. He said, however, that he would not have bro't this into view if it had not been again yesterday introduced by the mover of the resolution, (Mr. Randolph) as a precedent, and the only one in favor of the extraordinary attempt.

Mr. F. said that from a review of the journals, it appears that a resolution was offered for requesting the President to institute an enquiry into the causes of the late defeat of the army under the command of major general St. Clair, and also into the causes of detentions or delays which were suggested to have attended the money, clothing, provisions and military stores, for the use of the said army, and into such other causes as may in any manner have been productive of the said defeat. Though this resolution made no charge on any officer, yet as it seemed to imply a censure on the President, as if he had neglected to enquire, or do his duty, the question was divided; that part which referred to the President was rejected by a great majority, and the resolution thus altered referred to a committee, not accompanied with a charge against any man's character, but merely to obtain such information as might be of use to Congress in organising a new army and plan of operations, and satisfying the public mind, by a candid and open statement of facts, and it had this salutary effect; but an attempt to call on the President, as has been stated, was rejected. Therefore every circumstance in this transaction bears forcibly against this irregular attempt.

Mr. F. said that a request from the legislature to the executive was always understood to be a command, the only command that could be given by any branch of the legislature. It is true that this House has no power or means of compelling the President to obey. It is however a sufficient means of inducing the citizens to believe that the President has neglected to do his duty, and thus of impairing public confidence in the executive department. It is known that the President has instituted the enquiry desired. Is it then necessary to request, that is to say, to command the President to do what he is actually employed in doing.

Mr. F. said he was at first astonished at the diversity of opinion that appeared among the members on this subject, that they did not at once discern, that the subject did not, nor could not constitutionally come before the House, that they did not consider that if the most numerous branch of the legislature assumed, not to say, usurped the power of denouncing the character of individuals, whether officers or others, and of holding an inquisition on them, and usurping the constitutional discretion of the executive, for which that branch alone and not this House, was responsible, it would at all times put it in the power of a revengeful and popular leader, by the influence of solemn grimace and alarms of danger, and eloquent expressions of zeal for the public good, to degrade even this honorable House by making it the instrument of gratifying his private enemies, of spreading terror around him, and depressing them he pleased, to a station of infamy, to be intailed on his family, without the hope of relief. What hope can that man have of an impartial trial by a jury or a court martial who has been condemned, or whose character has been even implicated by the vote of so respectable a body as the House of Representatives of the United States? Shall this honorable House throw its weight into the scale of prepossessions against an individual whom they knew at his own request, is arraigned to stand his trial before the proper, the constitutional tribunal? No, this is not possible, they cannot do it by vote, they have no such power, but they can do it by declamation, of this opportunity some of them have taken sufficient, but malevolent advantage.

Mr. F. said, that on reflection his first astonishment had abated, when he considered that the constitutions of the seventeen states, though all of them republican, had shades of difference; that some of them had vested large portions of executive power in the legislative branch, he could easily conceive that they had brought to Congress the impressions made on their minds by their own state governments, he had long found that to be the case in committees, he would not now attempt to explain or argue from the constitutional principles, this having been so fully explained by those who had spoken before from different states, by his colleague (Mr. Smilie) and others; but he would conclude his observations by assuring the House that what he had advanced was not an ideal theory, that such things had often taken place in different states, but that he would confine himself to the state he had the honor to represent in part.

In that state while it was a colony, like most other colonies, a foreign governor, himself under foreign control, had a negative over all the acts of the legislature, this of course rendered all the encroachments of the legislature on the Executive popular. When the independent constitution of Pennsylvania was framed, it gave the legislature no such power, but it did not sufficiently restrain it, because it did not sufficiently anticipate the deviations it might make. These deviations after the conclusion of the revolutionary war when other men came into place, became numerous, but of numerous examples he would detain the House with mentioning only one. The Secretary of the commonwealth, the first Secretary under the independent government, a member of Congress under the confederation, &c. was unheard & as General Wilkinson is now, declared a public defaulter, unworthy of public confidence, &c. and as a matter

(Continued on last page.)