cide on the laws when made; and an incorrect decision be made, the person making it is liable to be impeached, and this House is the organ for that purpose. Why was not the matter brought forward properly? The Attorney-general is an officer constitutionally appointed to give his opinion touching any matter of doubt in the departments of the government. But have we that right? No; our province is to make laws, and if our officers violate them, they may be impeached in a proper manner. The gentleman from Virginia says that he has discharged his duty. I very much doubt it, sir. He has done more than his duty; he has brought forward a proposition when it is impossible to deliberate on it. He has done what cannot be supported. I hope the resolution will lie on the table.

Mr. Nelson said as to himself he cared not whether the resolution was ordered to lie on the table, or whether a question was immediately taken on it. He was ready for either question. One reason, however, why he should vote for it to lie on the table, was, that it was very late in the session, that the House was exceedingly fatigued, that a great number of members who would probably throw considerable light on this subject were now absent from the House; and were he now to vote for its lying on the table it would be from that consideration. He did not agree with any gentleman who supposed that this resolution had been brought forward from improper motives. He had no hesitation in declaring his sentiments explicitly on that head. Sorry as he was to differ with the gentleman from Virginia on points of this magnitude, yet, upon this subject he had no hesitation as to the vote which he should ultimately give. I will ask in the first place (said Mr. Nelson) at what does this resolution aim? It is a bare and naked resolution declaring as the opinion of this House that certain opinions of the Attorney-General are contrary to law. Is it intended to affect Gen. Wilkinson, the late Secretary of War, or the Attorney-General? I cannot see the object; whether it points at the one or the other, or at all, is totally immaterial. I do not rise in my place at this time of night as the partizan of the one or the other. I disclaim any such motive. I rise because I believe if we pass the resolution it will violate the fundamental principles of the American constitution; that it will be more dangerous and be attended with more evil consequences than Burr's or any other conspiracy. If a precedent of this kind be once set, it leads immediately to the most positive and absolute despotism. The constitution of the U. States has wisely said that the different departments of the government shall be separate and distinct. To Congress it has given the power of passing laws; to the Executive the power of carrying them into execution. To the judiciary it has given the great and important power of expounding laws passed by Congress—and can it for a moment be said in a free country that we will take away the power from the judiciary? That we will pass a law to-day, and to-morrow come forward and with a bare resolution of one House say that the law was improperly expounded? Do we mean on one day to pass laws and on the next day to expound them? If we consider this question in a less important point of view we shall find that this mode of doing business is equally productive of injustice. General Wilkinson it is said has improperly received a certain sum; and the gentleman says that there is no mode of getting it back again. I deny it, sir; the action lies for the recovery, and on the trial of that, the judges will decide the construction of the law.

Mr. Randolph said that the gentleman from Maryland, for the exercise of whose candor towards his motives he ought to be obliged, had certainly mistated his argument. He only asked of the gentleman the exercise of the same candor to his argument as he had displayed to his motives. He had not said that judgment could not be had against a public defaulter—far from it—but he did say that as to mismanagement or misapplication of public money, this House was the only tribunal.

Mr. Nelson said he was sorry if he had mistated the gentleman's argument. That certainly had not been his object. He was glad that he and the gentleman from Virginia agreed in one thing, viz. that if the money had been improperly paid out of the treasury, Gen. Wilkinson was responsible for it. Neither the opinion of the attorney-general or a resolution of the House of Representatives were conclusive as to what law was. The only authority which could properly decide on the propriety of the exposition of the law, was the supreme court of the U. S. Now suppose an action to be brought against general W. Were the House about to prejudge this question? Were they about to create a bias on the minds of the judges? Was the judiciary to be alarmed because the popular branch of the legislature had given an opinion on the subject? He had too much confidence in the judiciary to believe that would be the case; for he believed that they would say that the attempt of Congress to expound the law was futile. Mr. N. said he heard himself admonished by his friends around him that he was extending his remarks to too great a length for the lateness of the hour. He concluded his observations by expressing his regret at seeing this proposition brought forward at a time and in a manner which precluded a full discussion of it.

Mr. Rowan thought the present a question worthy of all the time which had been consumed in discussing it; and if the doctrine advanced were true, then were secrets disclosed in the operation of this government which were not before known. The constitution provided that no money should be drawn out of the treasury contrary to law; but now it seemed that the officers might draw money on the opinion of the attorney-general. A sum of money might be wanted and no law might be passed for the purpose. The President having a right to appoint an attorney-general, his opinion might be procured in favor of the application of the money. He was sorry that so much consequence had on this occasion been given to the opinion of the attorney-general. This officer was not known in this question, not being known to the constitution. He was an officer created by law, to be consulted on legal questions by the officers of government in order to give them confidence in the execution of the laws; but at their risk they then performed their duty, his sanction not exempting them from responsibility. Here was an innovation on the constitution—the opinion of an officer not known to the constitution was brought in to screen a misapplication of public money. Had he assumed the judicial power? And were the representatives of the people to be restrained from making enquiry because he had done so? Gentlemen had said that it was the province of the judiciary to expound the law; and that an action might be brought for the recovery of the money misapplied. And was the House to be satisfied with this remedy? It was not the mere money which was the object of attention. Should the refunding of the money screen the officer who had violated his trust? A question of this kind should not be passed over out of *delicacy* to individuals. In proportion to their elevation were officers secure from accusation; because they were approached in such stations with reluctance, and never upon light grounds. This circumstance was sufficient security against light imputation. But, admit the plea of delicacy, and they would be sheltered from all enquiry. Whoever had the money of the nation in custody might then dispose of it as he pleased, because to request him to account for it would be a matter of high delicacy. The argument that by passing this resolution they would prejudge the question, was not sound. The resolution might be amended so as to appoint a committee of enquiry upon whose report the House might or might not proceed. The idea that appropriation laws were necessary to be expounded, he said, was inconsistent with the nature of our government. They should be explicit and intelligible to the meanest capacity. But if a doubt should arise as to the construction of the law, it should be laid before the House by the President, whose duty it was to lay before Congress from time to time such subjects as he should deem proper for their consideration. Three or four opinions of the attorney general had lately crept into the history of this country. The opinion of the attorney general had been sent to the House on the subject of the claim of Beaumarchais without their requisition of it; and in other cases it had been allowed great weight. He thought the nation should put its veto up on the influence of the opinions of the attorney general, as related to the duties of the great departments of the government. Mr. Rowan said, if he understood the duty of the attorney general, it was to prosecute suits in the courts of the nation in behalf of the United States, and to secure their great interests; but not to give an opinion on points which the heads of departments should propose, and under the authority of his opinion to screen them from the scrutiny or censure of the people. He would not give the nation reason to suppose that the legislature lent the smallest sanction to a proceeding of this kind; and therefore he thought the resolution should be immediately acted on. It had been said that this proposition involved the character of the persons concerned. Mr. R. said that malfaisance would never be alleged without involving character; and according to the doctrine laid down, public officers had a licence to do what they pleased. The argument that the resolution involved the character of general Wilkinson was nothing; that character was out of the question; it had been too long in the public reach to be sullied by any thing which could be done in this House. The people never looked *to* whom money is paid, but *by* whom it is paid. The responsibility of the departments is involved. If they would give money to the officer, it was well understood that he would spend it. It was an error of the department of war. He regretted that this proposition had come forward at so late a period of the session; but why it had done so the gentleman from Virginia had explained. He had rather that the subject should not have come before the House than that it should have been dismissed lightly; for there had scarcely been so important a question before the House during the present session. It connected itself with the vitals of the government. Say at once, said Mr. Rowan, when you make a law for the appropriation of public money, that you have no power to enquire into its application, that the subject shall not be approached from delicacy or the fear of prejudging it, and you immediately make the heads of departments despots. A few thousand dollars compared with principle is nothing; a correct decision is worth millions. If the House were to refuse to permit the resolution to lie on the table, it might be amended. If it should be thought proper, Mr. R. said, he was prepared to vote for a committee of enquiry, not as to the man or men who had received the money, but as to those who had paid it. He did not say that there was any criminality in this case, but malignity and error in this case were the same; for mal-conduct would always clothe itself in the garb of the latter, were it to be admitted as a plea in excuse. Upon this subject there should be the utmost rigor of scrutiny. It was lamentable, if the opinion of the attorney general was to rule the whole government, that from so young an institution as this government so perfect an exeresence had grown out. It was no excuse for a man who had the custody of the public money, that he had obeyed the Executive direction in applying it improperly.

Mr. J. G. Jackson said he rose now merely to read a section of a law; for gentlemen had repeatedly said that the opinion of the attorney-general was not known to the law in such a case as the present, and that it was improperly foisted in: "There "shall also be appointed a meet per-"son learned in the law, to act as at-"torney-general for the United "States, who shall be sworn or af-"firmed to a faithful execution of his "office; whose duty it shall be to "prosecute and conduct all suits in "the supreme court in which the U. "States shall be concerned, and to "give his advice and opinion upon "questions of law when required by "the President of the United States, "or when requested by any of the "heads of departments, touching any "matters that may concern the de-"partments, and shall receive such "compensation for his services as "shall by law be provided." Mr. J. said he was not about to enter into any examination of the vulnerable arguments of gentlemen, because he was aware of the lateness of the hour (9 o'clock); but he would remark upon the remark that his presumption was erroneous, that he found that the original letter of the attorney-general was not on the files of the House, but merely a copy of it. And on the remark that a man might lead his friend into difficulty, he would observe that he was *Amicus Socratis, sed magis amicus veritatis*. He must also be permitted to remark that "error and malignity" were not to be considered in the same light.

Mr. Rowan said he contended that in money matters and high offices error was no more pardonable than malignity. So far as the attorney general was mentioned in the law just quoted, upon a sound construction he could only be considered as authorised to give an opinion not as a shield but as a guide to the department, and not to be the less responsible on that account. If the Executive doubted on any point, he might avail himself of the opinion of the attorney general; but he was not an officer intended to stand over the Executive, and screen him from public opinion.

Mr. Gardenier had no hesitation in declaring his opinion that the money in question had been illegally, palpably illegally paid; to prove which he used arguments at some length to the same effect as those of Mr. Randolph and Mr. Rowan. When Mr. Gardenier had been speaking about twenty minutes,

Mr. Randolph asked leave to interrupt him. He said he certainly meant no disrespect to the gentleman from New-York or to the House. He had thought that the motion was so clear a proposition that no debate would arise on it. If the debate progressed so as to delay the public business, which *was* urgent, he must withdraw the proposition.

Mr. Gardenier declined permitting Mr. Randolph to withdraw his resolution until he had concluded his observations. He spoke about ten minutes longer.

When he concluded, after a few words from Mr. Alexander, the question was taken on those resolutions lying on the table and carried, Ayes 65; there being probably about ninety members present.

WASHINGTON CITY.

MONDAY, MARCH 27.

Since the three celebrated historical painters of our country, West, Coply and Trumbull, have attained so high a grade in the English school as to be ranked by the common consent of the age in the first class of modern artists, we are happy to learn that Mr. Vanderlyn, a young man of New York, is emulating their fame in Paris with flattering symptoms of success. At the last annual exhibition his picture of *Marius on the ruins of Carthage* obtained great applause and was crowned with the *medal of encouragement* from the Emperor. A Paris journal, the Courier de l'Europe, speaks of it in the following terms. "This picture has procured "the author [illegible] "merited; for his Marius is full of "sentiment; it is correct, well "drawn, and has a vigorous colour-"ing. It is one of those pictures that "ought to have been placed in a bet-"ter light."

Orleans Territory.—This important portion of the union, considering its prosperity and greatness as indissolubly connected with the United States, has, very much to its honor, come out in the present exigency of affairs with an unequivocal expression of its sentiments. *Here* the voice of faction is silenced by the general affection and gratitude entertained for the general government; or, if heard, only serves to excite the honest feelings of an happy people. It was to have been expected that the transition from a government so different in its genius and structure from that of our own would give rise to much honest misapprehension, as well as dishonest cabal and intrigue. We ought not, therefore, to be surprised that treason here attempted to raise its head, and that an inordinate thirst for gain for a while furnished the materials of disaffection.

These have, fortunately, been completely put down by the wisdom and vigor of the government, and the good sense of the most respectable citizens of the territory.

Thus have the anticipations of the true friends of Orleans been fully realised. Well acquainted with the honorable character of the planters, they knew that an experience of the benefits that would not fail to ensue from a connection with the U. States would be the surest pledge of their friendship and devotion. Of this the following answers to the Governor are unequivocal proofs. It is no compliment to say that for elegance of diction and patriotism they are not surpassed by like papers of any of the state legislatures.

After this expression of the sentiments of the people of Louisiana, let us not be told that they are devoted to a foreign government, or are ready to enlist under the banners of Napoleon.

ANSWER
Of the Legislative Council to the Governor's Speech.

His Excellency Wm. C. C. Claiborne, Governor of the Territory of Orleans.

SIR,

The Legislative Council of the territory of Orleans participate in the sentiments of your excellency concerning the critical situation of our national affairs; they see with regret that the wise measures taken by our general government, have not succeeded to bring to a sense of moderation and justice the belligerent powers, who have trampled upon the once respected rights of neutrality: but however great be the sacrifices which the safety of the country may render necessary under the present important circumstances, the citizens of this territory will submit to them with patriotic resignation; any thing, but the humiliation of yielding obedience to foreign powers, will appear to them supportable. Full of confidence in the wisdom of their government, they will await with impatience, but without inquietude, the result of its deliberations on the best means of avoiding or of encountering the political tempest which threatens this country; and they will obey its decrees with chearfulness.

Hitherto, quiet under the shelter of a free government, whose beneficent influence had given new life to its agriculture and commerce, this territory loses at least as much as any other part of the Union, in the unfortunate change which unforeseen and inevitable events have made in the political situation of the U. States, but there remains for its inhabitants a fertile soil, industry and courage. They are yet rich, if compared to the nations in whose bosoms war has been raging so many years, for nothing until now has threatened to disturb our interior tranquility, and we ought to esteem ourselves happy with the fate we enjoy amidst the calamities which desolate a great portion of the globe.

The legislative council are impressed with the importance of the several subjects of legislation, which your excellency recommends to the attention of the general assembly, and they will take them under due consideration. As to the raising of a portion of the militia of this territory, for which your excellency received orders from the President of the U. States, the legislative council believe that you will find it of easy execution, and that the citizens of this territory are ready to give proofs of their attachment to their government, and of their devotion to their country.

J. POYDRAS, *President of the Legislative Council.*

New-Orleans, Jan. 17, 1809.

ANSWER
Of the House of Representatives to the Governor's Speech.

To His Excellency the Governor of the territory of Orleans.

SIR,

When from every part of the U. States the voice of indignation is heard against certain governments of Europe for their insults and aggressions towards our country, the house of representatives of the territory of Orleans cannot view with indifference the picture of our national affairs, which your excellency has exhibited to their view. Zealous to participate in the prosperity as well as to share in the dangers of the great American family, they feel anxious to mingle their voice with that of their fellow citizens of the U. States, and to express to you the feelings and sentiments of their constituents.

It was not sufficient for those governments during the long space of twenty years, without ceasing, to deluge the vast countries of Europe with the precious blood of more than a million of men, the wretched victims of an unexampled ambition and insatiable cupidity; they now threaten our peaceful shores. Not satisfied with having banished peace from one hemisphere, they are eager to destroy its asylum in this part of the new world.

The wisdom of the measures taken by our government, has preserved us until this day from the losses and injuries which always are the precursors of a formal aggression against those who are so confident as not to be cautious or justly fearful of those outrages. Sacrifices and privations were imposed upon us by those measures; but in supporting them with courage and resignation we are well convinced, that if the embargo had not been put in force, our commercial wealth would have been invaded, our ships sequestered or destroyed, and our brave seamen lost to the service of their country.

We have listened with a peculiar attention to the communications which your excellency has given to us concerning the various parts of the administration, and they shall be the object of our early attention.

We are deeply impressed with the importance of the attention you recommend concerning the organization of the militia, and with the necessity of rendering it a more effective force by improving its discipline, so essentially necessary to the internal tranquility of the country, as well as to command respect abroad for a nation protected and defended by citizen soldiers.

We fondly hope that the execution of the orders which your excellency has received from the President for the raising of the quota of militia of this territory will meet with no difficulty. Uniting the civil to the domestic virtues, the Louisianians, whose individual cause is connected with the cause of liberty, will pay cheerfully to their country the tribute of their services, and will always shew themselves zealous to deserve the gratitude of their country, by cooperating in its defence. In every case your excellency may depend upon the assistance of the legislature in all the measures which may interest the general prosperity of the country.