

is little doubt that individuals originally intended, by these private aids, to thwart and perplex government. It is thus the will of the great body of freemen in America is subject to the control of influence of little parties and clubs. In the same manner, private clubs are endeavoring to hurry Congress to declare war at once against Great Britain, without taking any preliminary steps, required by the laws and usages of nations. We are happy however to find the people in the interior northern states, with great unanimity, reprobate all clubs formed to influence public measures, and consider them as unconstitutional and dangerous.

From the General Advertiser.

#### FROM A CORRESPONDENT.

We have lately seen an attempt, in the Gazette of the United States, to shelter the appointment of Mr. Jay, chief justice of the United States, to the office of envoy to the court of Great Britain from the censure to which it was justly exposed, by an attack upon that of Mr. Monroe late senator from Virginia, as minister to the French Republic, which merits a short comment.

It is scarcely necessary to observe, that if the cases were parallel they must be either both constitutional or otherwise; if they were not, that neither can be justified or criminated by the other; that they stand respectively upon their own merits by which alone they must be tested. These positions are too clear to admit of any doubt, in the mind of a discerning public.

Nor can there be any diversity of sentiment with respect to the principles by which they must be tested. That the three departments of government, the executive, legislative and judicial, should be kept separate, distinct and independent of each other, is a political truth too well established at the present day, to be denied by any one. It is well known, that the national and all the state governments are founded on this principle. Indeed in most of them great ingenuity has been displayed in an effort to complete this separation and perfect the independence of each on the other; and it is universally admitted that the government in which this effort has been most successful has attained the nearest to perfection.

That Mr. Jay was of this opinion upon a former occasion, will appear by the following extract from the memorial or remonstrance of the circuit judges of the United States at New-York, to congress, and which was signed by himself.

"That by the constitution of the United States the government thereof is divided into three distinct and independent branches and that it is the duty of each to abstain from and oppose encroachments on either.

That neither the legislature nor the executive branches can constitutionally assign to the judicial any duties but such as are properly judicial and to be performed in a judicial manner."

Thus we find, when it was fought, by the legislature, to charge the judiciary with the settlement of the claims of the invalid soldiers, the chief justice was alarmed for the independence of that department; but when invited to fill an executive office which tended to his own advancement in honor and emolument, and especially one which furnished an opportunity of visiting the associates of the faction in England, all apprehension of the kind, all jealousy respecting the union of the departments vanished.

Will it be contended, that the independence of the Judges may not be more fatally undermined and destroyed by executive influence, provided it may be assailed in that line, than the imposition of new duties by the legislature? And what influence is more powerful in its effect on the human heart, than the right of dispensing on those who are most accommodating and obsequious, additional offices of honor and profit? And is it not to be presumed, if the door to executive offices, should likewise be opened to the Judges, that instead of forming a barrier or strong wall of protection in favor of the people, against executive encroachments, they would soon become the mere sycophants of courts and tools of power?

It will be perceived that the only objection to either appointment, consists in the possession and exercise of two offices, each in a separate department of the government, by the same person and at the same time: And it is admitted that the

objection applies with equal force, whether they be legislative and executive, or judicial and executive, for in both cases, two departments of the government are blended together, and the independence and check contemplated by the constitution destroyed. Had Mr. Jay resigned the office of Judge, when he accepted that of Envoy Extraordinary, there would have been no objection in that respect, to his appointment; for it never was contended that a person holding an office in any branch of the government, might not be appointed from that to one in any other department. By holding both offices, therefore, Mr. Jay has justly exposed himself to the censure which has been bestowed upon a conduct so improper. But so soon as the latter appointment was conferred on Mr. Monroe, it is well known that he immediately resigned the other, and withdrew from the Senate; the objections then which have been urged with such peculiar force against the former, are wholly inapplicable to the latter.

If the appointment of Mr. Jay was constitutional (it being understood at the time, and verified by the event, that he intended to hold both offices) it will be difficult to shew any impropriety in Mr. Monroe's conduct in opposing it. He was at the time a Senator, and charged by his oath, to preserve the constitution inviolate. If he deemed this a violation, it was his duty to oppose it, and he would have been unworthy the trust reposed in him by his country, if he had shrunk from it.

Whether it was proper for Mr. Monroe to accept the appointment which was conferred on him by the President and Senate, the public will determine. If it suited his convenience to serve his country in that line, was desired by many at home, and there was reason to believe it would be acceptable to the French republic, why should he not accept it? Can any good reason be assigned, why he should slight the favorable disposition of his country, thus honorably expressed, and at a very interesting crisis of public affairs?—Can it be urged that he solicited the appointment or courted it, by any unmanly or degrading accommodation, in his public conduct? Will a firm and decided opposition to such nominations as he thought unconstitutional and otherwise improper, be deemed such, for these are the only objections which have been alleged against him?

It is generally understood, that the trust was offered to Mr. Monroe, by the President, and that the first and only agency he had in the business was, in determining that he would not decline it; a circumstance which reflects honor on the person who conferred, as well as on him who accepted the appointment.

Every candid reader will now decide how far the two cases which have been brought into view are parallel. In one case Mr. Jay, Chief Justice of the United States, being appointed to an executive office, has accepted the same without relinquishing his judicial office, in violation of the principles of the constitution which he has taken an oath to support, in neglect of his duties as a judge which he has sworn faithfully to discharge, and in subversion of that independence on the executive department which, on another occasion, he himself had so strenuously asserted.

In the other case, Mr. Monroe, a Senator of the United States having accepted an executive appointment, immediately relinquished his seat in the Senate, from a respect to the principles of the constitution which he had taken an oath to support; in conformity to the doctrines he had before maintained with respect to the incompatibility of offices in different departments, and without an attempt, or wish, to retain a place, the duties of which he was rendered unable to discharge, by his undertaking those of another.

#### CONGRESS.

##### House of Representatives.

A new bill for granting the sum of two thousand dollars, to the widow of Robert Forsyth, late Marshal of the district of Georgia, was brought in the 24th ult. and yesterday was passed, and sent up to the Senate.

A message received some days before from the President of the United States, communicating the request of the Minister of France for an advance of money, on account of the debt due to France, was taken into consideration and referred to a committee of the whole.—A bill has since been passed pursuant to this request, and sent to the Senate.

Mr. McDowell laid on the table a motion

directing the Secretary of the Treasury to report at the next session a state of the balances due to the United States, from individuals, prior and subsequent to the present government; with an account of the measures taken to recover the same, &c. this motion was taken up on Monday, and after some discussion was negatived, 39 to 38.

A bill received from the Senate entitled an act in addition to the act for the punishment of certain crimes against the United States, was also taken into consideration on Monday; the first section of the bill is in the following word: "If any person shall, within the territory or jurisdiction of the United States, accept or take a commission to serve a foreign prince or state, in war, by land or sea, the person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not less than \_\_\_\_\_ dollars nor more than \_\_\_\_\_ dollars; and shall be imprisoned not exceeding \_\_\_\_\_ nor less than \_\_\_\_\_."

This section on motion of Mr. Nicholas, was after some debate, struck out in committee of the whole, 39 to 38—but was restored by the House after an amendment which provides that no such commission shall be exercised.

Mr. Nicholas then moved to strike out a part of the second section, which punishes a man for enlisting in foreign service, or for going out of the limits of the United States, to enlist in foreign service; and he proposed an amendment instead of it.

This amendment was negatived—as was a motion to expunge the fourth section.

It was next moved to strike out the seventh section which stood as follows:

"And be it further enacted, that it shall not be lawful to sell, within the United States, any vessel or goods captured from a prince or state, or from the subjects or citizens of a prince or state, with whom the United States are at peace, which vessel or goods shall have been captured by any other foreign prince or state, or by the subjects or citizens of such prince or state; unless such vessel and goods shall have been first carried into a port or place within the territory of the prince or state to which the captors belong, but such vessel and goods shall be carried out of the United States, by those who shall have brought them in. And the sale of any vessel or goods prohibited as aforesaid, shall be utterly void."

Some debate took place on this motion, the clause was at length expunged, 46 to 37—the bill was passed as amended.

The following remarks on the last motion were offered by Mr. Goodhue.

Mr. Goodhue observed, that the subject lay within a very narrow compass. If by our treaty with France they had a right to sell their prizes in our ports, there was nothing more to be said. If they had no such right by treaty, then it was to be considered how far giving them this right would be a violation of our present neutrality. As to the treaty, Mr. Jefferson our late Secretary of State, in his correspondence communicated to us the present session, had explicitly said that no such claim could be made by France, by virtue of our treaty with them, to such a measure; and indeed if we look into the treaty which France made with Great Britain in 1786, several years after the one they had formed with us, we shall have all doubts removed on the true construction which ought to be had upon the article mutually existing between us, by virtue of which such a right is pretended; for in the treaty they made with Great Britain, they expressly stipulated that in case either party should be at war with any other nation, no prizes of the one being so at war shall be sold in the ports of the other; consequently had it happened we had been at war with Great Britain and France had remained in peace, we could not by the article in our treaty with them, have had such an indulgence. Indeed, the gentleman from Virginia, Mr. Madison, seems to give up the right, and takes it up on the ground of expediency, and not having a tendency to violate our neutrality. Mr. Jefferson has also in his correspondence laid down this principle, that if a neutral nation granted a favor to one belligerent power which she withheld from the other, it was so far a violation of neutrality—this principle was incontrovertible.

Mr. Madison had said we had not heard that the British government had complained on this score to our minister at London, but tho' that was true, it was nevertheless true that their minister here had made complaint of it to us, and Mr. Goodhue was of opinion that in settling our accounts with Great Britain for the spoils they have committed on our commerce, they would bring as a charge against us the prizes made of their vessels, which we had permitted the sale of in our ports, he therefore hoped the clause would not be struck out agreeably to the motion for that purpose. Mr. Goodhue further observed, that it had given him much pain to have seen so many amendments proposed in the progress of this bill, to deprive the executive and judicial powers of this government from being vested with that authority, so essentially necessary to restrain the licentiousness from committing such acts, as unquestionably hazarded the tranquility of our country.

#### IN SENATE.

Wednesday, May 21st, 1794.

(Concluded.)

The Vice-President signed the enrolled

bill, entitled, "An act prohibiting for a limited time the exportation of arms and ammunition, and encouraging the importation of the same," and it was delivered to the committee to be laid before the President of the United States for his approbation.

The bill sent from the House of Representatives for concurrence, entitled, "An act to compensate Arthur St. Clair," was read the first time.

Ordered, That this bill pass to the second reading.

The bill sent from the House of Representatives for concurrence, entitled, "An act to authorize the settlement of the account of Lewis Dubois for his services in the late army of the United States," was read the first time.

Ordered, That this bill pass to the second reading.

The bill sent from the House of Representatives for concurrence, entitled, "An act to alter the time for the next annual meeting of Congress," was read the first time.

Ordered, That this bill pass to the second reading.

The Resolution sent from the House of Representatives for concurrence, that Congress adjourn on the third day of June next, was read.

Ordered, That this resolution lie on the table.

The Senate adjourned to 11 o'clock to-morrow morning.

Thursday, May 22d, 1794.

Mr. Vining reported from the committee on enrolled bills, that they did yesterday, lay before the President of the United States, the bill, entitled, "An act prohibiting for a limited time the exportation of arms and ammunition, and encouraging the importation of the same."

On motion, Ordered, That Mr. Ellsworth, Mr. Livermore and Mr. Monroe, be a committee to report a bill to authorize a settlement of the accounts of Loan-Officers for Clerk hire and stationary.

On motion, Ordered, That the same committee be instructed to bring in a bill to provide for mitigating or remitting fines, penalties and forfeitures incurred under revenue laws in cases not now provided for.

That the same committee be instructed to bring in a bill, further to extend the time for receiving on loan, the domestic debt of the United States; and

That the same committee be also instructed to bring in a bill, to continue in force "The act for the relief of persons imprisoned for debt."

On motion, Ordered, That the committee on the petition of George Taylor and others, be enjoined to report.

On motion, Ordered, That the committee on the message of the President of the United States of the 19th of February last, respecting the Judiciary be enjoined to report.

The bill, sent from the House of Representatives for concurrence, entitled, "An act to compensate Arthur St. Clair," was read the second time.

Ordered, That this bill be referred to Mr. Brown, Mr. Gunn and Mr. Vining to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled, "An act to authorize the settlement of the account of Lewis Dubois for his services in the late army of the United States," was read the second time.

Ordered, That this bill be referred to the committee last appointed to consider and report thereon to the Senate.

The Senate proceeded to consider the amendments reported by the committee, to the bill, entitled, "An act laying additional duties on goods, wares and merchandise imported into the United States, and on the tonnage of ships or vessels," which were adopted, and the bill amended accordingly.

Ordered, That this bill pass to the third reading.

A message from the President of the United by Mr. Dandridge his Secretary:

"Mr. President—The President of the United States hath this day approved and signed, "An act prohibiting for a limited time the exportation of arms and ammunition, and encouraging the importation of the same."

Ordered, That the Secretary acquaint the House of Representatives therewith.

The Vice-President laid before the Se-

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