

HOUSE OF REPRESENTATIVES,

WEDNESDAY, JUNE 21.

Mr. FINDLEY obtained leave of absence for the remainder of the session.

The SPEAKER having informed the house that the unfinished business of yesterday, viz. the bill prohibiting citizens of the U. States from entering into the military or naval service of any foreign prince or state, had the priority.

Mr. GALLATIN moved to have it postponed, in order to take up the bill respecting an additional naval armament. This motion was supported by Mr. Giles and opposed by Mr. W. Smith, and negatived 35 to 24.

The bill respecting foreign service was taken up, and, on motion of Mr. Havens, it was agreed to leave the time of its taking place a blank.

Mr. COIT moved to strike out the sixth section, which was in the following words:

"And whereas for the due execution of this and other laws tending to the security of the public welfare, it is expedient to define and ascertain the mode in which a citizen may dissolve the ties of citizenship, and become an alien; be it further enacted,

"That the citizens of the United States, whether native or adopted, shall be deemed citizens thereof, until they relinquish that character in manner hereinafter provided, that is to say; whensoever any citizen of the United States shall, by deed in writing, under his hand and seal, executed in the presence of, and subscribed by two or more witnesses, and at least by two of the subscribing witnesses proved before the supreme, superior, district or circuit court of some one of the States, or of the Territories north-west of the river Ohio, or before a circuit or district court of the United States, within the jurisdiction of which court he shall then be resident, or by open verbal declaration, made and recorded in either of the courts aforesaid, declare that he absolutely and entirely renounces all allegiance and fidelity to the United States, and to every of them, and shall forthwith depart out of the territorial limits thereof; every such person, from the time of his departure, if his renunciation, verbal or written as aforesaid, shall have been duly recorded before his departure, shall be considered expatriated, and for ever thereafter shall be deemed an alien, in like manner and to all intents as if he had never been a citizen: Provided always that he shall not enter into the military or naval service of a foreign nation, or become the owner or part owner of any foreign privateer or letter of marque, within one year of his departure from the said United States; and if any such person shall enter the military or naval service of a foreign nation, or become the owner or part owner of any foreign privateer or letter of marque, within the space of one year from the time of his departure from the United States, he shall be liable to all the pains and penalties to which he would have been subject for the like conduct if he had continued a citizen."

Mr. SEWALL hoped it would be struck out. In every country in the world where civil society was established, the citizens of that society owed a certain duty to their government which he could not readily get clear of; but they were about to establish a principle to put it in the power of the citizens of the United States at their will, and without any pretence, to say they would be no longer subject to this government; and this at a moment of danger, when citizens of other countries might be called home from this country. He thought this would be extremely wrong, it would be giving an opportunity for insult to our courts and country, and he was sure no nation would shew us so much complaisance in return.

Mr. CLAIBORNE thought it no more binding for citizens born in the United States to continue citizens of the United States, than it was for a Roman Catholic or Protestant, to continue of that opinion, when he arrived at years of maturity, and could judge for himself. He insisted upon it men had a natural right to choose under what government they would live; and they had no reason to fear our citizens leaving us whilst our government was well executed. He did not wish citizens of the U. States to be in the situation of subjects of Great Britain, who, tho' they had left the country 40 years ago, were liable to be considered as subjects of that Government. He trusted the rights of man would not be thus infringed, but that they should allow the right of expatriation unobscured.

Mr. SEWALL said there was a great difference between the two cases which the gentleman had stated. A man born and educated in a country certainly owed it obligations which were not to be shaken off the moment he chose to do so. The different societies of the world, he said, were like so many families independent of each other; and what family, he asked, would suffer any of its members to leave it, and go into another, when they pleased? He thought it unreasonable that it should be so.

Mr. W. SMITH (Ch.) said, the doctrine of perpetual allegiance was derived from G. Britain, which, though it might be good in theory, was not in practice. They had departed from many doctrines derived from that country, and the time was come, he believed, for departing from this. The idea of a man being compelled to live in this country, contrary to his will, seemed to be repugnant to our ideas of liberty. He thought when a man was so disgusted with the country, as to resolve to leave it, for the purpose of becoming a citizen of another country, he should be at liberty to do so on his complying with certain formalities, and should never again be re-admitted. It was upon this principle that this section was founded, and he thought it valuable.

Mr. S. thought this section essential as it would be the means of preventing quarrels with foreign countries. For instance, if a citizen of this country took command

of a French ship of war, and were to commit hostilities on the property of citizens of the United States; if he were taken, he might allege he was a citizen of the French Republic, and that government might claim him as such; but if this bill passed, no man could cover himself under this pretence who had not complied with the requisitions in this act. He mentioned the case of Mr. Talbot.

Mr. S. said they had held out inducements for persons to come to this country. We did not allow they owed allegiance to any other country after they had become citizens of this. To grant this, would be a fatal doctrine to this country. It would be to declare, that in case we were at war with another country, that country might recal persons from this, who formerly came from thence. Many persons of that description were amongst us. At present, they enjoyed all the benefits of our law, and voted at our elections; and yet, if this doctrine were admitted, these persons might be recalled as aliens; and, if they were not recalled, they would be considered as qualified aliens, and not as real citizens.

This law, Mr. S. said, was necessary, as at present there was not sufficient energy in the government, to punish persons serving on board foreign ships of war. This bill would cure the evil, and give an opportunity for turbulent, discontented characters, to leave the country, for ever. He believed it was the general opinion of the citizens of this country, that they had a right to expatriate themselves, and he thought it was now a proper time to pass some regulations on that subject.

Mr. SITGREAVES thought this one of the most delicate and important subjects that ever came before Congress. He saw a number of difficulties; but he thought they were not of a nature to discourage them from considering the bill; he trusted they should meet them with firmness.

The evil, he said, which gave rise to this bill, was a great and growing one. In the first war which had taken place in Europe since our Independence, they found this doctrine of expatriation, as claimed by our citizens, endangering our peace with a foreign nation; and if this principle were admitted, he feared we should always be liable to similar embarrassments.

Mr. S. took notice of the different objections made to this section. He observed there seemed to be much doubt on the subject, which he thought ought to be removed by passing a law of this sort. He wished he could agree in the opinion, that no citizen had a right to expatriate himself from this country. He thought it a doctrine essential to the peace of society. He wished it was generally recognized; but he believed the major opinion in this country was different; and though not directly, it had in a great degree been recognized by the executive and judiciary, in the cases of Henfield and Talbot. He feared, therefore, it was too late for them to say the right did not exist; it was time, however, for Congress to declare an opinion on the subject. If the proposition in the bill was not a proper one, it should be made so.

In the state of Virginia, this doctrine was legalized, and in the constitution of Pennsylvania, it was strongly indicated, as it said, "emigration should not be prohibited." It was a favorite idea of a republican government not to forbid it. He did not agree with the principles of the clause in all its parts. He thought citizens ought not to be allowed to expatriate in time of war, as their assistance would be wanted at home. It was his intention to have moved an amendment, allowing expatriation only in time of peace, and an express provision against it in time of war. He thought the doctrine of the gentleman from Maryland, viz. that our citizens ought to go into other countries to learn the art of war, was chimerical. When they had obtained rank and wealth in a foreign country, it would be in vain to call them back—they would not return. He hoped, therefore, the section would not be struck out, but that they should proceed to amend it.

Mr. N. SMITH was sorry that the committee who reported this bill, had thought it necessary to report the 6th and 7th sections. The doctrine of expatriation on one hand, and perpetual allegiance on the other, were subjects they had all heard much about; but expatriation, under limitation and restraint, was a new business. From its novelty it became doubtful. This being the case, he wished the subject had been deferred to an ordinary session. Particularly as it appeared to be no more connected with other parts of the bill, than with many other laws now extant. If we were to have a law on this subject, he should wish to have it in a separate bill. For his part, he could not see how the committee could suppose it to have been a part of their duty to report these sections; if he had thought it had, he should not have voted for appointing a committee on the occasion.

Gentlemen advocating these clauses, say they would not allow of expatriation in time of war. He would go further and say, he would not allow of it when there was a prospect of war; for it would be idle to prohibit it in one case, and not in the other. He then asked, if this was the very state in which we now were? If it were, why pass such a bill at this time, when it could not go into operation? He thought this a good reason for rejecting these clauses.

There was a mutual obligation, Mr. S. said, between a government and all its citizens. The government owed protection to its citizens, and citizens owed obedience to their government. These duties were mutual and co-extensive; and they might as well say that government could abandon its citizens when it pleased, as that citizens could desert their government when they pleased; yet he would allow that government might, on certain occasions, legalize expatriation, but not on the ground of a citizen's having a right to expatriate when he pleased. He should have no objection to take up the

subject at a time when they could do justice to it, but he thought the present was not that time.

The question for striking out the 6th section, was put and carried 45 to 41. The 7th section, which was as follows, fell of course:

"That all persons who shall exercise the right of expatriation, according to the laws of the United States, shall be and are hereby prohibited from becoming citizens of the United States forever thereafter."

Mr. HARPER proposed an amendment, which was intended to introduce a new principle.—As the bill now stood, no person could go into foreign service without incurring the penalties therein provided; but he believed there might be cases where it would be for the benefit of this country to allow persons to go into foreign service. He therefore wished to strike out the words "the limits of the fame," to introduce those of "without having first obtained leave from the President of the United States."

Mr. CLAIBORNE thought the powers of the President large enough, and did not wish to increase them, nor to lay additional duty upon him.

Mr. VENABLE did not think it necessary to entrust the President with such a power. He did not believe it was the practice of any country to grant a power of this kind, except in cases of officers, who, when they wished to go abroad, asked leave, because always liable to be called upon.

Mr. DAYTON (the speaker) moved to strike out the words moved to be struck out by the gentleman from S. Carolina, with the addition of the word "without." As the bill stood, he said, there was a provision against citizens who accepted and exercised a commission within or without the limits of the United States; but none against those who accepted within, and exercised it without the limits, or who accepted it without, and exercised it within the limits. He was against lodging the power proposed in the President for the reasons assigned by the gentleman from Virginia. Nor did he think it would be attended with advantage for our citizens to go abroad to learn what could not be learnt at home; he believed, in doing so, they would learn more vice than virtue, and bring home a greater portion of evil than good.

Mr. SWANWICK was surprised, that after all that had been objected against our citizens entering into the service of foreign countries, that gentlemen should bring forward a proposition to authorize the President to grant them leave to go into it when he shall think proper. This would be placing the President in a very delicate situation; because if he allowed citizens to go to fight in one country, he must allow them to go into another, or there would be a breach of neutrality; and it would be an unpleasant thing to refuse applications of this kind. No advantage could be derived from this plan, equal to the disadvantages of thus placing the power. Indeed, he thought the proposition an argument against the bill itself.

After a few observations from Mr. Harper and Mr. Sewall, the question on the amendment of Mr. Dayton, was negatived 44 to 39.

Mr. DAYTON hoped some remedy would be applied to the evil he had mentioned; and that they should not report so imperfect a bill.

Mr. SEWALL suggested a way in which it might be remedied in the house. The committee accordingly rose, and the House took up the amendments. Having come to that for striking out the 6th and 7th sections.

Mr. DENT called for the yeas and nays, which were agreed to be taken.

Mr. VENABLE said, it seemed to be admitted that a right of expatriation existed in our citizens; and if so, he thought there should be some mode of exercising that right. He had no particular objection to the mode marked out in these clauses. It had been said this was not the proper time, but he thought it was, since it was in some degree connected with the present bill. The gentleman from Connecticut had stated allegiance and protection to be mutual. He did not think they were so, to the extent which he stated. This government was not bound to protect citizens who went into foreign service, as in doing so they chose the protection of another government.

Mr. HARPER asked for an instance in which the executive and judiciary had countenanced the doctrine of expatriation.

Mr. NICHOLAS thought it would have been better to have avoided taking up this subject at present; but having taken it up, if the bill passed at all, he believed it had better pass with some regulations at the present. As to the doctrine of perpetual allegiance, he did not think it could find many advocates in this country. It would, indeed be dishonorable for us to hold out such a doctrine, after inviting people to come here in crowds from foreign countries. This doctrine he said would affect a third or fourth of the whole people of this country. He thought, therefore, the right of expatriation ought at least to be confirmed here, as an example to other countries.

Mr. W. SMITH in answer to his colleague, produced the case of Talbot, and the opinion given by the Secretary of State and by the judiciary court on that occasion, in favour of the right of expatriation.

Mr. GILES thought there could not be a doubt in the minds of Americans on the subject of expatriation. Indeed, he said, this was the foundation of our revolution; for they were not now, he said, to be told they owed allegiance to a foreign country. It had not only been the ground of the revolution, but all their acts had been predicated upon this principle. He referred to the act respecting the rights of naturalization, which makes every new citizen swear to support the constitution of the United States, and to renounce all other allegiance.

Mr. GALLATIN was opposed to these sections. With respect to expatriation, hav-

ing himself exercised that right, he could not be supposed to be opposed to that right. Perpetual allegiance was too absurd a doctrine to find many advocates in this country. The question was not whether citizens had a right to expatriate, but whether they should in this law prefer a mode of doing it. The doctrine seemed to have been recognized by the Executive and judiciary. He was against going into this business, because he thought it unnecessary. He believed the determination of who were citizens and who were not, might be safely left with the judiciary. He also had his doubts whether the United States had a right to regulate this matter, or whether it should not be left to the states, as the constitution spoke of the citizens of the States. It was a doubtful matter, and ought to undergo a full discussion. The emigrants from this country to foreign countries were trifling—but from 10 to 12,000 of our citizens had gone to Canada, and upwards of 5000 beyond the Mississippi, 4000 of whom would be got back by the running of the lines. A number of these men hold lands in the United States; some have sold their lands and become citizens under another government. This subject would, therefore, require considerable deliberation at a future day. He wished the amendment of the committee of the whole to be adopted.

Mr. SITGREAVES confirmed his former statement with respect to the question of the right of expatriation having been settled by the Judiciary. In order to do this, he read a note from one of the counsel in the cases of Henfield and Talbot, giving an account of the opinions of the court on the occasion.

Mr. SEWALL insisted upon the policy of preventing the renunciation of allegiance without control. The treaty of peace with G. Britain he said, had dissolved our allegiance to that country, and acknowledged our independence.

Mr. GILES believed the evil apprehended from individuals having the right to expatriate themselves when they pleased, was more imaginary, than real. Only two citizens had taken advantage of that right in the state of Virginia, where it was allowed in all its extent, in twelve years! But if there were any citizens so detached from the government, as to wish to leave the country, he should wish them gone. To suppose this, would be to suppose a real division betwixt the people and government, which he did not believe had existed. It was said Great Britain did not allow the doctrine of expatriation; but he said, he had not any naturalization law. He was in favour of excluding citizens who once expatriated themselves from ever returning to this country.

Mr. THATCHER did not think the principle was so important as it had been considered. The great emigrations which we every day saw to this country, might quiet their apprehensions of many going from it. He did not think one man a year would take advantage of the expatriation clause for 50 years to come, which could be no great object especially when it was considered that these would probably be the least valuable of our citizens.

Mr. GORDON was in favour of the amendment of the committee of the whole, though he could not say he had wholly made up his mind upon the subject. He thought these sections important, and perfectly distinct from the bill; he, therefore, wished the consideration of this matter to be postponed to a period when they should have more leisure for the discussion.

Mr. OTIS said, that when this bill was first reported, these clauses struck him unfavorably; but a little reflection had convinced him of the propriety of retaining them. The passing of this provision, he said, would not affect the constitutional right with respect to expatriation, whatever it might be. This bill did not relate to persons emigrating into the Spanish or English territories, but to persons expatriating themselves, and engaging in the service of foreign countries.

The question on agreeing to the report of the committee of the whole to reject the 6th and 7th sections of the bill was taken by yeas and nays as follow—

YEAS. Messrs. Baer, Baird, Bayard, Bradbury, Bryan, Cabell, Cochran, Coit, Craik, Davis, D. Foster, J. Freeman, Gallatin, Goodrich, Gordon, Gregg, Griswold, Hanna, Harper, Hartley, Locke, Lyon, M. Dowell, Schureman, Sewall, Skinner, N. Smith, Standford, Swanwick, Thompson, Thomas, Van Cortlandt, Varnum, R. Williams—34.

NAYS. Messrs. Baldwin, Blount, Brookes, Brent, Burgess, Cabell, Claiborne, Clay, Clopton, Dana, Dawson, Dennis, Dent, Elmon, dori, Evans, Findley, A. Foster, Giles, Gillespie, Glen, Harrison, Havens, Holmes, Holmer, Imlay, Jones, Lyman, Machir, Macon, Matthews, M'Clenahan, Milledge, Morgan, New, Nicholas, Otis, Parker, Potter, Reed, Rutledge, Shepard, Sinickson, Sitgreaves, S. Smith, J. Smith, W. Smith (C.), W. Smith (P.), Sprigg, Sumpter, Thatcher, A. Trigg, J. Trigg, Van Alen, Venable, Wadsworth, J. W. Williams—57.

All the amendments having been gone thro' Mr. S. Smith moved to postpone the further consideration of the bill till the first Monday in November.

This motion was supported by messrs. Varnum, N. Smith, Baldwin, Goodrich and Coit, as involving a question of too delicate and important a nature to be passed over in this hasty manner, and because there was no pressing necessity to go into the measure at present.

It was opposed by messrs. Otis, Williams, W. Smith and Craik, on the ground of the provision of the bill being necessary, and that to postpone the business, after so simple a discussion, would be undoing what they had been doing for two or three days.

The question for postponement was taken by yeas and nays as follow:

YEAS. Messrs. Baer, Baldwin, Baird, Blount, Brent, Burgess, Cabell, Claiborne, Clay, Clopton, Coit, Dawson, Elmon, dori, Findley, Foster, Fowler, N. Freeman, Gallatin, Giles, Gillespie, Goodrich, Gordon, Gregg, Griswold, Hanna, Harrison, Havens, Jones, Locke, Lyon, Macon, M'Clenahan, M'Dowell, Milledge, New, Nicholas, Parker, Sewall, Skinner, N. Smith, S. Smith, W. Smith (P.), Sprigg, Standford, Sumpter, Swanwick, A. Trigg, J. Trigg, Van Cortlandt, Varnum, Venable, R. Williams—52.

NAYS. Messrs. Bayard, Bradbury, Brookes, Bryan, Chapman, Champlin, Cochran, Craik, Dana, Davis, Dennis, Dent, Evans, A. Foster, J. Free-

man, Glenn, Grove, Harper, Hartley, Hindman, Holmes, Holmer, Imlay, Kittera, Lyman, Machir, Matthews, Morgan, Otis, Potter, Reed, Rutledge, Schureman, Shepard, Sinickson, Sitgreaves, J. Smith, W. Smith (Ch.) Thatcher, Thomas, Thompson, Van Alen, Wadsworth, J. Williams—44.

The bill being thus lost, Mr. W. Smith proposed a resolution to the house for appointing a committee to report a new bill without the two last clauses, which it was evident had been the cause of the negative given to the bill. As he supposed no opposition would be made to the bill so reported, it might be got through without loss of time.

After some further conversation on a point of order, whether or not this resolution could be admitted, the speaker declared it in order, but Mr. Coit wishing it to lie on the table till tomorrow, it lay accordingly.

Mr. Reed, from the committee of enrolment, reported the bill for the further protection of the ports and harbors of the United States as duly enrolled, and it accordingly received the signature of the speaker. Adjourned.

THURSDAY, JUNE 22.

Mr. W. SMITH called up the resolution which he yesterday laid upon the table, for appointing a committee to bring in a bill for prohibiting citizens of the United States from entering on board foreign ships of war without the expatriating clauses.

This resolution was opposed by Messrs. Baldwin, Giles and Venable, and supported by the mover and Mr. Harper. It was negatived 49 to 46.

A message was received from the President of the United States, in consequence of the resolution of the 17th inst. calling upon him for information, relative to French and English specifications, since the 1st of October, 1796, including documents as follows:

Report of the Secretary of State to the President of the United States, respecting the depredations committed on the commerce of the United States.

1. Abstract of two cases of capture made by the British cruisers of vessels belonging to citizens of the United States since the 1st of October, 1796, and wherein documents have been received at the department of state; also a copy of a memorandum filed by S. Smith, Esq. relating to captures made by the British of vessels in the property of which he was concerned. Note. No documents accompany the two cases of captures above mentioned, they having been sent to London, in order that compensation might be obtained for damage suffered.

2. A correct copy of the decree of the executive directory of March 3, 1797.

3. Copies of documents remaining in the department of state, relative to American vessels captured or condemned by the French since the 1st of October, 1796.

4. Extracts from communications from the consuls of the United States relative to depredations committed on the commerce of the United States by the French.

5. Schedule of the names of American vessels captured by the French and of the circumstances attending them, extracted from the Philadelphia Gazette and Gazette of the United States, and commencing with July 1796.

6. Extract of a letter from Rufus King, Esq. minister &c. enclosing the protest of William Martin, master of the Cincinnati of Baltimore, relative to the torture inflicted on the said Martin, by a French cruiser.

Mr. GILES moved that the above papers should be referred to a select committee, to print such as would be useful to the house.

This question was negatived 50 to 46, and a motion carried for printing the whole.

Mr. GILES called up the motion which had some days ago been laid on the table respecting an adjournment.

Mr. GALLATIN wished to modify his motion, by making the proposed day of adjournment the 27th instead of the 24th inst.

Mr. SITGREAVES moved for the yeas and nays on the question.

Mr. MACON moved to make the day the 28th, which was negatived by the mover.

Mr. DENT proposed to make it the 30th.

The question was taken on postponing to the 30th, and negatived, there being only 28 votes in favor of it.

The question on the resolution, for the 28th, was carried by yeas and nays as follows.

YEAS.

Messrs. Baldwin, Baird, Blount, Brent, Bryan, Burgess, Cabell, Claiborne, Clay, Clopton, Coit, Davis, Dawson, Ege, Elmon, dori, Findley, Fowler, N. Freeman, Gallatin, Giles, Gillespie, Gregg, Hanna, Harrison, Havens, Holmes, Jones, Locke, Lyon, Macon, M'Clenahan, M'Dowell, Milledge, Morgan, New, Nicholas, Parker, Potter, Reed, Skimer, S. Smith, W. Smith, (P.) Sprigg, Standford, Sumpter, A. Trigg, J. Trigg, V. Cortlandt, Varnum, Venable, R. Williams—51.

NAYS.

Messrs. Allen, Baer, Bayard, Bradbury, Brookes, Chapman, Champlin, Cochran, Craik, Dana, Davenport, Dennis, Dent, Evans, A. Foster, D. Foster, J. Freeman, Glen, Goodrich, Gordon, Griswold, Grove, Harper, Hartley, Hindman, Holmer, Inlay, Kittera, S. Lyman, Machir, Matthews, Otis, Rutledge, Schureman, Sewall, Shepard, Sinickson, Sitgreaves, J. Smith, N. Smith, W. Smith, (C.) Thatcher, Thomas, Thompson, V. Alen, Wadsworth, J. Williams—47.

Mr. PARKER moved the order of the day on the bill from the Senate; providing for the protection of the trade of the United States, and the House accordingly went into a committee on that subject.

The bill having been read, some observations took place respecting the fixing of the price of seamen's wages, instead of leaving it to the discretion of the President, but no question was taken; as it was suggested the other parts of the bill had better first be gone through.

Mr. PARKER moved to strike out the following section, of the bill, viz. "That the President of the United States be, and he is hereby authorized and empowered, should he deem in expedient, to cause to be procured by purchase or otherwise and to be fitted out, manned, & employed, a number of vessels, not exceeding nine, to carry, not exceeding twenty guns each."

Mr. P. thought, if the revenue cutters were armed, as had before been suggested, there would be no necessity for the vessels here proposed, which he did not think to well calculated for service as them. They would carry 10 or 12 guns, and from 40 to 50 men, and would be able to cope with any small privateer on our coast, or in the West-Indies. He proposed to introduce a new clause for this purpose.

Mr. S. SMITH thought the object of the gentleman last up might be attained by