



CONGRESS.

PHILADELPHIA.

HOUSE OF REPRESENTATIVES,
WEDNESDAY, DECEMBER 7, 1791.

IN COMMITTEE OF THE WHOLE.

On the Post-Office Bill.

(CONCLUDED.)

Mr. Sedgwick's motion under consideration.

MR. MADISON said that the arguments which are offered by the gentlemen who are in favor of the amendment, appear to be drawn rather from theory than any line of practice which had hitherto governed the house.

However difficult it may be to determine with precision the exact boundaries of the legislative and executive powers, he was of opinion that those arguments were not well founded, for they admit of such a construction as will lead to blending those powers so as to leave no line of separation whatever.

The greatest obstacle to the due exercise of the powers vested in the legislature by the bill, which has been mentioned, is the difficulty of accommodating the regulations to the various interests of the different parts of the Union—and this is said to be almost impracticable—but it may be remembered, that similar embarrassments appeared when the impost and tonnage bills were under consideration; on those subjects, the members were obliged to be governed, in a great degree, by mutual information and reciprocal confidence, in respect to the establishment and arrangements of the different ports of entry and clearance, and other objects—that was a business of much greater importance and difficulty than this; but it was accomplished.

The constitution has not only given the legislature the power of creating offices, but it expressly restrains the executive from appointing officers, except such as are provided for by law. As has been well observed by the gentleman from Delaware, the President is invested with the power of filling those offices—but does it follow that we are to delegate to him the power to create them?

The reference to the appointments and arrangements made by the executive, pursuant to the powers delegated to the executive by the excise law, cannot be considered as a parallel case; no similar exigency exists to justify a similar delegation. The danger of infringing on the powers of the executive, which has been suggested, and the caution to the house against touching on the appointment of officers, is a species of reasoning on the subject, which may be carried so far as to say that we ought not to make any appointments by law—and yet this has been done as in the instance of the appointment of the commissioners for purchasing in the public debt, all of whom were appointed by the act making provision for the reduction of the public debt.

Where is the necessity of departing from the principles of the constitution in respect to the post-office and post-roads, more than in all other cases? The subject is expressly committed to legislative determination by the constitution.—If the second section of the bill requires amendment, it can be rectified when it comes before us; and with respect to future cases, should there be a necessity for additional post-roads, they can be provided for by supplementary laws—and therefore no reason on that account can be urged for delaying the provision proposed by the bill.—He concluded by saying that there did not appear to be any necessity for alienating the powers of the house—and that if this should take place, it would be a violation of the Constitution.

Mr. Sedgwick said he would make a few observations, which he felt himself obliged to submit to the consideration of the committee, as well to defend himself as his motion, from the unwarrantable attacks which gentlemen had made on both.

The powers of the constitution, he was sorry to say, were made in debate to extend or contract, as seemed for the time being to suit the convenience of the arguments of gentlemen. The member from Virginia, (Mr. Madison) had discovered an additional quality of unconstitutionality involved in the motion under consideration. It was, that the creation of offices was by the constitution confined solely to the legislature.—This position was undoubtedly just, if by it was meant that the powers and duties of offices must be defined by law. But he understood the gentleman to extend his meaning much further, and to have declared in substance, that all offices, however subordinate and dependent, must be numerically provided for by law.—The gentleman had, with his usual

writes me he is sending forward a quantity of woollen overalls and socks by General Butler's orders: I have ordered them to be deposited at Fort Jefferson. Some few Indians about us, probably those the militia fell in with a day or two ago. Two of the levies were fired upon about three miles off, one killed: two of the militia likewise, one of them got in, and the other missing, supposed to be taken. 29th, Pyamingo and his people, accompanied by Captain Sparks and four good riflemen, gone on a scout; they do not propose to return under ten days, unless they sooner succeed in taking prisoners and scalps. 30th, the army moved about nine o'clock, and with much difficulty made seven miles, having left a considerable part of the tents by the way; the provision made by the quarter-master for that purpose was not adequate—three days flour issued to the men to aid the horses that carried it to his arrangements; the Indian road still with us—the course this day N. 25. W. 31st. This morning about sixty of the militia deserted—it was at first reported that half of them had gone off, and that their design was to plunder the convoys which were upon the road—detached the first regiment in pursuit of them, with orders to Major Hamtramck to send a sufficient guard back with Benham whenever he met with him, and follow them about twenty-five miles below Fort-Jefferson, or until he met the second convoy, and then return and join the army. Benham arrived last night, and to-day, Nov. 1st, the army is halted to give the road-cutters an opportunity of getting some distance a-head, and that I might write to you—I am this day considerably recovered, and hope that it will turn out what I at first expected it would be, a friendly fit of the gout come to relieve me from every other complaint.

Yesterday I was favored with yours of the 28th and 29th September, I have enclosed my communications with the old and new contractors and their answers—My orders for the posts to them are not yet definite, but they will be very soon, in the mean time I expect they are both at work.

With great respect I have the honor to be,
Sir, your most obedient servant,

ARTHUR ST. CLAIR.

The Hon. Maj. Gen. KNOX,
Secretary of War.

FROM THE WINCHESTER (VIRGINIA) CENTINEL.

AFTER Gen. St. Clair's army left Fort-Washington, they erected two forts, the first of which is called for Hamilton, the second Fort-Jefferson—that, within about 15 miles of the Maumee towns, they halted for the purpose of erecting a third—that the savages hovered round their camp on the day preceding the action, which caused the troops to lie on their arms during the night—that the former began the attack about day-break—that the carnage was great on both sides—that two troops of light horse cut their way through an immense multitude of the savages, and finding a still greater number in their rear, were compelled to return in the same manner—that the gallant Colonel Darke cut his way thro' parties of the savages three different times—that the artillery was captured by the enemy five, and recaptured by our troops four times—that Gen. St. Clair was lying ill of the gout in his tent during the unhappy conflict—that his guards prevented some of the Indians from entering the tent, to butcher him, by mere dint of the bayonet—that many of the enemy fell in this attempt—and that some women are among the slain on the part of the Americans.

The Chickasaw Chief, Mountain Leader, with 42 warriors of that nation, passed through Lexington some time in October last, on their way to join Gen. St. Clair—that at the time of the action many of these were present, who fought with great bravery on the part of the Americans, but the Mountain Leader himself had been sent by the General, some days previous thereto, as a pilot to a detachment of the army, which was ordered against some of the enemy's towns.

LONDON, September 30.

THE famous Baron Trenck, whose pension the Emperor had augmented from 1000 to 1500 florins, on condition that he engaged under his hand not to publish any thing either in the Austrian dominions or elsewhere, has been guilty of an unpardonable breach of faith. No sooner was he arrived in Hungary, than at Buda he committed a work to the press in favor of the French Revolution, in which he had the temerity to declare, that the convulsion of the French ought to serve as a model for other States, and that himself had contributed much to the Revolution.

The Hungarian government having seized his person, he was conducted to Vienna under an escort of twelve grenadiers, and is put into the mad house, where probably he will end his days.

The Princes of the German empire have referred the whole of their concerns respecting the affairs of France, and the proceedings of the National Assembly, to the Emperor, with a promise to abide with whatever he shall advise in that business.

accuracy and precision, foreseen the application of his principle to the power which on the same subject had been delegated by the excise law, by which the executive was authorized to parcel the whole country into districts, and to appoint the various officers necessary to execute the business. Nothing more was in that instance done, than to define the powers and duties annexed to the offices, but the limits to which their authority was to extend; and their number was very properly left with the executive. In that instance, such a delegation was indispensably necessary—not was it, in his opinion, less necessary in the multifarious arrangements of post-offices. That gentleman had supposed this necessity had in that instance justified the expedient; if so, the same conclusion might be drawn on the present occasion. But, for his part, if he should assume that member's opinions, he should be incapable of deriving consolation from the same source;—for that there never had as yet been, and probably never would exist in the administration of this government, a necessity so urgent as to authorize an usurpation of power. The motion before the committee was constitutional, or the reverse—if the latter, the same was true of the existing act in the instance alluded to. That in either instance, a supposed necessity could not justify the infraction of a constitution which the members were under every obligation of duty, and their oaths solemnly pledged, to support. Gentlemen, said he, should be very cautious how, on slight grounds, they assent to principles, which, if they were true, would evince that the government had scattered through the whole country, officers who are daily seizing on the property of the citizens, by the assumption of unconstitutional powers.

He said it was true, as had been observed by his friend from New-York (Mr. Benson) that it was impossible precisely to define a boundary line between the business of legislative and executive; but from his own experience as a public man, and from reflection, he was induced to believe, that as a general rule, the establishment of principles was the peculiar province of the former, and the execution of them, that of the latter. He would therefore, at least generally, as much as possible avoid going into detail. In adopting this as a general rule of conduct, he was not influenced by considerations which gentlemen in opposition to his motion, had suggested; the pre-eminently great and good character of the man who was now called by unanimous suffrage to administer the executive.—For he had always considered that with sagacious minds, that should be the season of political caution, when the executive was in the hands of one to whom all hearts justly bowed. From the nature of the business to be transacted, he had drawn his conclusion; he thought an executive officer responsible to the public for the performance of an important and interesting trust, would enquire with more scrupulous caution, and decide with more justice, than could be expected from a popular assembly—who from the nature of things, would be more remiss than consisted with a just determination; and he appealed to those gentlemen who were members of the last house, for a recollection of that apathy and torpor which prevailed on a former attempt to demark the post roads.

He observed that the opposition to his motion on the ground of unconstitutionality, came with an ill grace from the gentleman who had reported the bill; for by one section, the post-master-general was expressly authorized to establish post-roads not provided for by the bill, upon a condition that does not at all affect the present question; and by another section, the same officer was authorized to appoint unrestrained all his deputies, each of whom is to establish and keep an office. This, in his opinion, was not only expedient but indispensably necessary. It was, however, a delegation of power, attended by all those circumstances which rendered in the opinion of that gentleman, the present motion unconstitutional.

He said, no gentleman had contended for carrying into execution the principles they attempted to establish, to an extent to which they would go.—That no road can be a post road but such as shall be established by law. The bill establishes the road from place to place, leaving the intermediate distance untouched; as for instance, from Boston to Worcester: Between those two points is, or is not a post road, if the bill should become a law, established? If the former part of the dilemma is embraced, then also by the motion, if adopted, will a post-road be established from Maine to Georgia. For he supposed it impossible to make any well founded distinction between the one case and the other. His motion then would as effectually establish a post-road in the intermediate space as the bill in its present form; and all the objections which had been made to the former would apply with equal force to the latter.

Gentlemen, he said, had spoken in strong terms of the disinterestedness, information, and ref-