



CONGRESS.

PHILADELPHIA.

HOUSE OF REPRESENTATIVES,
WEDNESDAY, FEBRUARY 8.

In committee of the whole, on the Fishery Bill.

On the motion to strike out the words "bounty now allowed," and to insert "allowance now made," &c.

MR. GILES observed, that he conceived the vote of yesterday against striking out the first section, was a decision in favor of the policy of granting governmental aid to the fisheries; the inquiry of to-day will be on what terms this aid shall be granted?

He felt, he said, but little regret at the decision of yesterday, because he had himself previously contemplated some reasons, not unimportant, to justify that decision, and others had been suggested by several gentlemen in the course of the debate: The principles of this policy, he thought however might be combated by reasons of at least equal, and as far as he was able to judge, of paramount importance; but as he admitted considerable weight in the reasons on each side of the question, he was not particularly tenacious of the preference which his own opinion suggested. When he first mentioned his doubts respecting the principle of the bill, it was with diffidence, and those doubts in some measure arose from an idea that the bill contained a direct bounty upon occupation; upon a more minute examination he thought the term bounty unnecessarily introduced into the bill, and that the object of it could be answered without the use of terms, which might hereafter be deemed to contain a decision upon the general principle of the constitutional right to grant bounties; it was to avoid any thing which might wear the appearance of such a decision, that induced him to make the present motion.

He proceeded to remark that as great a difference of opinion often existed respecting the precise meaning of the terms used, as the consequences which flow from them after attaining such precision of meaning; and it is of importance to the present discussion that an accurate definition of the terms used in the bill, and those proposed to be used, should be had.

The avowed object of the bill is not to increase, but to transmute the sum or a portion thereof now allowed to the fisheries in lieu of the drawback upon salt, from the merchant who is now supposed to receive the sole benefit, to the fishermen really employed in the fishing vessels: This is a mere chimerical project, but if it be admitted that this is the object to be effected by the bill, the term bounty is improperly applied.

A gentleman from Massachusetts (Mr. Ames) who rests the defence of this bill almost solely upon this position, that those who receive the benefit intended by it, are of right entitled to such benefit in consideration of a previous advancement in value, and that this bill contains a mere permission to them to retain their own, has at the same time declared, that he thought the term bounty the most proper and technical, to convey this idea—in this, the gentleman appears to have deviated from his usual accuracy. A bounty is the granting a benefit without a correspondent return in value—a drawback is the retaking of something in consideration of a previous advancement; this is always founded upon a consideration previously received—that is a grant of favor, *ex mero motu*.

But the great characteristic distinction between bounties and drawbacks as they essentially relate to the administration of this government, consists in the governmental objects to which they may severally be applied: Drawbacks are necessarily confined to commercial regulations—bounties may be extended to every possible object of government, and may pervade the whole minutia of police, they may not only be extended to commerce, but to learning, agriculture, manufactures, and even the sacredness of religion will be found too feeble to furnish complete protection from their influence. The people of the United States have always been scrupulously tenacious of a constitutional security for the most free and equal exercise of this right, but through the medium of bounties even this right may be invaded, and the only security against such invasion must be governmental discretion.

The same characteristic distinction will attend that species of bounty which may incidentally result from commercial regulations; and direct bounties upon occupation founded upon the broad basis of discretionary right: the specification in the constitution of the right to regulate commerce, may possibly in some cases give rise to

this indirect species of bounty, not from any right in the constitution to grant bounties, but as the necessary result from the specified right to make commercial regulations—and this specification can be the only foundation of justification to this indirect species of bounty, but there is no specification in the constitution of a right to regulate learning, agriculture, manufactures or religion, and so far as the sense of the constitution can be collected, it rather forbids than authorizes the exercise of that right.

Arguments used to deduce any given authority from the term *general welfare*, abstractedly from the specification of some particular authority, are dangerous in the extreme to rights constitutionally reserved, and ought ever to be viewed with great caution and suspicion; they serve directly to shew that this government is not only consolidated in all its parts, but that it is a consolidated government of unlimited discretion, that it contains no constitutional limitation or restriction. If any given authority be inferred from the term *general welfare* in the abstract, any other authority is equally deducible from it, because the term is applicable to every possible object of government, and differs only in degree, as to the several governmental objects.

He could not see the force of the novel and curious distinction taken by a gentleman from Connecticut (Mr. Hillhouse) between *general welfare* and *particular welfare*; for every particular welfare however minute, may be in a degree for the general welfare, and if the decision respecting the existence of this distinction, have no other limitation than congressional discretion—it is equally destructive of all constitutional restraint.

Gentlemen who have advocated this principle of construction, appear startled at some consequences suggested to result from it, and have denied that they have made the admission of such consequences; this is true, nor have those in reply so asserted, but they have taken up the principles of construction furnished by its advocates, and made the application of it to the consequences which they themselves infer; and if the principle be admitted, it is undeniable but that the conclusions drawn from it will necessarily follow in their utmost latitude.

A gentleman from South-Carolina (Mr. Barnwell) confidently spoke of the inherent rights of this government; this is a new source of authority, and totally inapplicable to this government—if there be inherent rights in governments at all, they must belong to governments growing out of a state of society, and not to a government deriving all its authorities by charter from previously existing governments, or the people of those governments. In such a government, the exercise of every authority not contained in the instrument, or deducible from it by a fair and candid construction, is an unjustifiable assumption and usurpation.—He did not mean, he said, to analyse this subject further at this time, and had been led into these general remarks, because the impatience of the committee to have the question upon striking out the section, had caused him to refrain from delivering these sentiments at that time.

He would remark further, that bounties in all countries and at all times have been the effect of favoritism; they have only served to divert the current of industry from its natural channel, into one less advantageous or productive; and in fact they are nothing more than governmental *thefts* committed upon the rights of one part of the community, and an *unherited* governmental *munificence* to the other.—In this country, and under this government, they present an aspect peculiarly *dreadful* and *deformed*.

To contemplate the subjects upon which bounties are to operate in the United States, the nature of the government to dispense them, the state preferences which now do and will forever, more or less, continue to exist, the impossibility of an equal operation of bounties throughout the United States, upon any subject whatever, should be considered; and one of these two effects will necessarily follow the exercise of them—either the very existence of the government will be destroyed, or its administration must be radically changed, it must be converted into the most complex system of tyranny and favoritism.

He observed, that it is not unfrequent at this time to hear of an eastern and southern interest, and he had for some time silently and indignantly seen, or thought he saw, attempts by this mean to influence the deliberations of this House upon almost every important question; so far as he was the insulted object of these attempts, he felt that contempt for their authors, which appeared to him to be the correspondent tribute to the impurity of their designs; yet he thought that this had been the most formidable and effectual *ministerial machine* which had been yet used in the administration of the government. But one great mischief he apprehended from establishing the principle of the unrestrained right to grant bounties, will be, that it will make the difference of interest between eastern and southern, so far as they differ in their respective states of manufac-

ture and agriculture, real, which is now only ideal—It will make that party real, which is now artificial—The jealousies and suspicions arising from party will then have a substantial foundation, which now have no foundation in fact, but are ingeniously stimulated by a few, for the purpose of effecting particular objects; as long as the government shall be administered liberally & impartially, as long as the principle of reciprocal demand and supply between east and south shall remain inviolate, so long there can exist no essential distinct interest between them; but the instant bounties or governmental preferences are granted to occupation, that instant is created a separate & distinct interest, not wholly between east & south, but between the manufacturer and the cultivator of the soil; there will still exist a community of agricultural interest throughout the United States, and he hoped the time was not far distant, when a common sympathy will be felt by the whole of that class of the community.

For these reasons, he hoped the motion would prevail.

WEDNESDAY, MARCH 14.

A message from the Senate was delivered by Mr. Secretary Otis, notifying, that they had, on their part, agreed to the report of the managers of the conference, on the disagreeing amendments of both Houses to the "bill to ascertain and regulate the claims to half pay and invalid pensions."

The order of the day being called for, on the contested Georgia election,

A motion of General Jackson's, "that the decision of the Senate of the State of Georgia, on the impeachment of judge Osborne, so far as it respects the Camden return for a member to represent the state of Georgia, on the 3d day of January, 1791, be received as evidence in the present trial of that election, to establish the corruption of Judge Osborne," was the subject of a lengthy debate, in which the extent of the right of the House to judge in all cases of contested elections, was fully discussed.

The question being at length taken on the motion, it passed in the negative—yeas 20—nays 41.

Y E A S.

Messrs. Ashe, Baldwin, Boudinot, Clark, Gerry, Giles, Gregg, Grove, Heister, Jacobs, Key, Kitchell, Macon, Schoonmaker, Steele, Sumpter, Thatcher, Treadwell, Tucker, Willis—20.

N A Y S.

Messrs. Ames, Barnwell, Benson, S. Bourne, B. Bourne, Brown, Findley, Fitzsimons, Gilman, Goodhue, Griffin, Hartley, Hillhouse, Huger, Kittera, Lawrence, Learned, Lee, Livermore, Madison, Mercer, Moore, Muhlenburg, Murray, Niles, Page, Parker, Sedgwick, Seney, J. Smith, I. Smith, W. Smith, Sterrer, Sturges, Sylvester, Venable, Vining, Wadsworth, Ward, White, Williamson—41.

Mr. Lewis, counsel for the sitting member, then proceeded to reply; and having canvassed the evidence respecting the Effingham election, The House adjourned.

THURSDAY, March 15.

A message was received from the Senate, by Mr. Secretary Otis, informing the House that the Senate have passed a bill, entitled, "An act declaring the consent of Congress to certain acts of the states of Maryland, Georgia, and Rhode-Island and Providence Plantations, so far as the same respects the states of Georgia, and Rhode Island and Providence Plantations."

The House proceeded in the trial of the Georgia election. Mr. Lewis finished his remarks on the evidence brought forward by the petitioner, Mr. Jackson, at the close of which, he renewed his proposition for a postponement of the decision of the house for a few days.

Mr. Jackson rejoined in a speech of some length, and concluded by saying he should confide in the wisdom and justice which should guide the decision of the House.

When Mr. Jackson finished his speech, a clapping of hands took place in the gallery.

Mr. Baldwin then renewed the motion which he made some days since, the substance of which was, that certain papers transmitted to him by the Supreme Executive of the state of Georgia, being proceedings of the House of Representatives of that state, relative to the election of a member for the eastern district of said state, should be received by the House.—This motion occasioned a debate, which was finally determined by calling for the previous question, in the following words—*Shall the main question be now put?*—This being determined in the negative, the House adjourned.

FRIDAY, MARCH 16.

Sundry petitions were read and referred. The report of a select committee to which was referred the report of the Secretary of the Treasury on the petition of certain loan-officers, was read the first and second time, and referred to a committee of the whole House.

Mr. Boudinot after adverting to some irregularity which took place in the gallery yesterday, and remarking on the importance of the freedom of elections, laid the following motion on the table: Resolved, That whenever in the opinion of the Speaker, or of the Chairman of the committee of the whole House, any disorder-