

his office—That it is made his duty by law, is a sufficient apology for him in undertaking and discharging it, but not for the House in transferring it to him; I deny that the House can be bound by a law with respect to its powers and duties—This House is as free to originate money-bills as the last House was, and any future House will be as free as this—The constitution is the only law whereby the powers and duties of this House can be governed, nor can we either decline a duty or transfer a trust which has been specially bound on us by it.—Nor will I agree with the gentlemen, that if it is an evil it arises from necessity—certainly if we are capable of altering, amending, or changing the principles of the Secretary's reports altogether, as is granted, we must be capable with due industry and attention to originate them ourselves.

But we are further told in defence of referring to the Secretary, that if we do not do it ourselves, the committee-employed, or some of the members, will have recourse to the Secretary for assistance, and that in this way his principles and arguments will be introduced with equal influence secretly—and that it is better to face it openly, and for all the members to have equal advantages from it.

This argument is plausible indeed, but will not bear examination—So far is the method contended for from preventing private influence, that it produces it in a much greater degree—From the nature of the case we may conclude, that a minister will not digest a revenue system without adapting it to the views and interests of a number of influential members, who will assist him in preparing and influencing others to support it when introduced—indeed it gives the greatest possible stimulus to private influence; for it not only combines an influential private interest to support it, but the minister's character and the character of his friends, are much higher pledged for its success, than if the influence was private—Thus, I apprehend this method is not only objectionable on account of the ministerial systems and arguments which the members receive in this House, and peruse in their closets; but also, on the account of the greater inducement it must give to a more dangerous private influence, and in time to corruption.

But the gentleman from North-Carolina, (Mr. Steele) observes that we may upon the same grounds object to the President's address, recommending business to the legislature; that myself and others who oppose the reference in question, very lately advocated a report of the Secretary of War, which he opposed; that by carrying the substance of that report into a law, we have saddled the government with a debt for which we are now about to provide—and he suggests the impropriety of those, for whose immediate defence the debt is incurred, objecting to the usual method of providing for its discharge.

I have observed already that the President has a right, created by the constitution, to recommend business to the legislature, as well as to give information of the state of the Union; in consequence of this trust he, by a report of his Secretary, gave us information of the state and misfortunes of the Indian war, and his opinion of the force and expence that he judged necessary to enable him to bring it to a happy and speedy conclusion; this information was constitutional and necessary—well knowing that an inadequate force and the short enlistments, rendered the two last campaigns disgraceful, and increased the strength and irritation of the enemy.—I voted for the increase of the army, and for longer enlistments; but I voted for higher wages than was reported, and we will yet regret that this was not agreed to—and I think in doing so I was promoting the best interests of the country, and countenancing no unconstitutional influence.—Surely if the gentleman would reflect for a moment, he would not quote this as a precedent to justify this House in voting a transfer of the peculiar and exclusive constitutional privilege and unalienable trust of this House, to originate or digest the principles of revenue systems, to an executive officer, not known in the constitution, nor appointed by or dependant on this House.

I will further beg leave to inform the gentleman, that the people of the frontiers do not claim protection as a favor, they demand it as a right—They know that protection and allegiance are inseparable—that if they are not protected, their connection with the government is dissolved; it is their lot and their misfortune to be exposed as a constant picquet guard to the interior inhabitants—too frequently has their habitations been rendered desolate, and they have had their dearest relations butchered.—When the atlantic shores were the object of invasion, the inclemency of the season, nor the dangerous situation of their families at home did not prevent them from giving assistance—They have had little weight in the councils which have, by affording inadequate means of protection, increased their distress; they think it ungenerous to be aided with a too sparing hand, and at the same time insulted with unmerited reproach.

The gentleman says he has heard me often moving to refer petitions to one or other of the Secretaries myself.—I acknowledge it—When the petitions are for personal claims, being of a judicial nature and connected with the documents in the Secretary's office, I think it proper to refer them there for information with respect to facts—When I moved for a reference of the excise petitions which came in by me, I did it in obedience to the customs of the House, but with an express declaration that I thought the custom then wrong—this I have no doubt the members will recollect.

The gentleman has also observed, that there is independence and good sense enough in this House to examine, to alter or reject a report of the Secretary, notwithstanding his arguments which accompany it—and that we have done so in various instances. This I freely grant—nay I advocate more than this, I believe there is good sense and independence enough in this House, to digest and originate revenue systems without the Secretary's doing it for us. But what does this argument amount to? Why it amounts to giving the peculiar trust of originating to the Secretary, and reserving that power to ourselves which the constitution vests in the other branch—the Senate cannot prepare a money-bill, but they may alter, amend or reject such as we prepare and transmit to them; and they have done so—Is not this giving the power and influence in a great degree to the Secretary, which the constitution gives to us?—Is it not in fact giving up the point?—The Senate is not permitted to digest their arguments and transmit them to us in support of business which they prepare, neither are we permitted to do so with them—Nay it is unparliamentary to mention what we think would be agreeable to the Senate or the President, in our arguments on the floor, lest it should have the appearance of influencing the measure—The one branch cannot call upon the other officially to originate business—how unreasonable then is it, to refer the most important business to the Secretary to digest and prepare; and also to digest arguments for us, which we order to be printed and put into every member's hand.

But this method is highly objectionable on another ground—it is putting the power of the business out of our hands with respect to the time of our deliberation; this is certainly more than we are authorized to do, or can be accountable for to our constituents—If this practice becomes established, I shall not be surprized to find a minister in connection with his friends in the House, delaying to report on the most important business until near the end of the session, when many of the members are gone home, or so anxious to get home that there will not be a sufficient opportunity for deliberation—such things are not unusually attempted in public bodies without the aid of a minister; in this House I have heard the close of a session mentioned as an apology for the passage of an improper law—it is not necessary to create new snares for the deliberations of the House. Before I had the honor of a seat in this House, I was informed of this method of originating revenue systems, and I always thought it wrong—I am not confident the opposition to it will succeed at this time; the session is drawing near a close, and the opposition of members who advocate the proposed reference, may delay the business if originated in a way disagreeable to them; these reasons may induce some members to vote for it now, that would not do so in other circumstances—however if it is carried, I hope the precedent will not be strengthened by a large majority.—For my part, I pledge myself to persevere in opposition thereto; and have no doubt but when a more equal and more numerous representation occupies this floor, this unwarrantable practice of transferring so influential a part of the legislative trust, will be changed.

MONDAY, APRIL 16.

Mr. Secretary Lear, by order of the President of the United States, delivered the following communications:

New-York, April 10, 1792.

SIR,

AS we could not, in our opinion, convey the enclosed extracts from the minutes of the circuit court now sitting here, to the Congress of the United States, in so respectful and proper a manner as through the President, we take the liberty to transmit them to you, and to request the favor of you to communicate them to that honorable body.

We have the honor to be,

With perfect respect,

Sir,

Your most obedient servants,

Signed } JOHN JAY,
 } W. M. CUSHING,
 } JAMES DUANE.

The President of the United States.

At a stated circuit court of the United States, held for the district of New-York, at the city of

New-York, on Thursday the fifth day of April, one thousand seven hundred and ninety-two, at ten of the clock, A. M.—Present,

The Hon. John Jay, Esq. Chief Justice of the United States;

The Hon. Wm. Cushing, Esq. one of the Associate Justices of the Supreme Court of the United States;

The Hon. James Duane, Esq. Judge of the district of New-York.

The Court proceeded to take into consideration the following act of the Congress of the United States, viz.

“An act to provide for the settlement of the claims of widows and orphans barred by the limitations heretofore established, and to regulate the claims to invalid pensions.”

[Here follows the act, verbatim.]

The Court were thereupon unanimously of opinion, and agreed,

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 to oppose encroachments on either:—

That neither the Legislative 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:—

That the duties assigned to the Circuit Courts by this act, are not of that description; and that the act itself does not appear to contemplate them as such, inasmuch as it subjects the decisions of these courts, made pursuant to those duties, first to the consideration and suspension of the Secretary at War, and then to the revision of the Legislature—Whereas, by the Constitution, neither the Secretary at War, nor any other executive officer, nor even the Legislature, are authorized to sit as a Court of Errors, on the judicial acts or opinions of this Court.

As therefore the business, assigned to this Court by the act, is not judicial, nor directed to be performed judicially, the act can only be considered as appointing commissioners for the purposes mentioned in it, by official instead of personal descriptions.

That the Judges of this Court regard themselves as being the commissioners designated by the act, and therefore as being at liberty to accept or to decline their office:—

That as the objects of this act are exceedingly benevolent, and do real honor to the humanity and justice of Congress; and as the Judges desire to manifest on all proper occasions; and in every proper manner, their high respect for the national Legislature, they will execute this act in the capacity of commissioners:—

That, as the Legislature have a right to extend the session of this Court for any term which they may think proper by law to assign, the term of five days, as directed by this act, ought to be punctually observed:—

That the Judges of this Court will, as usual, during the session thereof, adjourn the Court from day to day, or other short periods, as circumstances may render proper; and that they will regularly, between the adjournments, proceed, as commissioners, to execute the business of this act, in the same court-room or chamber.

A true extract from the Minutes,
(Signed) ROBERT TROUP, Clerk.

WEDNESDAY, APRIL 18.

Mr. Boudinot presented a bill for settling the claim of A. W. White against the United States, which was read the first time.

A petition of Charles Caldwell and Wm. Robertson, lately released from captivity at Algiers, was read, praying to be reimbursed the amount of the ransom paid by their friends—and that the situation of the Americans, now in captivity at Algiers, may be taken into consideration, and relief granted them.

This petition was referred to a select committee.—The House agreed to the amendment proposed by the Senate to the bill authorizing the grant and conveyance of certain lands to the Ohio Company of Associates, on the terms therein mentioned.

Mr. Gerry laid on the table a motion for the appointment of a committee to enquire into the recruiting service, and (if necessary) to report a bill for promoting the same, by increasing the pay of the privates to four dollars per month.

A report of the select committee on the petition of Wm. Heyburn, the invalid officer (whose application to the Judges of the Circuit Court is mentioned in last Saturday's Gazette) was read—it contains, according to order of the House, a statement of facts only.

A message from the Senate, by Mr. Secretary Otis, informed the House that the Senate have passed a bill making alterations in the Treasury and War Departments:—he also informed the House, that the Vice-President of the United States, having obtained leave of absence, for the remainder of the session—the Senate proceeded to the election of a President pro tempore, as the constitution provides, when the honorable Richard Henry Lee was duly elected.