



CONGRESS.

HOUSE OF REPRESENTATIVES.

TUESDAY, November 20.

Debate on the Resolution offered by Mr. Fitzsimons, on the 19th, respecting a Reduction of the Public Debt &c. resumed.

In Committee of the Whole.

MR. LAWRENCE IN THE CHAIR.

Mr. Baldwin said, when this motion was laid on the table, he did not feel much opposition to it in his own mind, particularly after the explanation given by the mover, that it was designed merely to obtain information from the secretary of the treasury, whether the revenues of the year would be sufficient to redeem that part of the public debt, which was by law redeemable. On attending more particularly to the expressions, and from the turn which the subject had taken in the discussion, he was convinced that it was best to strike out the latter part of the motion, which in general terms directed the "Secretary to report a plan for the purpose." The expressions were too indistinct and indefinite, and on former occasions had been used to cover much more than was generally understood at the time the reference was made. If it is only designed on this occasion to obtain information as to facts in that department, let the present general words be struck out, and let the secretary be directed to report, whether the revenues of the year are sufficient to redeem that part of the debt. If it is designed that the secretary should report a new revenue system, as he has repeatedly done, let that be expressed, that the house at least may understand themselves. If information on facts or details in the executive department is the object, no one objects to it. If legislative opinions, the origination of a law or revenue system is intended, let it be so expressed. He observed, there was a kind of political stratagem and finesse sometimes used on such occasions, which experience had always proved, tended to no good. Individuals, when they intend to occupy doubtful ground, in which they are sure they should not be supported by the majority, intrench upon it by degrees; at one time a motion is made on one side of it, and the success of it depends on their proving, that it is not on the doubtful ground—at another time they approach it in the same manner on a different side—and at another, on a different, till finally the whole is surrounded; in the end, they are striking the constitution as much on that extreme, as they had before done on the other, it is proved that the whole ground is already occupied. In this way the most absurd and mischievous political doctrines have been established. He was not without his apprehensions that, by a few efforts more it would be found, that some of the most important parts of legislation were transferred from the present legislatures to single law-givers. It had been the constant object and ambition of individual men in all parts and ages of the world; there is no doubt but it will be as unrelentingly pursued here, unless controuled by those who feel themselves injured by it. It might be taken for granted, that there now were, and always would be, individuals who had no point in this progress at which they would stop; that they would crowd towards that extreme as far as possible.

He needed no assurance that their number in that house, or in the country, was very small; but they might make much trouble. He conceived it would be of much use on so great and practical points in government, for the majority whose minds, if thoroughly known to each other, were probably not much apart, to take an early occasion to express their definite opinion: that the necessary facts and details of office should be reported from the departments; but that legislative opinions, and the structure of laws, should be sacred to the two branches of the legislature.

If one executive officer is ordered to form the laws which relate to his department, the officers in the other departments must do the same in theirs. Laws which relate to war, to the militia, &c. must be formed by the secretary at war; those which relate to the post-office, post-roads, and the communications between different parts of the country, must be formed by the postmaster-general; those which relate to the other subjects, whether foreign or domestic, must be formed by the secretary of state. There is no part of the federal ground, but what is and must be covered by one or other of the executive departments; if they are to be called on to originate and form the laws which relate to their several departments, the two branches of the legislature will remain a mere council of revision, to approve or reject, or propose amendments. If the majority do not mean to keep on in their progress to this extreme, it is time that it should be understood; he himself was anxious to understand how far they meant to go, and what share of legislation was to be claimed as their own. He was strongly persuaded that it must eventually come to this, that under the idea of obtaining light and information from the executive departments, laws were not to be made there, or new legislative systems originated; but only information of facts and details of office. The two branches of the legislature receive laws already formed from each other; and each executive

officer to be considered in the same relation to the legislature, that the two branches are to each other? If they are not, he begged to know the distinction. A revenue law could not originate in the senate; and yet had not an executive officer repeatedly done that in a legislative relation to the house, which even the senate would not presume to do?

He proceeded to observe, in the next place, that this was such a confusion of all principle in government, that he was anxious to arrest its progress before it had produced any greater mischiefs. Though he had never much venerated the character of a mere theorist in government, yet, if there was a single principle important enough in the whole theory, which might be considered as an axiom applicable to all circumstances, it was that of the distribution of the powers, that the legislative, executive and judiciary should be kept as far as possible separate and distinct. The reason is most obvious, to prevent the concert of improper passions in forming and executing the laws. If they who make the laws, could also have the agency in the execution of them, no doubt, huge systems would be constructed and mightily enlarged, that their love of power, and grandeur, and property might have full scope, while they were carrying them into effect. If they who are to have the agency in the execution of the laws, are admitted also to an agency in the formation of them, they will do the same thing; all the agency which they have, will be directed to those objects. Not to expect it, not to be sure of its taking place, is to be a stranger to human nature. He observed, that this part of the argument was in its nature, and had been set in so strong a light by those who had gone before him, he should not enlarge upon it.

Mr. Baldwin derived his argument in the last place from what had already appeared in practice. Though the age of the government, he said, did not yet admit of its being rich in this most valuable of all knowledge; yet, experience and practice had already strongly fortified the principles which he had advanced. He then adverted to several instances to show, that where the laws had received their shape and form in the branches of the legislature, they appeared on trial to be in general well accommodated to the circumstances of the different parts of the country; but where they had received their shape and form out of the legislature, from the hands of an individual, they never after could be well adjusted to the circumstances of different parts of the country; any alterations that had been attempted were but ill applied patch-work.—Trial had proved that they were not well shaped for they had set very ill on the feelings of the people.

He particularly dwelt on the Impost law as an instance of what he intended; that, he said, was formed entirely in the house in the usual mode of legislation, each member had an opportunity of considering it in every stage of its progress, and applying his information in its proper place, as the system was forming; a hundred minds were employed, from day to day, in all directions of the whole country, to foresee and provide against the evils which it would have to encounter in practice. In this way it was made to be as easy as possible to every part of the country, and yet efficient. Very trifling alterations had been found necessary, except great increases of the sums demanded. A vast burden has been laid on the people, and yet it fits so easy that there has never been much complaint from any quarter.

He wished the same could be said with equal truth of the other part of the revenue system, and should never cease to regret that that system had not been originally taken up in the same manner. If, said he, that ill-omened petition of some of the public creditors, taken up just at the heel of the first session in 1789, instead of being referred to an executive officer in general terms to report a plan, in which he testified for himself, and he believed, many others would do the same;—he had no idea of the extent to which it has gone; the subject had been gone into by the house—the system had been formed, and the legislative provisions originated by those to whom only it belonged; he believed the finances of this country would not, at this time have been so intricate a science—the public credit would have been as well supported, the debt would have been in a more simple form; so subtle an address to the interests of individuals, and of particular states would not have been contrived;—the states would probably have been allowed, as they had been always before taught to expect, to finish the execution of their systems for the payment of their own debts, and our fellow-citizens not now have been hunted by the harsh and troublesome regulations of an excise system to pay them. If all this had still been found necessary, and had originated in public in the legislature, it would have been accompanied, in every stage of its progress by the information of the citizens, and opportunity would not have been given for that legerdemain by which so many of the honest and industrious who chance not to live within the smoke of the seat of government, to be conjured out of so great a part of their hard earned property.

But, it is said, and with an apparent gravity, that each member has as fair a chance of introducing what he wishes after the system is reported to the house, as if he was present at the formation of it. What says experience on that point?—Have not the same persons who have advocated those references invariably discovered equal unwillingness to have the systems jostled or disturbed after they are made? He needed only to mention the funding scheme, the excise, and the bank laws as instances of his assertion. Were there not that pride of opinion, that parental feeling which persons who may have been admitted to an agency in them, feel for their own works; it was in its nature difficult to introduce any important alteration in a system which had been completed and proportioned in its parts,

it was like taking a limb from a body and attempting to add another—the difficulty of the operation commonly precludes all attention to the subject matter.

If the representatives of the people in all the different parts of the country are to have equal share in the formation of laws, they must be present where they are formed, assist in furnishing the unformed materials, endeavour to shape them to their wishes and the circumstances of their constituents before the parts become so knit together and compacted as to refuse to take a different shape. This right was so important to every part of the country he could not give it up. His constituents were very remote—their interests and wishes were therefore more out of view, and never would be attended to but only as they were brought up by their representatives; they were therefore the more dear to him; he felt it more strongly his duty to seek opportunity to act for them; he could not be denied;—a share in legislation was what they had a right to, in their name he demanded it, and should not give it up. He could not see legislative systems formed of such vast importance to their interest and happiness, without doing all in his power to appear and act in their behalf. He should feel himself to be their betrayer instead of their friend and representative, if he could consent to it. If the laws were not to be formed here where he had his constitutional seat, and expected to discharge all the duties of his high trust, he should try to find where they were formed, and if possible, obtain access there, that he might have some chance even as a courtier to crowd forward some opinions while there was a possibility of their doing good, which was denied to him as a representative.

Mr. White observed, that the object of the gentleman from Georgia appears to be a very good one; but he saw no other way of effecting it but by a revision of the law establishing the treasury department: there are such extensive powers given to the head of that department, by that law, that, without any forced construction, the substance of the proposition, now contended for, may be supported by that law:—he hoped, however, that the main object of the resolution, making provision for the reduction of the public debt, would not meet with any embarrassment. He suggested a modification of the clause respecting the secretary's reporting a plan, by adding a restricting clause, that the plan reported should have respect only to the existing funds of the government, without any reference to additional taxes for the object; to check, therefore, that torrent of abuse, which, in writings and speeches, were thrown out against the government on this very subject:—he hoped there would be no delay in this business; but that the present Congress, in season, pass a law, making effectual provision for diminishing the public debt: such a law, once passed, he was fully of opinion would be so consonant to the wishes of the people, that no future legislature would ever do any thing to check the progress of this salutary work.

Mr. Giles entered into a consideration of the law constituting the treasury department. He controverted the opinion advanced by Mr. White, and insisted, in substance, that the power of the secretary of the treasury was merely concurrent, in respect to reporting plans, with that of the house.

Mr. White rose to explain; he said he never had any idea that the house had divested itself of the right of originating plans: he never conceived that the secretary of the treasury had a right to propose any plans or systems to the legislature, unless he was called upon to do it.

Mr. Murray, in a few remarks, delivered similar sentiments.

Mr. Gerry recurred to the law: he said it was evidently made the duty of the secretary of the treasury to prepare plans for the promoting of the revenue; and that when the house called on him for his plans, or information, if he was not then prepared, it would be indicative of want of capacity, or remissness in duty: but, he observed, it by no means followed from this, that the construction of the law, given by the gentleman from Virginia, is just: the house has not delegated one particle of its legislative power; it reserves to itself, the full right to call for plans and information; or to refrain from calling for either, and when the information is received, it is entirely at the disposal of the house.

Mr. Mercer and Mr. Page added some remarks in opposition to the reference, and then the question for striking out being taken, passed in the negative.

THURSDAY, November 22.

In committee of the whole on the bill providing for the registering and recording of ships or vessels. Mr. Lawrence in the chair. The bill was considered by paragraphs.

Mr. Page opposed the clause which referred to "ships or vessels captured in war"—He moved that it should be struck out, as countenancing a savage practice, now exploded and laid aside by civilized nations—that it would be time enough when the United States shall be so unfortunate as to be involved in a war, to make provision for the case now alluded to, that no inconvenience could arise from adopting the motion; that indeed it highly became the legislature of the United States to adopt it, as they would thereby shew their approbation of the liberal and benevolent sentiments now adopted by the greatest and most enlightened nations of Europe, abolishing the inhuman practice. That he supposed the clause had been inserted in the bill, because it was drawn before this circumstance of the benevolent disposition of the nations of Europe was generally known:—he hoped therefore that his motion would be agreed to. It was however some time before it was seconded, at length

Mr. Tucker seconded the motion, and supported it by arguments similar to Mr. Page's; remarking, that the French nation, though

now engaged in an extensive war, did not permit the capture of merchant vessels—prohibiting that practice as inhuman and unbefitting a civilized nation.

Mr. Goodhue in reply said, that the motion seemed to look to a state of perpetual peace—but for his part, as he did not think the millennium was begun, he should vote against the motion.

Mr. Page replied, that he did not expect the millennium in his day any more than the gentleman did who had endeavored to ridicule his motion. That he was not a little surprised to find that a motion which had a tendency to benevolent, and was in itself so rational, expressed too with modesty and deference to the framers of the bill, should meet with such a reception. He then repeated the substance of what he had before said, as he supposed he had not been heard, and insisted on it that the clause he moved to be struck out was not only unnecessary in the bill, but was an improper adoption of a practice now condemned as a usage by the enlightened nations of the world.

Mr. Sedgwick remarked in opposition to the motion, that the clause ought not to be struck out, because it was not confined to merchant vessels which might be captured, but extended to ships of war, which, if taken by the United States in any future war, ought certainly to come within the view and benefit of the act.

The question was then put, and carried in the negative without a division.

When the bill was reported, Mr. Page renewed his motion for striking out the clause &c. repeating nearly his former arguments, adding that as to the objection made to his motion on account of its interfering with the sale of ships of war which may be captured: He said he felt for the United States when such a case was mentioned; he felt himself depressed and dispirited at the idea of his country being so perplexed by the expenses of a trifling war with the Indians, and yet looking forward to the capture of ships of war. That surely if that be the object of the clause, as it looks to a case which cannot happen till a future, distant day, it will be time enough for some future legislature to consider it—that for his part, he hoped never to see the United States possessed of a navy: at all events, till they had one, it would be unnecessary to make regulations respecting their prizes. He assured the House he would not have renewed his motion, if he did not think it his duty to persist in his attempt to shew the propriety of uniting in sentiments and endeavors with the great enlightened nations of the world, to put a stop to a savage practice which had been too often a great inducement to enter into wars. He wished to take away every possible temptation to enter into a war, and whenever his country should be so unhappy as to be involved in one, he wished, by the amendment proposed, to lessen the number of unavoidable evils attending wars.

Substance of the Observations of Mr. Finley, in the House of Representatives of the United States, on Wednesday last, on the motion of Mr. Parker for striking out such part of the third Resolution reported by the Committee of the whole on the President's Speech, as respects a reference to the Secretary of the Treasury, on the Reduction of the Public Debt.

Mr. Speaker,

I AM one of those members described by the gentleman from New-York, who seriously wish to pay the public debt as fast as possible, and receive the necessary information even from the secretary of the treasury; but I make a material distinction between seeking for information, and transferring the power of originating systems.

To give information of the state of the Union, to recommend such business as the President may judge expedient; and to exercise a limited negative on the laws, is certainly all the part which the constitution authorizes the executive to act in legislation.

The existence of heads of departments, is authorized in the constitution, and hath been erected by the act of the legislature; these departments are the instruments of collecting information, and repositories of it, as it respects the execution and effect of the laws; and this information we have a right to command. This, with the more general and important information which the members of this House possess, are all that is necessary to enable us to give the first form and complexion to our revenue plans. To prevent the necessity of referring the business of an executive officer, we will avail ourselves of the information deposited in the Secretaries offices.

This we have unanimously asserted, and yet the gentlemen on the other side of this question, constantly argue in favor of receiving information, as if we were against it.—We wish for it as much, and for more important purposes than they.

The gentleman alleges that the right of the Secretary's originating plans is implicated in the constitution, and calls upon us to prove the contrary; no such thing is mentioned in the constitution. It is confessed that it does not appear on the