

A State liable to the suit of an Individual Suit

(-307-)

time limited for settling the accounts between the United States and the individual states.

Mr. Dayton in the chair.

A motion was made to strike out the first section of the bill—This section goes to repeal the second section of the former act, which makes the state of Vermont a party to the accounts between the United States and individual states. In support of the motion it was said that Vermont, participating in all the advantages of the independence of the country, and being a member of the union, is justly chargeable with its quota of all the expenses that have been incurred; that as on the one hand, were she a creditor state, she doubtless would come in for her proportion of the balances which shall appear to be due from the United States to the creditor states; so on the other, if she is a debtor state, it is but reasonable that she should be liable to pay her proportion of those balances; a contrary principle, it was said, will entrench the burthens of other states. It was further said, that in all the great questions relative to the finances and accounts of the United States, the voice of Vermont has had its proportional influence; and she is therefore on every principle to be considered as a constituent part of the union, and liable to all the disadvantages resulting from the connection.

In opposition to the motion it was said that Vermont as a government bore her proportion of the expenses and sacrifices of the war. She was a frontier state, & only barrier between the United States and Canada. Her exertions during the war were made by her citizens alone, without assistance from the other states. That in consequence of the peculiar confusions which prevailed in that state, the accounts of her services and supplies were left in a very deranged situation—That though the former act allowed 12 months for her to bring in her claims, yet it is said the other states have had a much longer time. That though it should be concluded that Vermont ought to be considered as a part of the confederacy prior to her adoption of the federal constitution, the time certainly ought to be extended for her to bring in her accounts. But it was urged that she could not be so considered; and therefore is not a party to the accounts, prior to that period. Since she came into the Union under the new constitution, she has borne, and will continue to bear her proportion of the burthens of the United States, and will be obliged to pay her proportion of the balances which shall be found due from the Union. In answer to the reasoning from her being represented on the floor of Congress, it was said that the representatives of that state are representatives of the Union; they act in a legislative capacity, and not as a committee of accounts.

The motion for striking out the 1st section was negatived. Some further amendments were moved but disapproved to. The bill was reported without amendment. In the House Mr. W. Smith renewed the motion for striking out the 1st section, and called for the yeas and noes, which were—noes 39, yeas 17, as follow:

A Y E S.

Mess. Barnwell,	Kittera,
Boudnot,	Lee,
S. Bourne,	W. Smith,
B. Bourn,	Sturges,
Clark,	Sumpter,
Dayton,	Tucker,
Gerry,	Venable,
Gilman,	Willis
Huger,	17

N O E S.

Mess. Ashe,	Moore,
Ames,	Murray,
Baldwin,	Niles,
Benson,	Page,
Fitzsimons,	Schoonmaker,
Giles,	Sedgwick,
Goodhue,	I. Smith,
Gordon,	Steele,
Gregg,	Thatcher,
Grove,	Treadwell,
Hartley,	Wadsworth,
Heister,	Ward,
Hillhouse,	White,
Kitchell,	Williamson,
Learned,	Greenup,
Lawrance,	Leonard,
Livermore,	Milledge,
Madison,	Orr,
Macon,	Hindman, 39.
Mercer	

The bill was laid on the table till to-morrow. A bill conformable to the report of a select committee on the petition of James Warrington, was read twice, and referred to a committee of the whole House to-morrow.

In committee of the whole on a bill for exempting from impost duties, useful beasts imported for breed—Mr. Murray in the chair.

The bill being read, it was moved to add after the words "for breed"—or on rags.

Mr. Livermore objected to this motion. He observed that the object of the bill is to encourage the importation of stallions, bulls and boars, for the purpose of improving the breed of useful animals. These, he said, ought to stand alone; he thought it would be a very odd association to connect them with rags. Besides, said he, I do not conceive there is any necessity for bringing in the article, for when the rage of calling for information is abated, there will be such a diminution of the business of printing, that he doubted not a sufficient quantity of rags might be obtained in the country by the paper-makers.

Other objections were made by several members, and the motion being put, was lost. The bill was then reported without amendment.—Some verbal amendments were made in the House. The bill was then ordered to be engrossed.

Mr. Barnwell laid the following motion on the table:

Resolved, that a committee be appointed to bring in a bill for altering the allowance to the collectors of impost and tonnage, so far as that no collector shall receive more than per annum. Adjourned.

For the GAZETTE of the UNITED STATES,

SONG,

FOR THE PRESIDENT'S BIRTH-DAY—1793.
Sung at the BALL last Evening.

[AIR in the Poor Soldier, "Tho' Lexlip is proud of her clove shady Bowers."]

I.

THOUGH Envy and Malice their crests have erected,
While Calumny scatters their firebrands around,
I'll sing Freedom's Favorite, so justly respected;
Each Patriot's bosom will echo the sound!
He has oft been compar'd with the fam'd
ALEXANDER,
Whose prudence and valour led captive a World!
But the Grecian must yield to our nobler Commander,
Who Freedom's dread thunders at Tyranny hurld.

II.

JULIUS CAESAR is tender'd immortal in story,
Who aim'd by new Conquests his fame to increase;
But WASHINGTON'S virtues have gain'd that true glory
Which, radiant in War, glows still brighter in Peace!
CHARLES, LEWIS and FREDERICK, vainly expected
To build their Renown on the obsolete plan;
But such Fabrics must tumble—because they're erected
On the ruins of FREEDOM, that BIRTH-RIGHT of MAN!

III.

Fair COLUMBIA'S sons, by HER WASHINGTON headed,
To rational Freedom a Temple have rear'd;
Its Basis need only by D-spots be dread'd—
By Freeman 'twill always be lov'd and rever'd!
Our Union should banish seditious discourses,
To prove that Good Order and Freedom agree;
Then firm round THE PATRIOT let's rally our forces,
And shew all the World We deserve to be free!

IV.

May our Federal Fabric, that wonder of Sages,
Cemented by Knowledge and Friendship sublime,
—Its beauty and firmness increasing thro' ages—
Like WASHINGTON'S Fame, be coeval with Time!
In all civic virtues THIS HERO surpasses;
Let's ne'er from his tenets apostate be found:
Toast "his health and long life!"—to the brim fill your glasses—
Ye Winds, waft our wishes—ye Skies, catch the sound!

Philadelphia, 20th February, 1793.

* Knowledge of "The Rights of Man."

Philadelphia, Feb. 23.

Yesterday being the anniversary of the birth day of the PRESIDENT of the United States, the fame was observed with the usual demonstrations of joy and felicitation—On this auspicious occasion the PRESIDENT received visits of congratulation from the members of both Houses of Congress—the public foreign Ministers—Heads of Departments—the Reverend Clergy—Military Officers, and private Citizens.—Particulars will be more fully communicated in our next.

A letter from New-York of the 21st inst. says, that an account is received by the Ship Bristol, Capt. Macnamara, that, marvellous as it might appear, yet it is not the less true, that Spain has absolutely entered into an alliance with France.—The particulars not yet published.

Advices from Europe by the Bristol, arrived at New-York, mention that Austria is making the greatest preparations to continue the war with France—That there is no prospect of peace—Kellerman is arrived in Savoy—and Montefquion in London. It does not appear that any very interesting military event has taken place.

A decree has passed the National Convention for banishing all the members of the Bourbon family, except the Ci-devant Duke D'Orleans.

In the month of January, the School Committee of the town of Boston, distributed twenty-one silver medals, with suitable inscriptions and devices, to the most deserving boys in the upper classes of the Free Schools in that town. These medals are the amount of the annual income of the Donation made by the late Dr. FRANKLIN, and were bestowed agreeably to his direction, "as honorary rewards for the encouragement of scholarship in said free schools."

Extrad of a letter to a gentleman in this city, from Canada, dated Jan. 31, 1793.

"The year commenced in this part of the globe with prospects that were unfavorable to the Province. Some days since, a most horrid plot was discovered (thro' the goodness of divine Providence) which was to have been executed by a part of the Prince's regiment. They were to kill him, blow up the Magazine, and carry off the Military Chest towards Boston. The Magazine contained 4000 barrels of powder; so that the crime would have been increased by the destruction of the whole city of Quebec, and perhaps not even a person left to have told the horrid tale.—A general court-martial has been sitting for some days, but they can do little, for want of evidence. Twelve of the conspirators are bound hand and foot.—I leave you to conjecture the issue."

SUPREME COURT OF THE UNITED STATES.

Alexander Chisholm, citizen of the state of S. Carolina, and Executor of Robert Farquhar, deceased of the same state, v. The state of Georgia.

February Term, 1793.

This action was instituted to August Term, 1792. On the 11th of July, the Marshall for the district of Georgia made the following return: "Executed as within commanded, that is to say served a copy thereof on his excellency Edward Telfair, Esq. Governor of the state of Georgia, and one other copy to Thomas P. Carnes, Esq. the attorney general of said state."

Robert Forlyth, Marshall.

Upon which the attorney general of the United States, as counsel for the plaintiff, grounded the following motion made on the 11th of August, 1792. "That unless the state of Georgia shall after reasonable previous notice of this motion, cause an appearance to be entered in behalf of the said state on the fourth day of the next term or shall then shew cause to the contrary, judgment shall be entered against the said state and a writ of enquiry of damages shall be awarded."

But to avoid every appearance of precipitancy, and to give the state time to deliberate on the measures he ought to adopt, on motion of Mr. Randolph it was ordered by the court that the consideration of this motion should be postponed to the present term. Accordingly on Tuesday the 5th inst. the attorney general proceeded to discuss the interesting question, "whether a state could be sued by one or more individuals of another state?" and in an argument of about two hours and a half, ably supported the affirmative side of the question—When Mr. Randolph had closed his speech, the court after remarking on the importance of the subject now before them, and the necessity of obtaining every possible light on it, expressed a wish to hear any gentleman of the bar, who might be disposed to take up the gauntlet in opposition to the attorney general. As no gentlemen however were so disposed, the court held the matter under advisement until Monday the 19th inst. when, in presence of a numerous and respectable audience they severally declared their opinion on the question that had been argued.

Judge Iredell was first called on by the chief justice for his opinion—In an argument of one hour and a quarter, he maintained the negative of this question; he considered the states as so many separate independent sovereignties. He relied much on the books of English jurisprudence in proof that no sovereign could now be sued unless with consent of the state—He was aware that the states had transferred certain prerogatives of their sovereignty to the United States, but whatever they had not clearly transferred were certainly retained—the right of commencing a suit against the states he did not think clearly vested in the government of the United States, nor recognized by the judiciary law passed in pursuance of the 3d article of the constitution—Judge Iredell referred to many authorities, and on a variety of grounds declared his opinion to be against the motion of the attorney general.

Judge Blair thought the question turned wholly on the words and intention of the constitution, and of the judiciary law—he regarded the spirit but more particularly the plain and obvious meaning of the words in this light—he was satisfied that this court had cognizance of actions against states, at the suit of individuals, and he thought the provision in the constitution wise, and promotive of the general good of the people of the United States—he was averse from the court assuming powers which did not fully belong to it; but he thought he should betray the general interests if he did not lend his aid in support of the real jurisdiction of the court. On the whole he was clearly and decidedly in favor of the motion of the attorney general.

Judge Wilson next took a very broad and enlarged view of the question, which he tho't would again resolve itself into a question of no less magnitude than whether the people of the United States formed a nation. He examined the subject by the great and general principles of law and jurisprudence, by the laws and usages of nations, and by our own constitution and the judicial law of the United States. His argument was elegant, learned, and contained principles and sentiments highly republican—It occupied one hour, and concluded pointedly and unequivocally for the motion of Mr. Randolph.

Judge Cushing confined himself to a narrow compass, to the constitution and laws of the United States; his argument was short but solid and judicious. He saw no room for doubt but sanctioned by his opinion that of his two brethren who had immediately preceded him.

Chief justice Jay delivered one of the most clear, profound and elegant arguments perhaps ever given in a court of judicature; he took a view of the United States previous to the late revolution, when we were the subjects of a sovereign; after our independence he considered the people as becoming individually sovereign. In this capacity they formed the present government; he then examined the reasons of adopting the present constitution as expressed in the preamble to the same; he examined the distribution of powers which they had made in this instrument, more particularly those of the judiciary department, among which he was clearly of opinion, was that of compelling the appearance of a state in the supreme court of the United States, even at the suit of an individual of another state; he commented on the wisdom and sound policy of this arrangement, and concluded in favor of the attorney general's motion in the present cause.

For the GAZETTE of the UNITED STATES.

To GEORGE WASHINGTON.

RECEIVE the congratulations of a heart Unknown to fervid adulation's art; A Heart that Virtue loves, and loving her, Must ever love thee, Vice's Conqueror, Tho' strong, yet gentle is thy generous mind, And long confests'd the friend of all mankind; Tho' great thy toils in war to set us free From British chains, and give us Liberty; Yet thro' some breaths such blood degenerate flows, Those who were brethren once, are now thy foes.

While yet thy fame but equal'd theirs they grew Impassion'd with thy worth, and praises due To thy great merit liberally bestowed, Yet as we knew paid only what they owed. But those who see the subtle arts that dwell In haughty souls, that with ambition swell, Know that in praising you, they gave to praise What in themselves they tho't deserv'd the bays. For while your fame assumes a bolder flight, And rising, spreads around a stronger light, (As when a blazing ball whirls high in air Its sparks more bright and glorious appear) By malice struck, they lift their frowning eyes, And fill pursue thee, but with envious cries. Yet, WASHINGTON! be firm, complete thy plan, Undaunted, still remain the friend of man: For Wisdom speaks this truth, round Virtue's gate The howling whelps of Envy ever wait.

COMMUNICATIONS.

Peace should be the wish of every benevolent heart. War throws mankind back in their progress of improvement—it is an enemy to the happiness of the human race. But if war should spread in Europe, and Great-Britain engage in it, it is happy for America that we are at liberty to remain at peace.—Let others fight—peace and prosperity are companions and fellow travellers. It behoves our government to take care that our fiery spirits are kept in restraint—lest the rashness of individuals should involve the nation.

Half the troubles and almost all the quarrels that vex human life spring rather from little ill humours that ought to be governed and sweetened, than from any real adversity. We make or mar our own happiness. This being true, it only remains for those who would breed discontents among the people to watch for little things—for slight events that stir the fretful—that alarm the timid, or that irritate the proud and envious. Thus by neglecting nothing, they may accomplish every thing. But why should they do this? it will be demanded—Answer, to get chosen into Congress. Many indeed are hunting smaller game. It is more proper to say, they are kept for their barking—and the expected reward is, to get the bones when their masters shall be seated at the table.

MR. FENNO,
Please to publish the following IMPROMPTU, from an Auditor of Debates.

The Secretary makes reports,

Whene'er the House command him;

But, for their lives, some Members say

They cannot understand him.

In such a puzzling case as this,

What can a mortal do?

'Tis hard for one to find reports

And understandings too.

The Senate of this state, on Tuesday last, passed a resolution, for the appointment of a Federal Senator, by joint vote of both houses. The resolution will, no doubt, be concurred in by the house of Representatives.

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