

to intrude as accusers, as prosecutors into the executive department, Gentlemen had not yet declared. The events would declare how agreeable it was to the people of America, that the House of Representatives should attempt to contract the President in the free exercise of his discretion in selecting the proper instruments of executing the laws. The prosecutors in their zeal had forgot that it was essential to personal security and freedom, that a person should not be condemned without an opportunity of being heard in his defence; no such opportunity had been indulged the man, whose reputation dearer to him as a man of honor, than life, was attacked. He was willing however, to proceed to the discussion of the question before the committee; and in regard to the resolution immediately under consideration, and to those which would succeed in their order, as far as he might take part, he should only state the facts in relation to the question immediately under debate, and endeavour to point out that relation. If these facts should be established and those relations understood, he would run the venture to predict, that the sensibility by which the ingenious and intelligent American mind is attached to the object of the prosecution, from a confidence in his integrity and talents, will be greatly increased.

The resolution immediately under consideration, charges the Secretary with violating the law of the 4th of August by

1st. Applying a portion of the principal borrowed under that act towards paying the interest of it.

2d. By drawing part of the monies into the United States, without the instructions of the President.

Respecting the 1st. particular, he requested gentlemen to attend to a simple statement of the facts. Money was in Europe applicable to purposes of appropriation in America. This being immediately connected with the 2d. particular charged in the resolution, and it being inseparably involved with other facts relating to that particular, he would now assume it as a fact: That money was in Europe appropriated to the aid of the sinking fund, and which therefore might be brought here, the real scene of its destination. It was also true that the money arising from our domestic resources being destined to pay the interest on the foreign loans, we had of course money here destined to foreign purposes. To introduce the exploded nonsense under these circumstances of the ear-marks of money, seems the object of the charge, which for no useful purpose would subject us to the risk and expence of sending the money to Europe and of bringing the same money from Europe here. What did the Secretary? He borrowed from one fund, he repaid with the other. He avoided all risk and expence. He fully executed the purposes of the government. He did, in fact, what any prudent, honest agent would have done for his principal, what every man of common sense would have done for himself. Had he pursued another course, had he transported money from Europe to America and from America to Europe in the instance before the committee, it might be said with truth that he had given conclusive evidence of a paltry genius, wholly unworthy of the high station in which he is placed.

The next particular was that he had drawn part of the money borrowed under the act of the 4th of August, into the U. States, without the instructions of the President?

Should the truth of this charge be admitted, it might be asked what authority had the House of Representatives to interfere? Was not this an usurpation?—Were we now to go into a consideration of the respective subjects assigned the several departments of government? Or was the House under the plausible pretence of purifying the executive, to usurp the appropriate and most necessary powers of that department? To whom was intrusted the execution of the loan? To the President, not the House of Representatives. Who was to select the instruments of execution? Who was, to remove from office? Could the house, by any article of the constitution interfere in removal from office, but in the process of impeachment, which is declared not to be an object of the present prosecution? He would not here rest the defence, though the questions he had asked suggested id as

worthy the consideration of those to whom they were addressed, and of the public.

Before he proceeded to the most important circumstances relating to this charge, he would take notice of the evidence on which the gentlemen relied. It was merely of a presumptive nature—a presumption he said he would stake his reputation in believing wholly inconsistent with the character of the President or his Secretary. Was it the character of the President, to admit subjects of vast magnitude, committed to his management to be conducted without his knowledge, by his immediate and confidential ministers? Would he not expel from his confidence the man who should dare thus to conduct.

On the other hand, is it possible to suppose that the Secretary could have presumed to have abused the confidence of the man on whose pleasure his existence absolutely depended? It could not then be supposed consistent with the character of either gentleman that any necessary information could be withheld—that any important step would be taken by the subordinate officer, without instructions where those instructions would be necessary or expedient; and that should he fail in that attention which the nature of his relation, and the subjects under his management required, it was a natural presumption, that the President would do what was proper to be done. Certain it was that it was not subject to any constitutional controul of the House of Representatives.

He said, that by the constitution of the Treasury department the general superintendance of the finances was committed to the Secretary. That by the act of the 4th of August, 1790, which would be again mentioned: The President was authorized to cause to be borrowed 12,000,000 it would be a question, whether, when this money was borrowed, the general superintendance of it was not in virtue of the act, constituting the Treasury department committed to the Secretary. If this was the true construction no instructions would be necessary to enable the Secretary to make the appropriations pointed out by law. This, however, not being necessary to be relied on, he mentioned only incidentally.

He observed, that the money to be borrowed under that act was solely appropriated to the discharge of arrears and installments, and paying off the foreign debt. He wished that the committee would be pleased to notice as a fact to be particularly remembered, that there was no restrictions as to the time of borrowing; only that they should be advantageous to the United States, and of this there was no criterion; the only security of the public was the discretion of the President: It would therefore never be a question, whether a loan made at 5 per cent interest, and 4 per cent. premium was within the authority delegated.

He said that it had been denied that any of the money borrowed in virtue of this act could be drawn into this country. This was in his opinion wholly unfounded. He asked where were the words that contained this restraint? He said, that all the money borrowed might, consistent with the law have been drawn higher, invested in produce, and that produce been delivered in discharge of the debt; and that in fact a very large portion had within the knowledge of every gentleman present been applied to that purpose, and very advantageously to this country. He said if the President should believe it advantageous to the public he might not only draw the money here for the purposes mentioned, but send it to China or to Lapland.

He said, that by the act of the 12th of August, in the same year, a further authority was given to the President, to borrow 2,000,000 of dollars, to be applied to the purchase of the debt; but in this case the interest could not exceed 5 per cent. Previous to the passing of this act our bankers had made a provisional loan of 3,000,000 of florins. It was asked whether any part of this loan could be said to be applicable to the purposes of the last mentioned act, or in other words for aiding the sinking fund? And was it drawn here with the knowledge of the President? A simple statement of facts, he said, would form the best answers to both these questions.

It was, he said, stated by the Secretary as early as the 25th Aug. 1790, that this provisional loan was made, that it might be at command in the course of the then

year. That the expediency of its acceptance, and the application of one third of it to the purposes of the act of the 12th of August, was under the consideration of the President. At that time, then, which was the earliest possible moment, it was known to the President that the loan was made; it was known to the legislature what would be the probable application of it, and yet he said it was now pretended that every body was kept in total ignorance. This, he said, was not all, on the 28th of the same August the President authorized the secretary to execute the power of borrowing under the authority of both acts, and to the amount of 14,000,000 dollars, would it be said that the whole money was intended by the President to be applied to the foreign debt? This would be charging him with an intention more criminal than had been alleged against the Secretary; for he was not authorized so to apply more than 12,000,000. In the same month the secretary ratified the provisional loan of 3,000,000 of florins, and expressly declared it to be in virtue of the conjunct authority of the two loans.

This, he said, was not all. At the opening of the next session, on the 8th of December, 1790, and it was to be observed that the first drawing of the money into this country commenced on the 15th of that month, the President in his speech communicated the loan, and expressly said, that it was made "in conformity to the powers vested in him by the acts of the last session." Had not the legislature then the earliest possible information of the loan and of its intended application? In the same speech the President informed the legislature, in relation to this subject, that the Secretary had his direction to communicate such further particulars as might be requisite for more precise information. Afterwards, in the same session, the Secretary had given the precise information which was directed by the President; he stated the terms of the loan, which were at 5 per cent. interest exclusive of premium, &c. and said that from thence a doubt had arisen, whether it was within the meaning of the act of the 12th of August; that in his opinion, it was very expedient and highly important to the general operations of the treasury, that it should be deemed to be within that act. That the residue beyond what had been applied to the foreign debt might be applied to the purposes of that act. In pursuance of this information, the legislature, to remove the doubts which had been expressed by the Secretary in the said session, passed an act, declaring that that loan "should be construed, and deemed to be within the true intent and meaning of the act for the reduction of the public debt," and extended the operation of the act to any future loans which should be made on the same terms. He asked leave to remind the committee of what he had before stated, that there was no restriction as to interest or premium to be allowed for loans made under the act of the 4th of August; it would therefore, he said, follow irresistibly, that the legislative interference was not only unnecessary, but absurd, on the idea that no part of this loan was to be applied to other purposes than the foreign debt; the words, too, of the act, rendered the intention perfectly unequivocal and certain. Nor, he said, did the whole proof rest in the documents to which he had referred the consideration of the committee. That money had been drawn into America arising from foreign loans had been stated to the legislature at the commencement of their next session after passing the last mentioned act. This was by the Treasurer's account then reported to Congress, which was explained and verified by the Comptroller's report, to which he referred the committee. The same information had from time to time been given by the Treasurer, as money had been received by him from this source. He concluded by requesting gentlemen to review the evidence he had mentioned, and then, as their minds should determine, pronounce whether there was any foundation for saying that no part of the first loan was applicable to the purposes of the act of the 12th of August, or that it was drawn here without the knowledge of the President? Was there any reason on this evidence to which gentlemen had hitherto confined themselves for affirming the truth of either of the propositions now immediately under consideration?

[N. B. The foregoing observations of Mr. Sedgwick were interrupted in the

course of the delivery two or three times, by the reading of official documents which were called for, and by intervening remarks of other gentlemen who repeatedly rose immediately after the reading of those documents. To give a more connected idea of the scope of his argument, the parts of his speech are compressed in one sketch.]

Mr. Giles remarked, that the Secretary had drawn before the sanction of the law was obtained.

Mr. Fitzsimons observed, on the first charge to the resolution, that as the interest of the money borrowed in Europe is payable where borrowed, it was economical in the Secretary to pay that interest with monies there, which were to be drawn here, and replace the sum by taking the amount from the funds here destined for that payment. A financial operation of this nature is simple, and saves the trouble of drawing with the one hand, and remitting with the other. He conceived there was no just foundation for the first charge.

Mr. Lawrence said, that when the resolutions calling for information from the treasury department were first brought forward, the public mind was impressed with an idea, that there were monies unaccounted for; this charge is now dropped, and it is honourable to the officer concerned that after much probing, nothing is found to support it. The enquiry now is, whether a debt was paid out of this or that fund. He did not admit the fact, that it was paid out of any other monies, than what law strictly warranted. He went into a history of the business from its origin. He stated the nature and purposes of the loans. There was nothing to prevent the President, he said, to consolidate the two loans; provided such an arrangement did not interfere with the purposes intended by them. The President employed the Secretary to obtain the loans under the joint authority of both acts, as it was found that the object could best be carried into effect in such an arrangement. The money thus borrowed, became subject to the appropriations of both acts, and not exclusively for the payment of the foreign debt. Then as part of that money was subject to be drawn here for the redemption of the domestic debt, and the interest of the loan was to be paid with domestic funds, it was perfectly reasonable to avoid further drafts and remittances, to pay the debt there with money there, and replace it here with money already here. The fact stated in the first part of the resolution is by this plain state of the case substantially refuted, and appears altogether unfounded; but if the fact is proved, what is implied? no injury to the interests of the community; the intention of the legislature has been in every point fulfilled. If the Secretary had acted differently, he would have been guilty of an absurdity, and to blame for sacrificing the public interest and neglecting the spirit of a law, for a strict and unprofitable observance of its dead letter.

Mr. Giles said the transaction alluded to by the gentleman, to controvert the fact laid down in the first part of the resolution before the committee was not immaterial as they had endeavoured to shew it. It was not merely a financial operation to avoid the necessity of drawing and remitting. The truth was, that the Secretary had drawn over near 3,000,000 of dollars. The President's authority was limited to 2,000,000.

Mr. Lawrence was of opinion, that if the President, or his agent, had drawn the whole amount of the money obtained under both loans, he could not be said to have gone beyond his authority. He was authorized to borrow 12,000,000 to pay the arrears on the foreign debt, and to modify the whole. In the execution of this trust he might have found it advisable to draw to this country the whole of that sum. It had been found advisable to draw for part, and to pay the French by shipping produce to St. Domingo. If the money expended for supplies to St. Domingo is deducted, the balance will be found less than 2,000,000.

The committee reported progress and obtained leave to sit to-morrow.

[To be continued.]

FRIDAY, March 1.

The bill for extending the time for receiving subscriptions to the loan of the United States, was read the third time and passed, the subscriptions, according to this bill are to be continued to the last day of June 1794.

A message from the Senate by Mr. Otis, their Secretary, informed the House that the Senate have agreed with an amendment to the amendments of the House to the bill supplementary to the act to provide more effect-