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CONGRESS.

HOUSE OF REPRESENTATIVES.

FRIDAY, March 1.

In committee of the whole, Mr. Muhlenberg in the chair, on the 3d, 4th, 5th, 6th, 7th, and 8th resolutions, respecting the official conduct of the Secretary of the Treasury, for which see Gazette of Wednesday last.

MR. BARNWELL.

BEFORE I proceed to discuss the observations which yesterday fell from the gentleman who introduced the resolutions now before us, I cannot refrain from saying, that I am extremely happy, that in passing through the medium of that gentleman's examination, this subject has changed its hue from the foul

of speculation to the milder colouring of peculation to the milder colouring of illegal exercise of discretion and a want of politeness in the Secretary of the Treasury. I feel happy because I always am so when any man charged with guilt can acquit himself; and the more so now, when a man in a high responsible office, and high in the estimation of his countrymen, can reduce a charge from a quality calculated to have excited an alarm even in *Pandemonium* to such a shape as I fancy will scarce serve to satisfy the uncommon curiosity which it appears to have excited. As I have never been in the habit of taking notes, I shall depend upon memory in answering the gentleman from Virginia; although I imagine as that gentleman usually ticks very close in his point, whatever it may be, that in pursuing his charges I shall substantially answer his arguments. In commenting upon the two first resolutions to which I am by order confined, I shall consider in the first instance, what regards the right of drawing money into this country—the gentleman appears not to have considered the law properly, for there cannot be a doubt that the President had a right to make what arrangements he pleased in order to attain what he might consider a proper modification of the debt due by the United States abroad; he might have borrowed the money here or have paid here; he might have borrowed the money in England, or wherever he thought fit. I will ask the gentleman by what precise authority he borrowed the money in Amsterdam and Antwerp, and paid it in Paris; certainly by none, but that discretion which has been depended upon to modify the debt in the manner most productive to the interest of the United States, I take it then for granted, Mr. Chairman, that the right of the President to draw the money borrowed here, or to send it any where must be conceded; The question will then arise, whether the Secretary of the treasury had a right to do this or no, and whether this has not been done without, nay, against the instructions of the President. I really consider this as one of the most extraordinary cases that I have ever known exhibited. Let us consider its form, a highly important trust of no lesser import than the discretionary use of 14,000,000 of dollars is placed in the President of the United States. He by a general commission and by special instructions, deposes his power to the Secretary of the treasury, stating that he is to conform to these and whatever instructions he might from time to time give him. Let any man seriously examine these powers, and I am of opinion that the Secretary under these had a right to draw if he thought proper, unless instructed to the contrary: For the President conveys a complete power to modify the debt, provided that it shall be with all convenient dispatch applied to pay the principal and interest due to France; for where the payments are to be made are certainly left to the Secretary. If this has not been exercised advantageously, this is another circumstance which the gentleman himself has not questioned. But says the gentleman, the Secretary under these instructions had no special authority to draw, notwithstanding which he began to draw

in 1790, and has continued to draw at

different times into this country the enormous sum of 3,000,000 of dollars, and therefore he must have done this without, nay, against the instructions of the President, who it is presumed having delegated this great trust has never for three years enquired into the performance of it.

Can this be the inference of common sense—can this be the inference of the experience which we have had of the President, one of the prominent features of whose character always has been an industry to investigate particulars, as remarkable as his sagacity to frame generals. If then instructions have not been given or have been exceeded, was it necessary for us to come in aid of the President, he who by our law has the power which we ourselves cannot exercise of removing any of the executive officers at pleasure; it certainly cannot be necessary, for as this officer continues to act, we must conclude, that he has either acted by instructions, or in such manner as to have given satisfaction to his principal without them.—Really, Mr. Chairman, I cannot but believe that if suspicion had not led the gentleman from Virginia astray, the usual correctness of his understanding would have prevented him from pursuing such an ignis fatuus as this.

Thus Sir I think I have shewn that the President of the United States certainly had the authority to draw the sums borrowed here, and that both under his commission and his instructions given, and inevitably implied, the Secretary had also this power, to do this. I shall therefore now proceed to a more special consideration of the first charge, that the Secretary has violated the law in applying a portion of the principal borrowed to the payment of the interest falling due upon that principal, which was not authorised by law.

Before I proceed, Mr. Chairman, I would wish to remark, that whilst I consider no principle in legislation more correct, than that no money shall be drawn from the Treasury but under appropriations by law; yet I consider both as impracticable and mischievous the doctrine, that the money arising from a special tax shall in no instance be used for any other than that special purpose for which the sums raised ought rather to be considered as an aggregate fund applicable to aggregate purposes, and indeed if a rigid adherence to the precise letter of the law is necessary there has been no occasion to go abroad to search for violations; for our government at home has been able to act only by this violation. It is well known that the duties of impost and tonnage are appropriated first to produce the sum of 600,000 dollars for the civil list, then to pay the interest of the foreign debt and so on; so that by a rigid observance of this law the secretary must have first collected the 600,000 into the public coffers and then a sum sufficient to pay the interest of the foreign debt, a process which only requires stating to shew its absurdity and which must nevertheless have been connected with a minute construction of the law. Indeed, Mr. Chairman, if the acts of common life bear any analogy with public management, which I believe, what could be considered as being more extraordinary than that an individual should appropriate the proceeds of one farm to purchase bread, of another drink, and to declare in the face of contingencies, that happen what may, he would starve should the breed crop fail, rather than use the surplus of that appropriated to purchase drink, for its purchase. But to return, what is this charge, a sum of money was due abroad for the interest of 1791 and 1792, to be paid out of the domestic revenues of 1791 and 1792; the United States had an offer to make a payment in part of what was due France, for which money had been borrowed and was already on hand abroad, in a supply of provisions from here to the Island of St. Domingo, the secretary therefore, and doubt-

less with the consent of the President, instead of transmitting either bills or money from this country to France, in order to pay the interest due there, and bringing the money borrowed to pay the French debt into this country, in order to furnish supplies for St. Domingo, has committed the great crime of directing the money borrowed and already upon the spot to be applied to the payment of the interest due, and has taken the sums applicable to the payments of that interest which was already here and made use of it to pay the debt due to France in the produce of the United States. So that although apparently a portion of the principal borrowed has been applied to pay an interest due, yet in reality its capacity to be thus used arose from its constituting in this country an equivalent sum applicable, and which has been applied to pay off the principal of the French debt, the object for which the money was borrowed. Let candour investigate this transaction and fare I am its deductions will be directly the contrary of a charge of crimination, I shall conclude with observing, that I should have proceeded to examine the other resolutions which I consider as weak as those I have made short comments upon, were I not restrained by the rules of the house. But this I will venture to say, that they will be proved unfounded in their investigation, and will merit the witty observation of a celebrated writer, that though they rose like a rocket, they will fall like the stick.

Mr. Findley next rose and expressed himself nearly as follows:

Mr. Chairman, being strongly impressed with the importance of our timewhich is now so near an end, though I had the honour of seconding the resolutions, I took no part in the debates of yesterday; nor will I now detain you with replies to many of the arguments which have been offered against the resolution now under discussion.

Upon one argument, frequently introduced by the gentleman last up, viz. the greatness of the Secretary's character, &c. I will only make a single remark; there is no character officially known in the executive departments of this government who merits pre-eminence, or to whom a degree of greatness can be ascribed, but in proportion to his prompt execution of the laws and the attention with which he discharges the duties of his office. From this rule the President himself is not exempted, much less a subordinate Secretary, whose appointment is during pleasure, and the duties assigned him of a changeable and temporary nature.

But to come to the resolution before us; the first enquiries that offer themselves are, whether the money in question was appropriated to special and distinct purposes? Did the Secretary of the treasury apply the money to other uses than the law directed?

In answer to the first it is only necessary to advert to the law authorising the loans. The law authorising the twelve million loan, appropriates whatever amount may be borrowed solely to the payment of debts then due to France and Holland.

The law authorising the two million loan directs the application thereof to the redemption of the domestic debt, in aid of about dollars arising from the revenue previous to the first of January.

These appropriations were precise, distinct and unconditional, with respect to the uses no room was left for the exercise of discretion; the will of the legislature was express and clearly designed, it left no room for evasion nor any excuse for mistake; nor did the President transfer to the Secretary any other authority or instruction than what the law expressed.

But the gentleman from South-Carolina says, that presumption is, that the President did give other instructions than he has communicated; that in this case presumption should be admitted as conclusive testimony; and that the Secre-

tary nor the President are not obliged to communicate the instruction or authorities to us.

The gentleman is a lawyer, I will appeal to himself, I will appeal to all the professional members on the floor, whether presumption can be admitted as proof where in the nature of the case positive testimony can be procured.

Surely in courts of justice positive testimony is always required, and presumptive is rarely admitted; but in this case the presumptive is by the gentleman set in opposition to the positive. However this is not the case in fact. The President did give commission and instructions, and these are fully communicated to us. If he conceived we had no right to demand them, he would have told us so; if he had kept any part of them back, he would have informed us, and assigned his reasons or doing so. I presume that the President has acted the part of a candid honest man; the gentleman presumes the reverse. The suggestion that this house, which has the exclusive right of originating the appropriation of money, has no right to be informed of the application of it, is so novel and extraordinary, so inconsistent with propriety and good government, that it requires no reply.

Did the Secretary apply the money borrowed in Europe agreeably to the legal appropriations of the President? No he did not, though some of the gentlemen do not acknowledge this; yet the Secretary has clearly acknowledged it himself, and has filled his reports with laboured and ingenious apologies for so doing; he has suggested a variety of motives, and taken, infinite liberty to charm us with the mighty public advantages resulting from his doing so. He acknowledges having drawn to this country and applied in Europe to uses for which other monies were appropriated, 3 millions of dollars; out of this he has paid upwards of 400,000 dolls. of the French debt to St. Domingo. I did not complain of paying the interest due in Europe out of the money obtained there: The gentlemen apply the force of their arguments with great attention to support or apologize for this part of the Secretary's conduct, as if against this only the charge in the resolution lay. But we do not object to applying that money in Holland, which ought to have been brought here, if the money which according to the appropriation should have gone to Holland had been put to the use here for which the other was intended, a simple exchange of money for the purpose of conveniency & economy is properly one of these cases to which ministerial discretion may solely be extended; but the question is, whether the money has been replaced. The amount of money has not been applied to the uses intended, consequently the appropriation has been disregarded. It is acknowledged that though there were upwards of 1,300,000 dolls. of the domestic sinking fund, and upwards of 2,300,000 dollars drawn from Europe, besides the monies applied to the relief of St. Domingo, and yet when these enquiries began, there was not 1,000,000 dollars applied to the redemption of the public debt, and even yet the whole of the domestic appropriation has not been applied to the sinking fund, notwithstanding that the public debt now is and has for sometime been under par. We have it on record, that the Secretary never informed the commissioners of draughts he made on Europe, although the fund was exclusively to be at their disposal.

However I will not detain the committee with minute statements, they are not necessary; the Secretary has acknowledged that he drew more money from Europe than the law authorised him to do; that he was influenced to do so by motives not contemplated in the law, and had either applied it or drawn it from Europe with the design of applying it to uses not authorised, and that he has broken in upon the fund appropriated to the discharge