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WEDNESDAY, APRIL 3, 1793.

[Whole No. 410.]

CONGRESS.

HOUSE OF REPRESENTATIVES.

FRIDAY EVENING, March 1.

Substance of the observations made by Mr. Dayton, in the debate on the following resolution, viz.

RESOLVED, that the Secretary of the Treasury has omitted to discharge an essential duty of his office, in failing to give Congress official information in due time of the monies drawn by him from Europe into the United States; which drawing commenced in December, 1792, and continued till January 1793, and of the causes of making such drafts.

Mr. Dayton said, that at so late an hour of the night, he was unwilling to detain the committee unnecessarily; he trusted however that they would grant him their indulgence and attention for a few moments before the vote was taken. The resolution upon which the sense of the committee was about to be expressed, contained a direct charge against the Secretary of the Treasury for having failed to give Congress official information in due time of the monies drawn by him from Europe into the United States, and of the causes of such drafts. He rose principally to remark, that the arguments which had been used by the advocates of these resolutions in support of the first that had been discussed, and particularly by the member from Virginia (Mr. Madison) were of such a nature, as must, if applied to the one now under debate, compel that gentleman to abandon this charge and give it his negative, if he would preserve any sort of consistency between his arguments and his vote.

It had been asserted by him, and seemed to be relied upon as an important fact, that the Secretary's agency in respect to foreign loans, did not necessarily result from the duties of his office, or the constitution of the treasury department which on that head was silent, but that it was founded upon a special commission and instructions given to that officer by the President in whom the laws had vested an authority. Under that view then it was deemed convenient and proper to regard the President as the principal, and the Secretary as his agent, in order that there might appear to be some foundation for the charge against the latter, for having acted in any instance without the express instruction of the former. If this was truly the relationship in which the Secretary stood to the President—if the President's commission was his authority, and the President's instructions, his law and guide—if the case of loans was, in respect to the treasury department, an extraordinary and extra-official one, not necessarily falling under the Head of it, but distinct from the ordinary revenues which bounded his legal authority, as had been declared by a member from Virginia and another from Pennsylvania, Mr. Dayton called upon those two gentlemen to explain, with what propriety the Secretary of the Treasury could be censured for not complying in his annual official statement of receipts and expenditures of public monies in his department, a report of his agency in a business unconnected therewith, which he transacted not in quality of financier, but of agent, and for which he was directly responsible to the President, who was his principal, and who could, and doubtless would, have dismissed him from office, if he had acted unfaithfully. There appeared to his mind, Mr. Dayton said, such inconsistency and contradiction between the reasoning he had quoted, and the resolution on the table, as induced him to believe that all who gave their assent to those arguments, but especially those who had expressed and supported them, would join with him in voting against this proposition.

But there were other reasons, Mr. Dayton added, which seemed to his judgment to lead irresistibly to the same conclusion. The House of Representatives had already expressed their sense upon this subject. Their resolutions, passed on the 23d of January without any opposition, evidently recognized certain principles, which directly militated against those contained in this resolution. The President of the United States was there requested to communicate the information wanted. It is well known to every member that this mode was never adopted in any call for information respecting our fiscal concerns, or other matters relating to the ordinary business of the department, but that it was always observed when the information wanted was of such a nature as to render it improper for either the subordinate executive officers to give it without the order of their head, the President. Shall the Secretary of the Treasury then be censured for not reporting to Congress transactions unasked for, which it is admitted he was not at liberty to report even upon the order of the House, without the sanction and express direction of the President? Shall he be censured for not giving information of the monies drawn by him from Europe, and of the causes of making such drafts, when the very laws which authorized the loan of fourteen millions, point out the

causes, declare the purposes, and designate the appropriation? The act of the 12th of August directed the application of two millions to the purchase of the public debt. Was not this country the only proper place for that operation? And would any one say that those purchases could be made advantageously for the United States unless the money was drawn here? Was there not a discretionary power given to the executive over the other twelve millions, destined to the payment of our debt to France, in virtue of which such portion of it might be drawn here, as might be deemed consistent with the public good? Had not events fully justified Congress in having granted that discretionary power, and the executive in the use they had made of it? Through the instrumentality of those drafts we had been enabled to purchase nearly two millions of our own debt, and to pay in this country, (principally in our own produce) about half a million of the French debt, by which the Colony of St. Domingo had been relieved from its sufferings, and the government and people of France highly gratified and benefited. Far from meriting censure for arrangements so prudent and beneficial, the man who had effected them was, Mr. Dayton asserted, entitled to the commendation and thanks of his countrymen. That the Secretary had discharged both his ordinary and extraordinary duties with ability and integrity, had been directly denied by none, that he had misconstrued the act of the 4th of August, and departed from its true spirit, had been urged and supported by very few, but that the arrangements, which he made, had proved beneficial to France, and highly favorable to the interests of the United States, seemed to have been admitted by all, even by the very gentlemen who had questioned the legality of them.

Mr. Dayton concluded with saying that he was happy to find he should be with a very large majority of the House, in the vote that the Secretary was not chargeable with the omission and failure which the resolution aimed to fix upon him.

Mr. Findley,—If my hopes respecting the government have not been equally elevated with those of the gentleman from Massachusetts (Mr. Ames) neither are my apprehensions so much depressed with fears. But I hope I am equally anxious for the stability and prosperity of the government, and though we differ in opinion on this question, yet I am firmly persuaded, that the part I take, is the best calculated to promote the necessary confidence in government, and secure the virtue of its administration. As the gentleman, in an elegant discourse, has explained no difficulties, nor adduced any proofs in support of his opinions, I will only add, that I believe the government to be so well established, and so much beloved by the citizens, as not to be endangered by the House of Representatives examining, how the laws have been obeyed in the application of public money, and giving their opinion upon the result of that examination.

That the Secretary has not reported fully to this House in due time, is so much within the knowledge of every member, that it is impossible to doubt of the truth of the fact, however we may differ about the propriety of the conduct. To go no farther back than last session, besides the references to the Secretary to report upon the ways and means, and inform the House what revenues were necessary, on the 30th of February, 1791, a standing order was resolved, directing that he should report, unto the House, within a few days after the meeting of the next session, an accurate statement, and account of the receipts and expenditures of all the public monies, in which shall be distinguished the expenditures which fall under each head of appropriation, and that in it shall be shown the sums, if any which remain unexpended, &c.

Were not the monies drawn upon loan, public monies, and were not those loans appropriated? Undoubtedly they were strictly so: it is a strange evasion to say, that by these expressions only, the current revenue is intended. Arguments must be scarce when this becomes necessary. It requires no refutation.

On the 9th of January last, he was called upon to lay before the House such information with respect to the finances of the United States, as will enable the Legislature to judge whether any or what additional revenues will be necessary.

In consequence of the recommendations of the President, and the wishes of this House to commence the discharge of the redeemable part of the funded debt, a reference was made to the Secretary, requiring him to report a mode for the application of the public money for that purpose. The House being assured by the gentleman who moved the resolution, that no new tax was intended or necessary. But the Secretary, so far from informing the House, how much money he had subject to his discretion in the bank, in notes, &c. proposed a new and partial tax, as the foundation of a new system of loans.

When the memorable bill, for to authorize another loan of 2,000,000 of dollars, was be-

fore the House a few weeks ago, we were told by gentlemen on this floor, that there was not time for argument—that the bill must be passed in three or four days, &c.—and when we wanted information, we were told by some of the friends of the bill, that it was not convenient to give information there—that we might procure information elsewhere, as they had done. I confess I did not comprehend this method of legislating; but the Secretary has since explained it in one of his reports, by complaining of the House, because the members did not go to his office, and ask information, instead of requiring it to be publicly reported.

Even when this favorite bill for a new loan was before the House, the Secretary did not condescend to inform us, that he had, without authority, provided nearly a million and a half of dollars for that purpose: He did not inform us how obligingly he had drawn bills upon our bankers in Holland, to have the money put in our way.

Thus, in order to anticipate the payments due to the bank he did what he could, to induce Congress to break the public faith, by repealing the existing appropriation, made for securing the discharge of a debt of justice and gratitude to the French nation. From this, and other instances, it appears, that however high the Secretary's regard for public credit may be, there are other considerations which have obtained a higher degree of his attention, than obedience to the laws. The gentleman from Virginia (Mr. Madison) has so clearly explained the nature of that discretion with which the Secretary is vested, and so fully proved that there was no necessity to justify a departure from the appropriations made by law, that it is not necessary for me to explain further on that head. However, I cannot help remarking, that the discretionary powers were pretty freely exercised.—The drawing of bills began early, indeed—and were continued to a recent period: The times of drawing fortunately corresponded with the necessities of the bank, and the power of employing agents was pretty freely used. The same agents were frequently both the sellers and the purchasers of the bills. Perhaps this was necessary: No doubt it was convenient: Probably it was safe; but who can say, it will be always so?

I have not said so much to prove the truth of the facts expressed in the resolution; for, of this, there can be no doubt: it is as clear as the sun shining in day light. But, in order to prove the propriety of this committee expressing its disapprobation of a conduct so unjustifiable, that information was withheld unduly, is evident, from the late course of this discussion—that it was obtained with difficulty, is evident, from the numerous applications we were obliged to make in order to obtain it.

On the motion to refer Mr. Giles's resolutions respecting the official conduct of the Secretary of the Treasury, Mr. Murray made the following observations.

He said he was opposed to the reference of the resolutions to the committee of the whole. He had, as far as the time permitted, examined the several reports on which the examination depended, and was then ready to vote on them—though he confessed from the intricacy which was inherent in such a subject, as well as from the vast variety of the detail involved, he had not had sufficient time for a complete investigation—Nor did he imagine that any man who had not previously meditated on the subject for a length of time, and made choice of his ground of attack, could say he was completely master of the subject.—Some votes, however, was now rendered essential to the character not only of government, but of the gentleman who presided over the finances of the country. But three days were left for this enquiry, and to finish a great deal of other business—and he thought that dispatch which was usual in the House, ought to be used in preference to the indulgence which a committee afforded.—As to the abstract propositions, if it were necessary now to go into them, he thought it would be proper to decide on them first. He thought it most logical to lay down principles of reasoning before facts were developed.—Were they agreed to by the House, it would be under provisions and restrictions.—They could not have the implicit force of axioms, but at most must be yielded to as wholesome maxims, the application of which must be frequently modified by a certain degree of discretion. With respect to all the other resolutions, he imagined they would on examination be found to be unwarranted by facts. He hoped the movers and supporters of the resolutions would not be gratified at so late a season, by the House in resolving itself into a committee of the whole.—The mode in which they were brought forward did not entitle them to much confidence. He said a more unhandsome proceeding he had never seen in Congress.—It had been a practice derived from the lights of common liberty, common right and the first principles of justice, that whoever was charged with a violation of law on which a punishment ensued, should have some mode of answering to the charge.—It had in a recent in-

stance been the practice of Congress, when an officer's conduct was even in the first instance inquired into, to afford the officer an opportunity of attending upon the examination on which his offence, or his freedom from blame was to appear.—He alluded to the conduct of the House when an examination took place relatively to the failure of Gen. St. Clair's expedition.—Suspicions were entertained that some lay somewhere.—A committee was appointed to examine—the three officers particularly concerned, were, he understood invited as it were to come before the committee to explain, to interrogate and to give information.—Though the Secretary at War was not permitted to explain on the floor, justice, and delicacy, and the most common principles of jurisprudence to which we attempted to hold some analogy, demanded that he should be heard somewhere—and the committee was renewed for this purpose.—The quarter-master general asked to be heard on this floor—though refused, he was permitted to attend that committee on whose examination his character as a quarter-master depended.—Were any man, responsible as an officer to this House, to fall under the suspicion of its members, a reward to decency and to the established rights of citizenship, would reach gentlemen to inquire formally before they hastily laid a charge on the table, to which they might move the assent of the House.—But in this proceeding a legislative charge was gone into, before inquiry had been instituted.—Every rule of justice, and all that delicacy which ought ever to attend her progress, had been disregarded, and in the very first instance; a number of charges were brought forward, not for enquiry but conviction, which if sanctioned by a majority of the House, are to be followed by the dismissal of one of the highest officers in the government.—This mode was as tyrannical as it was new, and if any thing could throw a bias against the resolutions, independent of enquiry, it was the partial and unjust form in which the proceeding had commenced.—Resolutions of conviction might rise out of the report of a committee of inquiry, who would act as a grand jury to the House, but could never precede it.—He hoped the House would not refer to a committee of the whole, what might be decided in the House with more dispatch.

For the GAZETTE of the UNITED STATES.

CERTAIN resolutions moved in the Legislature of Georgia have appeared, in the papers, expressing their opinion on the question, whether a state may be sued in the Supreme Judicial Court of the United States. They reject the affirmative with nominal assent. Among other reasons, they say in substance, if they should be made liable by due course of law to pay their debts, it would be a most grievous wrong and injury. It would create a perpetual burthen of taxes in addition to such as they have to bear by the injustice of the funding system. Admitting the horrid wrong of being compelled to pay their debts to be a clipping of the plumes of the imperial sovereignty, it is not a clear point that a question in the law courts should be, in strict propriety, decided by the legislature of Georgia. The office of judges and legislators seems to be blended. In another suit Georgia is plaintiff. Will the state please to resolve how that suit shall be decided? Yet they think it proper to send their resolutions to the judges of the Supreme Court. Is this done to overawe, or to convince them? Those who are so afraid of being encroached upon, should not encroach.—They might have relied on the law and constitution, if they were as they supposed—and if they were not rightly understood, the court would not be helped by their assistance.

While they fear the invasion of their peculiar province with so much foreboding jealousy, it became them surely to leave untouched the exclusive authority of Congress. It seems they adopted a different opinion. For they have gone out of their way to call the funding system hard names. It would appear as indecent at least, and perhaps as dangerous to the sovereignty of the people of the United States for the legislature of a State to discuss the merits of the acts of Congress, and to pass censures on them, as for a law court to interpret the Constitution according to its legal sense—of which they are the proper judges. The sovereignty of the whole people of the union seems to be as sacred as the sovereignty of Georgia. They tell us indeed that for them to be sued is repugnant to the smallest idea of sovereignty. Perhaps it is meant that the smaller the idea of sovereignty the more must be made of it, and the more the greater must give way and yield to the less. So much for the decency of this intrusion of their censure on the funding system. How just is it? Precisely as just as it is decent. When they speak of the injustice of the funding system they certainly intend that somebody suffers wrong by it. Who is it that suffers wrong? Is it intended to affirm that the certificate holders receive less than their right? This cannot be supposed to be their concep-