

CONGRESS.

HOUSE OF REPRESENTATIVES.

Wednesday, March 16.

Debate on Mr. Livingston's resolution continued.

Mr. W. Lyman began with remarking that the gentlemen opposed to the resolution had at first contended that the House had not a right by the Constitution to require papers of the Executive, relative to any subject whatever, and that it would be wholly optional with the executive, whether they would be disclosed or not: To this he replied, that the House possessed the powers of impeachment solely, and that this authority implied the right to inspect every paper and transaction in any department, otherwise how could the power of impeachment ever be exercised; besides, this right had been sanctioned by the uniform and undeniable practice of the House ever since the organization of the government: They had called for papers whenever they had judged it expedient; and he asserted that the House had the fullest right to the possession of any papers in the executive department; they were the special guardians of the people for that purpose, and he would undertake to say that this was the first time it had ever been controverted. But he should not longer dwell upon this point, as it had been abandoned, nor should he charge gentlemen with any inconsistency in so doing; he thought they had acted consistently and judiciously in giving up a position so untenable—as the authority of the House was therefore admitted, the only question was whether it was proper it should now be exercised. This, he said, brought into consideration the powers of the several branches of government, and what limits had been marked for them in the Constitution; to what objects the legislative powers extended, and to what bounds the power of making treaties was confined; and in what manner they were controlled by the legislative power. It was, he said, obvious that if the House had a Constitutional power to enter upon the consideration of the treaty, and give it an effect or not, as they should judge best—That then they ought to be possessed of the papers in question, and the resolution ought to pass. If this power should be now found vested in the House, the gentlemen against the resolution could not refuse it their vote.—In order to ascertain this, he begged leave to advert to the Constitution in the first article and first section, it was declared that all legislative powers therein granted were vested in a Congress to consist of a Senate and House of Representatives, and in the eighth section of the same article, the powers granted were defined, such as to lay and collect taxes, borrow money, regulate commerce, &c. and to exercise other important powers enumerated under eighteen different heads—here Mr. Lyman said he would ask any gentleman whether it could be supposed that this article was not to be efficacious and operative? Was it conceivable that an article so definite, and so important, had been introduced into the Constitution merely for the purpose of its being taken away by a subsequent article or section. The supposition, he said, was the height of absurdity, and one from which his mind turned with indignation, and yet this would be the case, if the doctrine which had been laid down was true, viz. that treaties repealed or controuled laws. A gentleman from Connecticut had said, that the treaty making power occupied all ground, and was vested in the President and Senate, and that the legislative power occupied all ground, and was vested in Congress. For his own part, Mr. Lyman said, he could not conceive of two persons being in the full possession of the same thing at the same time; such incongruities could never be reduced to practice, they must be reconciled, or otherwise the one would defeat the other. The treaty making power must either absorb the legislative power, or if at variance, the legislative power would absorb the treaty making power. This, then, induced the necessity of a different construction. He had, he said, always believed, that laws and Constitutions, ought, if possible, to receive such construction and interpretation as to render them consistent; and that it was highly presumptive that a construction was erroneous when it produced an absurd conclusion. The best definition he had been able to conceive of the treaty making power was, that it was a species of executive power, and like that, under the controul of the legislative power, particularly in all countries governed by Constitutions and certain laws, as was yet the case in this country.

If the several parts of the Constitution were compared and critically examined, he thought the result would be, that the President and Senate could make treaties, but not those which intrenched on the legislative powers, unless by their concurrence and consent, otherwise it followed, that although it required the three branches of the government to enact laws, yet the President and Senate, by treaty, could repeal them altogether. This would be vesting powers in the House of Representatives to no purpose; for it was in vain for them to be consulted in the formation of laws, if at any time they were liable to be annulled at the pleasure of the President and Senate.—The present question was not, he said, whether the House should make treaties, but whether the President and Senate should make laws. All the power contended for on the part of the House, was the power of self preservation—it was a repelling power; a power to prevent the President and Senate, under the colour of making treaties, from making all our laws. He observed, that it had been continually asserted, and with much assurance, that this doctrine contended for on the part of the House, was a novel doctrine, notwithstanding which it had been proved, and to his satisfaction, by several gentlemen, that this interpretation had been given the constitution in most of the state conventions, at the adoption of it; that the same interpretation had also been given by writers for and against the Constitution at that time; and he should now proceed to shew, that this principle had been not only thus settled and understood then, but that it had been invariably admitted and recognized from the first organization of the government until this time.

The first treaty, he said, that had been made under this constitution was that with the Creek Indians in the year 1789. The President in communicating this subject, says, "If it should be the judgment of Congress that it would be most expedient to terminate all differences in the northern district, and to lay the foundation for future confidence by an amicable treaty with the Indian tribes in that quarter, I think proper to suggest, &c." Here, Mr. Lyman said, he wished it to be noticed, that this was expressly referred to the judgment of Congress, and for what purpose he asked was it referred, if the President and Senate had the power to make treaties? There was no necessity to consult the house of representatives; and yet, in this case, which was the first that presented itself, it had been conceived necessary. In consequence of this application, Congress had judged it necessary to hold the treaty and on the 20th of Aug. 1789, enacted a law, in which the sum of twenty thousand dollars was appropriated for that purpose, in consequence of which the President had appointed commissioners and given them their instructions, which instructions had been communicated to Congress, and from them he would read one paragraph—it was as follows, "You will observe that the whole sum that can be constitutionally expended for the proposed treaty, shall not exceed 20,000 dollars.

On this he said, it was unnecessary to comment, as the principle that the legislature held a controul over the executive in treaty making power, was so expressly recognized and admitted by the President himself. He would pursue the enquiry further.—In January 1790, in consequence of communications from the executive, which had been referred to a select committee, and a report made thereon, the house came to the following resolution, viz.—That provision ought to be made by law for holding a treaty with the Wabash, Miami, and other Indian tribes, north west of the river Ohio."

In March following, a law was made, the title of which was, "An act entitled an act providing for holding a treaty to establish peace with certain Indian tribes."

In March 1791, the sum of 20,000 dollars were appropriated for obtaining a recognition of the treaty with the emperor of Morocco. In March 1793, 10,000 dollars were appropriated to defray the expense of a treaty with the Indian tribes, north west of the river Ohio.

Thus it would be seen, that laws had been deemed necessary to provide for holding treaties, and to defray the expenses thereof.—The President in a message of the 16th Dec. 1793, says, "I lay before you a report of the secretary of state, on the measures taken for obtaining a recognition of the treaty with the Emperor of Morocco; in another message of the same date, accompanying the correspondence of the secretary of state with the Spanish government, would be found the following paragraph, to wit, I must add, that the Spanish representatives here, perceiving that their last communications had made considerable impressions, endeavored to abate this, has some subsequent professions which being also among the communications to the legislature, they will be able to form their own conclusions. He would not, he said, further engross the time of the committee in the citation of examples and precedents; he thought these were sufficient to convince the world, that the interpretation of the constitution now insisted on by the house was not a novelty, that it was sanctioned by both theory and practice, that it had even been understood by the executive, and both branches of the legislative authorities, from the first operation of the present government. Who then, he exclaimed, were to be justly charged with innovation and usurping powers not delegated to them by the constitution? Ought it not to be those who were endeavoring to erect the treaty making power into a legislative power, and to constitute a prerogative superior to their controul. It would be found, he said, that this power in the executive did not exist in England or in France under the ancient government, nor in Spain, countries which had ever been represented as being oppressed to such a degree, that their inhabitants were continually forced to seek a refuge upon our shores. He further added, that to him this principle and right appeared to be imprescriptible. [Remainder to-morrow.]

Wednesday, April 20.

The bills for making appropriations for defraying the expenses which may arise in carrying into effect the treaties lately concluded between the United States and the King of Spain, and with certain Indian tribes north west of the river Ohio, were read a third time and passed. The first bill in the former for defraying the expenses according to an estimate was filled up with 18683 dollars, and the allowance for commissioners, with 2000 dollars. The cost and transportation of the payment of the stipulations to the Indians in the latter bill was filled up with 1500 dollars.

Mr. Henderson moved that the resolution which he yesterday laid upon the table, respecting the disposal of lands reserved for the use of government, be taken up. It was taken up accordingly and referred to a committee of three members.

The house then resolved itself into a committee of the whole on the state of the Union, and the resolution for carrying the British treaty into effect, being under consideration, Mr. Fillmore finished his observations in favor of the resolution, and Mr. Cooper and Mr. Bourne spoke on the same side of the question; Mr. Page and Mr. Findley also spoke against the resolution. The committee rose and had leave to sit again.

Mr. Hartley presented a petition signed by upwards of 600 merchants of the city of Philadelphia, and another from 800 other citizens of Philadelphia, praying that provision might be made with all convenient dispatch for carrying into effect the British treaty.

Mr. Swanwick also presented a petition signed by 1500 persons, inhabitants of the city and neighborhood of Philadelphia, praying that the British treaty might not be carried into effect.

The above petitions were severally read, and referred to the committee of the whole on the state of the Union.

Mr. Hillhouse reported a bill for making appropriations for defraying the expenses which may arise in carrying into effect the treaty lately concluded with the Dey and Regency of Algiers, which was read twice, and committed to a committee of the whole to-morrow.

Philadelphia,

THURSDAY EVENING, APRIL 21, 1796.

Yesterday No. 37929 came up a prize of Thirty Thousand Dollars in the Canal Lottery.—The ticket is the property of a lad apprentice to Mr. Chamblee Allen, grocer, of this city—he is a youth of merit—his mother is a widow.

Extract of a letter from a respectable House in New-York, to a gentleman in this city, dated 20th April.

"Our markets (in consequence of the appearance of the Treaty not being carried into effect) have fallen much—flour, 12 dollars; beef, prime, 11 to 12 dollars; pork, prime, 140s. and no sales; however are in hopes when ours, and other petitions, are laid before Congress, they will still do it; but if they should persevere, there is no judging the consequences. We had a large meeting of our most respectable citizens here yesterday, and there was not a dissenting voice, we suppose our petitions will be forwarded in a day or two."

Extract of a letter from New-Jersey, dated April 17, 1796.

"Accept, my friend, my thanks for your three last letters. Their contents, tho' not of the most pleasing nature, could not but be satisfactory to one who feels anxious for the public good, and wishes to know the real state of things, whether it be favorable or otherwise. The desperate resolution of the factious party is to be lamented, not only by every man who regards the honor and prosperity of the United States, but by every friend of rational liberty. It is much to be feared, that even if they are in the end foiled (which, however, is rather to be hoped than expected) the very attempt they have made to usurp authority, may be attended by disagreeable consequences in regard to our foreign relations.—What confidence will a foreign nation have in a government composed of such materials? in which they see the most popular and powerful branch overleaping their constitutional boundaries, and with an impious hand endeavoring to prostrate those very checks, which were provided to guard against itself—in which corrupted ideas of expediency are placed in the stead of the constitution, faith and contract?"

"I trust, however, that the Senate are determined to resist this lawless attempt—Indeed, to acquiesce in the destruction of their own lawful powers, would be the crime next in degree to joining in the scheme.

"The absurdities to which the leaders are driven by the force of truth, is most glaring. They say the President and Senate have full power to make and ratify treaties, and yet they say, they have a right to defeat a treaty, if they deem it inexpedient to be executed. What greater power does the Senate claim under the express words of the constitution? By this usurpation, nice questions of law and equity are to be balanced by the House of Representatives, and the legal efficacy of the most solemn national compacts is made dependent on the intrigues and misrepresentations of unprincipled popular leaders.—They had better be honest, and stick to their leader Gallatin's first proposition, that it was no treaty without their approbation.

"But I am not without my hopes that good will come out of this evil. I hope the people of this country, too long the dupes of pretended patriots, will hereafter better understand the characters of some men whom they have trusted.—They have drawn away the veil themselves—they vainly and weakly thought that hatred to the English would gild any thing; but they will fall into the pit themselves—our people do not hate the English government as much as they love their own. With us there never has been, to my knowledge, so universal a sentiment, as that reproaching the whole of this proceeding.

"But what, my friend, is to be the end of this thing? Are we to be forced into a war, which will be unjust and ruinous? or are we to submit to all injuries past and to come? or are we to separate and obtain justice for ourselves? The dilemma is important, and, I think, inevitable. In my mind, the last expedient is the preferable one, if things are pushed to extremity.—What good do these men do to the constitutional states? (I mean the eastern and middle) we need not their protection or assistance—we need not fear enemies from without or within—they are our scourge in peace, they would be burdens in war. If, then, they are determined to break in on the fundamentals of our association, let them go.

"You may rely on it there is no man whose good opinion is worth having, who does not speak similar sentiments with me on this business. We consider not only our boasted advantages under the constitution at stake, but our very political existence. This attempt is but the ground work of a more important after-game. If this succeed, Federalism will soon be here, as in France, a crime—one and indivisible will be the order of the day—where then will be New-Jersey? under the paw of the Lion—Let us seize it by the throat, while the whelp is yet young."

MARRIED.] On the 19th inst. Mr. CHARLES PLEASANTS, Merchant, to Miss ANN EMLIN, daughter of Mr. Caleb Emlin, all of this city.

COMMUNICATIONS.

The Jacobin Gazettes have a great deal to say about the house of representatives being bullied into the measure of executing the treaty. Curious doctrine for the party to hold! they pretend to adore the people, and now the adorable people stir in favor of the treaty, their worshippers cry out, we abhor the worship of idols! Washington is a man, the merchants are British factors, the insurance companies are old tones, the proprietors of banks are all speculators. We hate, we despise them all. The whole mass of citizens, inhabitants of town and country are alarmed. Weak people say they have been alarmed by art and address. They are scared by the bugbear of war. No matter how it was done, they are stirred up and they have sense enough to understand, and to make you understand what it is for.

The plain case is, will the representatives who adore the people resist their will, or obey it?

Will our Jacobins in future call themselves the people after so much contempt expressed and such obliquity avowed against their will.

The anarchical newspapers of late, recommend decency. Precept is cheap, pray gentlemen editors try what example will do. You who have flouted all America, and all Europe too, with your slander on the fill of men, now cry out decency.—The people, you see, are from north to south making up against you, with the whip of resentment in hand, lay it on softly, draw no blood, you exclaim, for decency's sake.

The Anarchists are looking round with anxious eyes to find some shew, or hair a shew, of support from the people. The votes for Gov. Adams prove, according to these men of truth and accuracy, that the citizens of Massachusetts hate the Treaty. The voters would probably have acted otherwise, had they foreseen that such gross misrepresentation would grow out of their proceeding. It is a poor compliment to Gov. Adams. The votes it seems were given to shew treaty hate, not respect for him.

Either these paragraph writers know nothing of the spirit of New-England, or they wilfully slander it.

In the three western counties of Massachusetts, a large majority of votes was given for Judge Sumner. The inhabitants of these three counties, all farmers, and amounting to more than one hundred and fifty thousand, are supporters of the Treaty, according to the same logic. And in fact, not a paragraph is seen in the newspapers of Worcester, Brookfield, Springfield, North Hampton, or Stockbridge, against the Treaty or the President. These are proofs that the substantial yeomanry of these counties are federal, friends of the Treaty, and of order and government. They are not different in circumstances, interests, or character from the body of farmers; and it is beyond doubt that the great mass of husbandmen, the citizens who by way of eminence for weight of influence and numbers are *The People*, are not enemies of the Treaty, of the President, of peace, order, and government.

Mr. Bache's Aurora of the 19th, contains the extract of a letter from Bolton, which though foolish enough to be passed over unregarded, has one observation too ridiculous to be unnoticed. Since the house has been engaged in the treaty debate, persons venture (says the writer) to speak their minds. Before that time they were afraid to do it. Pray, Mr. Letter Writer, did the Bolton town meeting his any body down for speaking against the treaty? were there any persons burnt in effigy? did mobs rise in Bolton, and carry on night after night their water melon frolics to bully (a word now in great vogue with the party) your old governor because he was so fiercely engaged to keep order and peace, and to countenance the treaty? was the Bolton Chronicle open to writers for the treaty, and to none else, and particularly, Mr. Letter Writer, let me ask, and you will answer, if you chuse, were the flustering pages of the *Constitutionalist* written to silence the opposers of the treaty? they did confound the sensible opposers as successively as any writings that appeared on either side. But was that their design? what front of a Bolton letter writer can he be who asserts that, till lately the anti-treaty men were afraid to find fault with it. His credit is high in the Aurora, but like a prophet, it is not held in honor in his own country.

It ought to be seriously taken into consideration that the men who now oppose the Treaty with Great-Britain, one of the most important measures of our Government, are the same persons who predicted every evil to result from the Constitution of the United States before it was ratified; and since, have opposed every important measure which has been adopted by Congress.

Had the politics of these men been adopted seven years ago, what would now be our situation—since they are so different from the politics which have promoted the happiness of the country beyond all example?

The next step to putting our faith in these LYING PROPHETS, is Death—and not a man, woman, or child who will open their eyes, but must see it.

PRESENT PICTURE OF PARIS.

From a French paper.

At Paris, the night always seems to put the interval of a century between one and the next, and the Parisians rise, like Epimenides, with the air of men who are just waked in a new world. The politicians awake every morning with the fear that the government may be at an end; the stock-jobbers, that there may be no stocks; the annuitants that their deposit is lost; rich men, that there may be new laws on property; idle men, that there may be no opera; and all think it necessary to rub their eyes, that they may be sure there is still a city of Paris. Thus does every man go on, feeling his way, step by step, with the utmost uncertainty, and begins the day without pretending to guess whether he shall ever see the end of it. The life which the whole people leads is purely animal; and they who have had the credit of being so well versed in the art of living, have no other consideration than how to escape the necessity of dying. The Parisian women, who formerly passed the chief part of their time at home, in sedentary occupations, now are seen, betimes in the streets, hefiging the doors of the bakers and grocers. Neither dirt, nor wind, nor rain, nor cold, now frighten these delicate creatures, who formerly could hardly bear to look at bad weather through a window, while the good Parisians, with more than human patience, when they receive a small pittance of bread for the subsistence of a day, shout with joy, as if the golden promises with which they were buoyed up so long, were now accomplished.

The buyers rise before the sellers, whose levee is attended with as much impatience as that of a grandee of former times—but with this comparative disadvantage, that their anti-chamber is the street.

The streets are full of mud, for the passengers are the only scavengers; and the pavement is in as bad a state as if there were carriages to spoil it.

The coffee-houses are less frequented; the quietness seem to have deserted them—the mixers of lemonade are losers by this alteration, but common sense is a clear gainer.

The taverns are in full prosperity; for there it is that the stock-jobbers and other public plunderers, devour the profits of their mornings work—the ruin of an hundred honest families.