Wilmington Gazette.

PUBLISHED WEEKLY BY ALLMAND HALL.

Three Dollars per Annum.] THURSDAY, FEBRUARY 5, 1801. [Vol. V.—No. 213.

CONGRESS
OF THE
UNITED STATES,
HOUSE OF REPRESENTATIVES.

Wednesday, December 31, 1801.

(Continued from our last)

Mr. Nicholas said that he should vote for the committee rising from a different motive from that which actuated the gentleman from South-Carolina. He hoped the business would be suffered for the present to lie up.

The construction given to the constitution by the gentleman from New-York, did not render it merely expedient in congress to assume jurisdiction, but rendered it an absolute duty. In reply to his remarks the authority given by the constitution in relation to this territory, differed from the other powers vested in congress, inasmuch as the former investment of power had connected with it the word *exclusive*; whereas the latter had not. The meaning which Mr. Nicholas affixed to this word, was altogether different from the one now contended for. The constitution does not say congress shall possess *exclusive power of legislation*: but that they shall have power of *exercising exclusive legislation*.

The acts of cession and acceptance contained a construction directly opposed to that now made. They declare that the laws of Maryland and Virginia shall continue till congress shall alter them. Their cessation is made to depend on an uncertain event, viz. whether congress shall legislate or not. Not a tittle in the constitution, infringed our liberty to act or not to act.

What would be the effect of this law on the inhabitants of the Territory? It would impose on them the laws of Maryland and Virginia, as they existed on a particular day without any capability of improvements from the improved code of those states.

Mr. Nicholas had heard of no inconveniences which had arisen from the non-assumption of power by Congress. The people in the territory of Columbia had been a happy people for more than a hundred years under their state governments; and he had no doubt would remain so without the interposition of Congress, who, at present, were unqualified to act.

After some remarks by Messrs. Harper and H. Lee, the question was taken on the committee rising, and carried without a division.

The committee rose, the chairman requested leave to sit again, which was not granted.

Mr. Harper, then moved to recommit the bill to the same committee that introduced it.

Mr. Harper. The objection made by the gentleman from Virginia to an assumption of power by Congress goes to say that the constitutional provision, the acts of cession of Maryland and Virginia, and the act of acceptance by congress, shall be all a dead letter; and that the territory shall continue, as therefore, under its old jurisdiction. This was to all intents and purposes the amount of the gentleman's remarks. He asked, what necessity for the exercise of power by Congress? Had not the citizens lived happily for a hundred years under the state governments? This Mr. H. did not dispute. It was probably true that they had lived as happily as other portions of citizens under the state government. But the provision of the constitution on this subject had not been made with this view. It was made to bestow dignity and independence on the government of the union. It was to protect it from such outrages, as had occurred when it was differently situated, when it was without competent legislative, executive and judicial power to insure to itself respect. While the government was under the guardianship of state laws, those laws might be inadequate to its protection, or there might exist a spirit hostile to the general government, or at any rate indisposed to give it proper protection. This was one reason, among others, for the provisions of the constitution, confirmed and carried into effect by the acts of Maryland and Virginia, and by the act of Congress.

The object of the gentleman was to defeat all these acts, and all these arrangements in subversion of that provision which the constitution had made, and of that necessity which it had foreseen.

The gentleman from Virginia requires more time. He thinks we are not prepared to legislate. But if his (Mr. H's.) ideas were adopted, there would be no occasion for this. The territory has laws; and Mr. H. believed these laws would answer very well for fifty years, without giving Congress much trouble to modify them.

The establishment of a judiciary would be very easy, and would require little time. As to a police, it may be necessary hereafter. At present it was not necessary. With regard to a corporation, he was against it at present, and did not think it would ever be necessary.

Mr. Nicholas did not consider the power imparted by the constitution as imperative. He therefore could not fairly be charged with a desire to deviate from the designs of its framers. The power was like a coat of armour, intended to protect the government in periods of danger, and not to be worn at all times for parade and shew.

Remarks had been made to shew that the dignity and independence of the government required the assumption. All such arguments when set against the happiness of the people were inconclusive. Mr. N. had always been taught to consider the true dignity of the government as indissolubly connected with the happiness of the people; and was unable to unlearn all that he had heretofore acquired to this effect.

Mr. Craik agreed with the member from South Carolina as far as his remarks went; but he did not think that they extended far enough. He was himself friendly to the institution of a local government for local purposes, leaving all federal powers to Congress. If the bill should be recommitted, he would be prepared to offer a plan conformably to these ideas. He felt no alarm at the doubts suggested of the validity of the laws of Maryland & Virginia. He believed that they were still in force, and did not think there was any absolute necessity for Congress to act at all at present. Still he thought that delay would only multiply the inconveniences already experienced in the formation of a plan of government. A plan might be so framed as, to protect the general government, as well as in some degree, the inhabitants of the territory from any tyranny that some gentlemen supposed might be exercised by Congress.

He concluded by expressing a hope that a completely organized system might be formed and adopted.

Mr. Dennis coincided with his colleague in desiring an assumption of jurisdiction by Congress. But before he committed himself by an opinion he wished to see an entire plan submitted. As to the bill before the committee it was little more than an abstract proposition.

Mr. Dennis believed that the assumption by Congress would be agreeable to the inhabitants if a good system were adopted.

Mr. C. Goodrich advocated the recommitment of the bill, that a more complete system might be devised, and submitted to the house in a more direct way.

The question of recommitment was carried, and two members were added to the original committee.

The committee of Revisal and Unfinished Business reported it as their opinion that it would be proper to continue the Sedition Law, which expires with the close of this session, for two years longer.

Ordered to lie on the table.

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Thursday, January 1, 1801.

On motion of Mr. Kittera, the house unanimously resolved that, each member should wear a crape on his left arm for one month in testimony of their respect for the memory of Thomas Hartley, a member.

The engrossed bill "concerning George Washington," was read a third time, and on the question "shall the bill pass."

Mr. Dawson moved to recommit it—Lost, 36 Ayes—44 Noes.

Mr. Randolph moved to refer the bill to a select committee.—Lost, Ayes 32.

Mr. Speight and Mr. Davis then assigned their reasons for voting against the bill.

The question was then taken on the passage of the bill and carried, Yeas 45—Noes 57.

On motion of Mr. Harper the title was altered, so as to read "An act to erect a Mausoleum for George Washington."

Friday, January 2, 1801.

Mr. Harper presented two papers; one of which was a defence by Governor Sargeant of himself against charges preferred against him by a member of the House of Representatives; being a letter to the Secretary of State, put by him into the hands of Mr. Harper; and the other, the presentment of a grand jury in N. W. Territory on charges made against Governor Sargeant, &c.

The papers were read and referred to the committee of inquiry into the official conduct of W. Sargeant; as was a message of the President, enclosing a copy of laws passed in that Territory between June 30 and December 31, 1799.

Mr. Harper moved the following resolutions, which were read, and refered to the select Territory of Columbia.

Resolved, That it is expedient for Congress to assume, forthwith, the jurisdiction of Columbia.

Resolved, That the laws of Virginia and Maryland now in force in the parts of the said district contained within the limits of those states respectively, ought to be continued in force therein, until Congress shall otherwise provide by law.

Resolved, That for the administration of justice within the said district, there ought to be established two inferior, and one Superior court; the inferior courts to sit at Alexandria and the City of Washington for such parts of the said district as lie on the different sides of the river Potowmac respectively; to have a limitted civil and criminal jurisdiction with competent powers; and to be composed of three judges each; and the Supreme court to be held at the City of Washington, to have full powers as a court of Equity, original jurisdiction in all cases civil and criminal not within the jurisdiction of the Inferior courts, and appellate jurisdiction from the said courts in all civil cases above the value of dollars; and to be composed of a Chief Justice, who shall also be Superintendant of police for the said district with competent powers, and two associates.

Resolved, That the salaries of the said judges ought to be established by law, and to be paid by the United States.

Resolved, That provision ought to be made for the appointment of a marshal for the said district, and of a clerk and other officers for the said courts, for the preservation of records and for the due confinement and security of persons committed or imprisoned.

Resolved, That for the better ordering of affairs in the said district, it ought to be divided into three townships, so that one township shall include Alexandria, one George Town, and one the City of Washington; and that a corporation ought to be established within each of the said townships, to be composed of a suitable number of persons annually elected by the freeholders within the same, and to be vested with power to make provision within their respective townships, by bye laws respecting streets, high-ways, markets, and other matters of a similar nature to be particularly described; the said bye-laws to be subject to the revision of the Superior court of the district, and to be annuled thereby, upon complaint by any person or persons so aggrieved & notice to the proper officers of corporation, and cause shewn.

On motion of Mr. Griswold the house went into a committee of the whole on the Judiciary Bill; the house dividing—Ayes 44—Noes 33.

Mr. Rutledge in the chair.

The bill was read through, when the committee reported progress, and asked and obtained leave to sit again.

The report of the committee of Revisal and unfinished business to continue for two years the Sedition law, was taken up.

A motion was made to refer it to a committee of the whole, and carried by Yeas and Nays, Yeas 47, Nays 33.

Made the order of the day for Tuesday.

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Monday, January 5, 1801.

A bill making appropriations for the year 1801 was read twice and referred to a committee of the whole house on Monday next.

Messrs. Davis, Nott, and Claiborne were excused from serving on the committee appointed to investigate the official conduct of Winthrop Sargeant.

Mr. Davis moved that the committee of Ways and Means be directed to enquire into the expediency of appointing agents in Kentuckey and the N. W. Territory to pay pensions becoming due.

The House resolved into a committee of the whole, Mr. Rutledge, in the chair, on the

JUDICIARY BILL,

The chairman proceeded in reading the paragraphs until he came to the 5th section, which

Mr. Eggleston moved so to amend, as to preserve the plan at present existing, which establishes one court for Virginia, instead of dividing the state into two districts, and having two courts, one to sit at Richmond and the other at Fredericksburgh, as proposed by the bill.

On this motion a lengthy debate ensued.

Messrs. Eggleston, Nicholas, Randolph, Jackson and Macon supported, and Messrs. Griswold, Harper, Bayard, H. Lee, & Otis, opposed it.

Those who supported the motion contended that the proposed alteration was unwarranted by any change which had taken place in Virginia; that heretofore much business had been done in the federal court from an accumulation of unsatisfied demands incurred previously to the formation of the federal constitution; that these demands, for the most parts were now settled; that the existing demands are few, and which one court was fully equal to attending to; that the fact was that justice had been administered under the present system with the greatest dispatch; and that at the last term the docket was so completely cleared, in a sitting of ten days, that the court, not satisfied with deciding on suits which had gone through the usual forms, had actually decided on several returnable to the ensuing term; that the additional court was not desired by the citizens of Virginia, whose convenience, so far from being furthered, would be injured by it; for that the plan of having one court held at Richmond, and another at Fredericksburg, which were not more than seventy miles apart, would place a large portion of the citizens at a greater distance from the seats of the courts, than they were at present from Richmond; which was, besides the capital of the state, and the place to which the citizens very generally repaired for the transaction of their ordinary affairs;—that it behoved those gentlemen who recommended this extension of the judiciary system, to shew the peculiar necessity, and advantages of it.

Those who opposed the motion observed that it became the government of the United States to organize the judiciary in such a way as to insure an obedience to its laws; and to insure the faithful collection of revenue; that this last object could only be attained by the institution of federal courts, not so remote from each other, as to prevent the convenient attendance of prosecutors, parties, witnesses, and jurors at the seats of the courts; that the recovery of duties derived from this source could only be made before the federal courts, and if the places at which infractions of the revenue laws took place were very remote, however, ardent the patriotism of the citizens, they could not be expected to encounter the great expence and loss of time that would be required in attending a court three or four hundred miles distant; that the most solid objection to an extension of the courts was their expence; that in fact the extension would probably be an economical arrangement, as the facility of recovering dues to the public would be increased, and with it the productiveness of the revenue; and a considerable sum would be saved in the expences, defrayed by the public, of a grand jury, which from its very nature must be drawn from all the parts of each state, by the contracted size of the district from which they were taken; and that the same remark would apply, in a smaller degree, to common jurors, witnesses, prosecutors, &c. that so far from the statement made by gentlemen being correct, it was understood that several suits in which the public was interested, had been protracted for several terms; that the business, alleged to have been brought before the federal court of Virginia, was the most conclusive evidence of the inconveniences attending the present plan, whereby, owing to the remote situation of the greater part of the citizens, they were induced to prefer an appeal to the state, in preference to the federal courts.

It was further declared to be very doubtful on constitutional ground, whether Congress could delegate judicial powers to the state courts; and if they could, it was a delicate question how far state judges were amenable to the United State, for a faithful discharge of their duty, inasmuch, as if they violated the laws of the United States they were not constitutional subjects of impeachment by congress; that, at any rate, the effect might