

Wilmington Gazette

PUBLISHED WEEKLY BY ARLMANN & HALL.

Three Dollars per Annum.]

THURSDAY, MARCH 26, 1851.

[Vol. V.—No. 2]o.

Congress of the United States. HOUSE OF REPRESENTATIVES. SEDITION LAW.

[Continued.]

January 22, 1851.

Mr. Macon said, no member of the house was more willing than himself that the question should have been taken without debate, but since gentlemen who differed with him in opinion had objected to do so, he should not shrink from it especially, as he firmly believed, he had both the constitution and truth on his side.

It was a little curious to observe the manner in which those who approved the law, changed the ground on which they defended it at different times; it originated in the days of alarm, and was then supported as a part of a system of defence against France; at this time this common law of the United States, of which we now hear so much, was not talked of. The second time it was before the house, it was brought up by many petitions from the people in different States, praying for its repeal; then, too, it was considered as a part of the system of defence, and as the dispute with France was not settled, and was said to be improper to repeal it; at the last session when a motion was made to repeal the second section of the act, the law was then supposed on this revision, to prevent the operation of the common law, and to afford the gentlemen themselves the liberty of expressing their sentiments, if founded in truth, and expell'd with decency—and it is that the friends of order and good government now want the sedition law to protect themselves.

If the common law is actually in force, it is rather extraordinary, that gentlemen will not make the law uniform, so as to comprehend all the cases of libel, which is pretended to be cognizable in the federal courts under that law, if his was not in force, a libel upon the president of the United States, the fact of this libel is not to be actionable at common law, but suppose a person to libel the supreme court of the United States, he is not to be punished under this act, but at common law. A court can act as the tribunal for any crime under the government, where there is the necessity or reason for justifying the punishment for the same crime, under two laws, if different, if the common law is really in force in the United States?

It has been said, by publishing calumny and falsehood, government may be destroyed. This Mr. Macon did not believe, nor did he believe, that ever a government was destroyed or a revolution brought about, by such means. Falsehood cannot make a good administration bad, or a bad administration good; no administration need ever fear false publications, it can always defray their effects whenever it pleases by publishing the truth, and truth alone can destroy governments, nor need any administration fear a y or this, but the truth. Was our revolution brought about by the publication of a falsehood? No, for it was not, it was by publishing and proclaiming the truth. As to the execution of the law, it would be needless to state the facts which have already been stated by others; he would only say that in his opinion, it was worse than the law itself, which he had always believed to be unconstitutional, and there was no doubt but the execution was unpopular as the law.

It has been said, owing to the prevalence of crimes, which this law is intended to punish, that men grown grey in the service of their country, had been turned out of office. Mr. M. knew of no man, that had been turned out of office, except it was done according to the constitution, or law made in conformity to it. What law was this law made, and is it now to be continued in force, to prevent the return of elections? If this is not the plain result of the law, I am at a loss to know what it does mean. Are not our elections to be free? Have we not a right to investigate the characters of those who are candidates for our suffrages? Are not the rights of our constituents, as freemen? Why then do gentlemen wish to continue this law to force to deprive the people of their dearest rights? Surely, if men are not approved, they have been tried, they ought to be turned out of office. The ends of elections is choice; but we have been told, to induce us to continue this law, that the situation of Washington had been called a speculator and a murderer. Mr. M. never heard of the first charge before this day, nor of the second till within a few days past, and that too, was in this house; he had no doubt but the gentlemen had heard what they asserted, nor had he any doubt but the person who first promoted the report knew it was not true, and its circulation must have been very confined, indeed, and so it will be with all such reports.

Mr. M. said he saw no necessity for this law; a good character does not want its support, and a bad character does not deserve help. He believed the senate would not agree to renew this law for themselves; no future president, he expected, would wish it for himself; what, then, do we want it for ourselves? No gentleman will say that he wished a sedition law to stop the people's mouth about him, or anything he should do in this house. The gentlemen who support this act, have always told us, that their actions were founded on such principles, that they should never be ashamed of them any where. Let us be free to act for the good of the people, and let the people be equally free to examine our conduct in any manner they may think proper. Gentlemen do not mean to do any act which should make this law necessary, why then continue it in force? We have been told by a gentleman, that he heretofore voted for this law, and that therefore he should vote against it. Surely there cannot be a worse reason for a vote than this; it goes on the principle of never changing, and if a law be once passed, it must remain a law forever. The same gentlemen once voted for an army, yet we found him ready, on a fit occasion, to vote for the discharge of that army, and that army was considered as part of the system of defence; if the army could be raised from the general system, formerly adopted, there could be no necessity for this law; at this time, no one indeed is now wanted for some other purpose than formerly. The same reason ought to have continued the army, but as the army was dis-

band, when the necessity ceased for which it was raised, and the system of defence broken, why then should the law be continued as a part of that system, when there was no occasion for it.

It has been said, that a part of this house are always voting out against the unconstitutionality of every act they do not approve. The answer to this is very easy. There is another part of the house that never questions the constitutionality of any thing, and if one part questions the constitutionality of every thing, the other does not of any thing; if one side believes it has limits, the other believes it has no limits.

Mr. M. observed, what had been said on the subject of juries, he would only say, that no federal jury has ever been got in the State in which he lived, in the same manner that juries were obtained for the State courts; perhaps it was impossible under present circumstances, because all the jurors for both superior and inferior courts, were appointed by the county courts and then summoned by a sheriff of the county. The federal court, he believed, in that State, generally determined from which counties the jurors should be summoned, and let it to the discretion of the marshal to summon whom he pleased. The marshal is appointed by the president; in States where he summons whom he pleases for jurors, it is most probably they will all be of one party.

Another reason had been urged for continuing this law in force, which is this, that it was believed, there were newspapers in this country, under the influence of a foreign power; whether this was a fact or not he did not know; but he well recollects, that not long since there was a press in the United States, which was pretty much cessant, the editor of which was a foreigner, who gloried in being the subject of a foreign prince; and the contents of his paper are not yet long ten and, I think to tell, he never heard that this law had been put in operation against that person.

It is not pretended that the next President, let him be who he may, will want this law. No action for a libel has ever been brought at common law in the federal courts; the reason was obvious, the States as united have no such law, whatever they may have in their individual character. The law would therefore be useless, it was unpopular, and believed it to be unconstitutional. It would increase rather than allay a party spirit, and it ought to be the object of all to harmonize as much as possible. He therefore trusted, that the law would be suffered to expire, never again to be renewed.

General Lee rose to express his great pleasure at the very fair and candid manner in which his colleague (Mr. Nicholas) and the gentleman from Pennsylvania, (Mr. Gallatin) had conducted themselves towards the State he represented, but he could not wholly approve of the sentiments expressed by them.

With respect to the constitutionality of this law, after what had been so ably advanced by his friends in its behalf, he would only observe, that even with the suspension of those sentiments, or without a y other support, the decision of the present ought to remove every gentleman, and especially was with him, sufficient to remove every possible doubt. From the moment of that decision, every doubt ought to have ceased, and the question never again to have agitated the Congress of the United States. Those who had been taught to obey the constitution, must approve of its decisions, and nothing could be more evident than that the reference to the judiciary of our government was the precisely accurate mode of ascertaining the veracity of a legislative measure.

The gentleman from Pennsylvania had told the house that this law was the offspring, and had been one of a defective system, adopted when the aggression of a foreign power had introduced every measure of repulsion within the power of the country, and that it was in fact a succeeding section of the house. Not having the honor of a seat in the house at that time, Mr. Lee said he did not know; but whether that was the reason of its adoption, or whether not, he could not agree with that gentleman that the occasion for this law was at an end. He would not hesitate for a moment to say that this law ought to be perpetual. It was from this impression that he should vote for the report, and with pleasure would go farther and make it a perpetual law.

In order to examine the propriety of this opinion it would be necessary to examine the law. What were its provisions, and what its object? Its object is to support your government—not by supplying information proper to be known to your people—not by violating the rights of even the humblest of your citizens; but by giving the truth and the truth only its dominion. The gentleman must pardon him in contradicting them when they said that it operated to the injury of our citizens. He must deny the assertion that the honest well-intentioned citizen could possibly receive the least inconvenience from this law. He owed it to himself and to his friends with whom he usually voted, to declare that it was their most sincere desire to give every truth and every act to the community. He would contend that this law went to adopt, as far as a law could do, measures for the express protection of truth. After a provision against unlawful and forcible combination, the law provided a protection to the government, by guarding it from the consequences of false and malicious delations.

He would ask gentlemen to consider candidly whether, if the establishment of an oligarchy, of a monarchy or of an aristocracy, was desired in this country, how the object could be more easily attained than by beginning with undermining the government, & now could the government be undermined but by removing, by every possible manoeuvre, the public confidence from that government? Would not a procedure dictate to such characters to bring the government into contempt? This was too plain to be answered negatively; it must be answered affirmatively. If these efforts then might produce such a result, or if such measures could lead to it, would it not be highly unbecoming those whose duty it was to watch and repel every avenue and attempt that could possibly tend in such an event to support the authorities of the country by using every effort to the detection of such measures? Most undoubtedly so. He contended that it was a most important duty, without

the performance of which the house of representatives would be traitors to that people whose good ought to rest upon the seat of every man, and whose interest could never be more faithfully effectuated than in the perpetuating of a law which would effectually protect the government of their choice.

He was surprised at his colleague's objection, and that of the gentleman from Pennsylvania, when it was made so evidently to appear by the gentleman from Maryland (Mr. Demas) that such a protection was afforded by their own State constitution and law! This truth was too strong to be denied. He believed it to be the safe instruction every State. And if so in the individual States, why should not for valuable a remedy be afforded to the government of the union? This was the charter of our venerable fathers, and what principle should withhold this disposition from their enlightened and experienced sons? Why should that be denied to the supreme government which every member of the house, and which every individual in the union enjoyed? Why should gentlemen deny that to the federal government which was delegated to the separate governments?

There was however, Mr. Lee said, a point of view which this object assumed to him, of a very important nature, and which he had not heard from any gentleman. Unless this deluge of falsehood and delation was impeded in its course or prevented by wholesome and timely provisions, the confidence of the people is removed, and even beyond possibility of relief; the fatal blow once giving to the confidence of the people, all efforts to re-establish that confidence is in vain.

But gentlemen say, that unless this law is suffered to expire, you will offend the voice of the people. How do they estimate this act? In what way the voice of the people has been heard on that subject, it is in favor of the law, the expression of the public approbation has been experienced in the reelection of men whose principles are in precise accordance with those who first enacted it. Added to this has not Virginia, after expelling her pointed disapprobation of this measure, submitted her arguments and her definitive vote to all her letters, and said, that of them how many were given in approbation of her measures? Very few indeed—she believed out of the fifteen not more than two or three!

Mr. Lee could not but admire the soothing manner in which his colleague comforted the house on the change of politics that was about to take place. For the first time he had the honor of a seat in the house, and he had heard such harmonious and highly grateful accounts drop from the lips of that gentleman. As this measure would, most undoubtedly, tend to increase and establish the happiness and security of the government, and all its well-wishing citizens, he hoped that gentleman's honorable disposition would be us to be for it, and to retain to the government their united protection, notwithstanding the change of men and of politics. Whoever of the two great characters should direct the helm of our course, whether he be taken from the South, or whether from the North—of the Hudson, he would be willing to give him all the opportunity of tranquility, so sweetly promised by his honorable colleague.

But how thrived were their pleasing accounts! How soon did we hear from the associates of that gentleman, the most poignant animus against the policy of our country? Such accounts, forcibly brought forth, would cause their lips, against men who have no opportunity of vindicating themselves! Where are the wailings of those pleasing forebodings of political happiness? Is it the way to make the people happy, to depict the forensic judiciary of our country—men who had their office—not for a day—not during executive pleasure—but for life—to depict these men in colors of unworthy their high characters! But certain he was that the gentlemen were incorrect in their opinion; was he not well assured that they were in an error, and did he believe with them that the judiciary, were partial and corrupt, his duty would excite him to join them; not perhaps in attacking men who were not able to answer in the house, but in taking measures whereby a full and fair emanation should be had. This he knew to be the mode which true candor would point out.

True it was that a great change had been made in the direction of our affairs; he did hope (though he did not believe) this change would be productive of much good to the people. Believing that this law would be a protection to the administration on the ways of truth and virtue—wishing to do unto others as he desired they should do unto him, how could gentlemen on the other side suppose that they would violate their principles of honor and integrity in much as to depart from a system they had raised for themselves? What better attachment could be displayed than to afford the future administration the same aid which was afforded to one more peculiarly approved of by a majority of the present house?

Mr. Lee concluded by expressing a most sincere hope that the success under the operation of this law, and a full satisfaction of its being strictly constitutional, in the opinion of the judges, on which our government stamped its authority, might operate to continue to the government every necessary protection, and since to the world that the political feeling of the federal side of the house was bright as its rising, and their last acts devoted to the public good.

SATURDAY, Feb. 21, 1851.

On the engagement of the SEDITION LAW.

Mr. DAWSON said,

When the law which this bill is intended to continue was first passed, I gave to it my dissent; I did it from a conviction on my mind that it does violence to that constitution which I have sworn to support, and from a persuasion that the then State of things did not require it. But while it began an unjust usurpation of the American character, it was a stain on our code of legislation.

If there were my impressions at that time, some reflection since, aided by the productions of men, whose names and talents will be long remembered, and a knowledge of the sentiments of the State from which I come, and of the people whom I represent, have confirmed those impressions, have resolved me to vote against that bill in every shape and in every stage, and I hope that it will not be suffered to be engrossed.

Sir, it is well remembered, by me, nor can it be forgotten by any gentleman on what grounds this law was advocated when first passed—it was then supposed upon us, as a necessary link in a chain of measures which a majority of the two houses of Congress thought proper to adopt, to meet a particular crisis—to guard against the supposed intrigues of a foreign nation—to give respectability and energy to our executive, to prevent its falling into disrepute with the people, and to punish factious individuals. The history of the last two years has, I am persuaded, convinced gentlemen, how mistaken were their opinions of the American character. With me, they must now believe, that whatever difference there may be in our political principles, when the safety freedom or honor of our country are threatened by a foreign nation, like a band of brothers we will rally around our government, and support it by any means which the constitution of our country authorizes, and which the energy of the case may require. How far this law has given respectability or energy to our administration, I will not pretend to say; the events of the present day, is an ample comment on that point; but after the experience which we have had since some of the objects for which it was formed have passed, and others have not been achieved, I did hope that a measure would have been made sufficient to expire like its twin-brother the alien law. In this hope however, I have been disappointed; gentlemen have forwarded and supported it with a zeal, not uncommon to them on other occasions, and unexpected in the present, when we were at least indifferent about it, and new reasons have alleged for its continuance—formerly it was thought necessary to protect the administration against the people—and now, sir, it is wanted to ground individuals against an administration which may be weak or wicked—Experience has I am persuaded convinced gentlemen that it has not answered the first purpose, and I hope they will find it unnecessary for the latter—in whatever hands the administration of our country may fall, its acts ought to be examined with that freedom which becomes freemen, and with that decency which becomes gentlemen—so long as they are guided by justice and wisdom, they will be supported with decision and firmness by the friends to the administration—Whenever they shall descend from these great principles, the voice of the people will again sweep the actors from the political theatre.

This law, sir has been advocated, because it is said to ameliorate the common law of England—and on this account much dependence has been placed; however, admitting it to be true, on a moment's reflection it will not be found to merit any consideration—for sir, let it be remembered that the opponents to this law are also the opponents to the adoption of that law as the law of the United States, and do not think it authorized by the constitution—the same doctrine which they have uniformly contended for, and which pardon me if I say has been established as fully as one point possibly can be—it is not therefore probable, say I think it impossible that they should appeal to it to shield them. No sir, supported by the justice and policy of their measures, I trust they will need the aid of neither the Alien Sedition or common law.

Sir, it will be necessary for me to touch on the unconstitutionality of this law; it has been proven over and over again in this house, and in every part of the continent, and if what has been said and written has not convinced gentlemen, no effect would be produced by any thing which I could say. But, sir, as some of the objects for which the law was at first enacted, have passed and others have not been achieved; as the friends to the approaching administration do not wish it for their protection, and the opponents will not need it for theirs, I do hope that the gentlemen who doubt about the constitutionality will vote with us, and that the bill will not be permitted to be engrossed.

The question was then taken, and the engrossment referred 53 to 57.

WEDNESDAY, February 18, 1851.

An engrossed bill for extending the privilege of franking to JOHN AUGUSTUS, now President of the U. States was read the third time, and passed. A petition of sundry merchants of Providence, R. I. was presented, praying a remission of duties upon a quantity of tea, which were deposited in the custom house stores of the said port, and consumed by fire; also a petition of Jonathan Very, praying to be allowed the bounty upon a vessel employed in the cod fisheries, notwithstanding the crew, owing to stress of weather, were obliged to abandon her. was presented; and both referred to the committee of commerce and manufactures.

Agreement of Garard Briscoe was read, and referred to the committee of claims.

A petition of sundry inhabitants of Delaware and Maryland, praying that more efficient measures may be adopted by Congress, for the recovery of slaves escaping from their masters and taking refuge in any of the neighboring States, was read and referred to the committee appointed on the 2d ult. to inquire into the expediency of making further provision to prevent the concealing or harbouring of slaves, escaping from one State to another, and to and from the territories of the U. States.

Mr. S. SMITH, from the committee of commerce and manufactures, made reports on the petition of John D'Wolfe, which was referred to a committee of the whole house to-morrow. Mr. S. Smith, from the said committee, proposed a bill for erecting light houses on New Point Comfort, and on Smith's Point in Virginia, and on Faulkner Island, on Long Island Sound, Connecticut, which was read twice, and referred to a committee of the whole house to-morrow. Mr. HOLMES from the committee appointed on the petition of G. W. Taylor made an unfavorable report; whereupon resolved that the prayer of the petition cannot be granted.

Mr. PARKER, from the committee appointed on that part of the President's speech which respects reasonable and systematic arrangements, proportioned to our national resources, for a navy adapted to defensive purposes, presented a bill providing for a naval peace establishment and other purposes, which was read twice, and referred to a committee of 121 to-morrow.