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The Vice President.

From the National Intelligencer of May 15. Messrs. Gales & Seaton: The enclosed article, in reply to an article which appeared in the National Journal, over the signature of "Patrick Henry," has been denied a place in that paper. If your columns are not also closed against a defence of the freedom of debate in our Legislative bodies you will render service to that cause by a publication of the article in the National Intelligencer. Yours, &c. G.

To the Editor of the Journal. Your correspondent, "Patrick Henry," having arraigned with at least as much spirit as judgment, the decision of the Vice President on the extent of his power over the freedom of debate in the Senate, in order that both sides of the question may be heard, I claim the privilege of offering, through your columns, a few hasty remarks on the subject.

The point at issue is, whether the Vice President has the right to call a Senator to order, for words spoken in debate. Your correspondent maintains that he has that right, and that it is his duty to exercise it; and hence draws the inference that he, and he alone, is responsible for whatever disorderly words may be uttered in the Senate.

I deny the right, the duty, and the inference; but in doing so, I, by no means, admit that those parts of the debate in the Senate, in which the administration has been assailed, and for which its advocates are attempting to make the Vice President responsible, could have been pronounced disorderly even if the question had been presented, by the call to order on the part of a Senator.

I defy your correspondent to produce a single instance in the proceedings, either of the English Parliament, or of the American Congress, in which a member of either of those bodies has been pronounced out of order, even for the most direct and unqualified charge of corruption against the Executive Government, or any of its Departments. Is there, indeed, any American, so ignorant of the rights and privileges of the Legislative branch in a free Government, as to maintain, that the presiding officer of either House of Congress could rightfully call a member to order, for charging the President and Secretary of State with having formed a corrupt coalition? To be more specific, will "Patrick Henry," or any other friend of the Administration, assert that the Vice President, even admitting he had the power to call a member of the Senate to order for disorderly words, would have been justifiable in calling Mr. Randolph to order for speaking of the "unheard of coalition between the Puritan and the black-leg?" And yet, the Vice President has been most wantonly and gratuitously assailed as the instigator of the duel between Mr. Randolph and Mr. Clay, because he did not prevent Mr. Randolph from uttering those words, which nothing but a despotic Power, worse than the seditious law, could have prevented him from uttering!

But to return to the question of the power of the Vice President, over the freedom of debate. It is not my intention to follow your correspondent through his various allegations against the presiding officer of the Senate. This is not necessary to a correct decision of the question at issue; and, though it is quite obvious that the Vice President, and not the question as to his powers, is the real object at which "Patrick Henry" aims, I will not follow his example. Without going into a full or formal argument upon the powers of the Vice President, as the presiding officer of the Senate, I will at once refer to the rule of the Senate, which is very short, and must of itself be regarded as deciding the question. What does it provide? That, "if a member be called to order for words spoken, the exceptions to the order shall be immediately taken down in writing, that the President may be better enabled to judge." Will it be pretended that this rule gives the power to the Vice President to call a Senator to order for words spoken? On the contrary, even admitting that the power of calling a Senator to order for such words, would be, under ordinary circumstances, an incident to the power of presiding over the Senate, does not this rule contain a clear and decided implication, that the power of the Vice President, in such cases, is appellate merely? This conclusion becomes still more obvious, when we advert to the rule of the House of Representatives on the same subject. The nineteenth rule of that House expressly confers upon the Speaker the power, and expressly makes it his duty to call a member to order, in cases of this description. It is in these words—"if any member, in speaking, or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call him to order." The striking contrast between this rule and the corresponding rule of the Senate, goes far, of itself, to justify the construction which the Vice President has put upon the latter. Who is one of the two presiding officers of the co-ordinate branches of the same Legislature is expressly invested with a power, and the other is not only not expressly invested with it, but impliedly divested of it; the latter officer would be justly chargeable with a desire to extend his powers by unwarrantable implication and forced construction, if he were to maintain that they were, under such dissimilar provisions, equal to the powers of the former. It can scarcely be doubted, that, in the frequent revisions of the rules of the two Houses, those which relate to the same subject have been carefully compared; and it may, therefore, be very safely inferred, that the striking variation in the

provisions of the two corresponding rules in question, was not without an object. The difference of the relation of the Vice President and the Speaker, to the respective bodies over which they preside, is the reason, no doubt, of this difference in the rules. The Vice President holding his office by virtue of the popular choice, and not by the choice of the body over which he presides, it would seem to be proper that he should not be clothed with the delicate and invidious power of pronouncing a Senator out of order for "words spoken," until some member of the body should deem it proper to call him to order.

But your correspondent seems to suppose that the practice of the Vice President has been inconsistent with the principle of his decision; and he adduces, as a proof of it, the fact that the Vice President called Mr. Dickerson to order for commencing a debate upon a question that did not admit of any discussion at all. Those powers of discrimination must be exceedingly feeble that are incapable of perceiving the difference, the manifest and striking difference, between this question and a question affecting the latitude or freedom of debate. A question of the latter description, necessarily presupposes that it is in order to debate the subject.

Nothing can be more clear, than that the power of the Vice President to call a member to order, who attempts to debate a question that is not debatable, is perfectly consistent with his decision, that he cannot call a member to order, by restraining the latitude or freedom of debate. In the one case, he decides that no member can speak, and nothing can be said; in the other, he would have to decide that a particular member is out of order, for speaking particular words. The former decision affects the right of debate, and operates upon all the Senators; the latter would affect the freedom of debate, and operate upon a particular member, upon the ground expressly, that he had transgressed the rules which put limits to the latitude of discussion. If we consult the usage of the English Parliament, we shall perceive additional reasons for believing that the Vice President has taken a correct view of his powers. In the House of Lords, the presiding officer, the Lord Chancellor, stands in the same irresponsible relation to the body over which he presides, that the Vice President does to the Senate; and, accordingly, we find that he never has assumed the power of calling to order for words spoken. This power belongs to the body of the Lords themselves; and Mr. Randolph's assertion, that there is no instance in the history of their proceedings, in which the Lord Chancellor has exercised the power in question, stands uncontradicted, and I believe, is undeniable. Neither does the practice of the House of Commons warrant the idea, that the high power of restraining the freedom of debate, belongs, of course, to the presiding officer, in the extent in which it is claimed for the Vice President. The usage of that House, on this point, cannot be questioned. It is laid down in Jefferson's manual, page 56, that "disorderly words are not to be noticed till the member has finished his speech; then the person objecting to them, and desiring them to be taken down by the Clerk at the table, must repeat them." The member may justify or explain his words, or he may apologize; but, in either case, "the sense of the House is taken," and not the opinion of the speakers.

But, after all, the power of the Vice President must depend upon the rules and usages of the Senate. "Patrick Henry" acknowledges that the power in question is not conferred by the rules of the Senate; and it may be confidently affirmed, that it is not sanctioned by the usage of that body. The oldest members can cite no single instance in which it has been exercised by the presiding officer. Your correspondent refers, in vague and general terms, to the practice of Aaron Burr; but it would have been much more satisfactory if he had adduced the instances in which that officer exercised the disputed power. Little scrupulous as he was in assuming power, and slight as is the weight of his example in such cases, I do not believe he ever exercised it in a single instance.

But a much higher authority—that of Mr. Jefferson—may be cited to sustain the view taken of this question by the present Vice President. In his valedictory address to the Senate, (see the National Intelligencer, 2d March, 1801,) he expressly designates his power over the debates of the Senate as "the prerogative of the Vice President," than which no word in the language so strongly implies an appellate jurisdiction only.

But, when to these reasons and illustrations in support of the view taken of the subject by the Vice President, we add the fact that the Senate has acquiesced in its correctness, every ground of cavil would seem to be removed. If that body, or any member of it, did not concur in the decision, doubtless some attempt would have been made to alter the rules, so as to give this disputed power to the Vice President expressly. No such attempt has been made, which clearly justifies the inference that there is no difference of opinion on the subject between the Senate and its presiding officer.

Why, then, have we all this clamor against the Vice President? What has he done? Has he attempted to usurp a dangerous power? The very reverse. His construction limits his own powers, and enlarges those of the Senate. Can any possible mischief result from it? Ought a debate, involving the conduct and motives of executive officers, to be checked by the Chair, when every member of the Senate deems it to be in order? It is in the power of any Senator, who thinks a debate disorderly, to call in the jurisdiction of the Chair, and place the responsibility of deciding the question of order on the Vice President; and yet so restless and reckless is the spirit of accusation against that officer, that he is made responsible for the denunciations uttered in the Senate against the administration, when not a single friend of the administration, in that body, believes them to be out of order. I presume "Patrick Henry" will not be disposed to pay so poor a compliment to the firmness of those Senators who are friendly to the administration, as to suppose that, though they believed a speaker to be out of order in denouncing it, they would so far shrink from the performance of their duty as

to abstain from calling him to order. If, however, it should hereafter appear to the Senate that the Vice President ought to be clothed with the power in controversy, they can at any moment confer it by express rule; and it is assuredly better, under those circumstances, that a public officer should construe his own powers strictly, so as to have them enlarged if necessary, than to assume doubtful powers, particularly when those powers are invidious in their nature, and peculiarly liable to be abused.

I shall pass over the charge of ambition, which is, on this occasion, gratuitously and wantonly urged against the Vice President, as nothing can be more strikingly ridiculous, than to found such a charge, upon the fact of his giving a rigid construction to the charter of his own powers. Those who usurp power, and not those who abstain from the improper assumption of it, are the persons who are justly obnoxious to the charge of ambition. ONSLOW.

Mr. Calhoun.—This is a gentleman of whom we are not advocates as a politician. But he is a man to whose rigid and indefatigable exertions in the most trying periods of our country the democrats—not your double faced ones—who profess to belong to neither, to either, or both parties, as interest may dictate—but those of the JEFFERSON stamp—re much indebted.

Of late, he has become the target for the shots of the vilest press of the country. His political conduct is a fair subject when that alone is discussed; but the matter does not end here—his private character and actions are shamefully stigmatized; epithets are lavished upon him which are remarkable only for their brutality, while they do not find even a palliative by the least particle of wit or ingenuity. This course is pursued towards him not as a public officer—but as a private individual. His conduct is not canvassed as the vice president of the United States—but he is railed at as if a malefactor, who stood convicted of treason or murder. But, we repeat, we mean not to become the champion of Mr. CALHOUN. We refer to the matter because it is so discreditable to the nation. It can, however, add no disgrace to those who are guilty of it. They who can put their hands into filth, are willing to soil the fairest subjects. But it is worthy of noticing from whence come these attacks. It is either from the presses of black cockade notoriety, or from disappointed office seekers, who are playing their double games with the secretary of state, under the expectation, or possibly the promise, of a suitable reward for their prostituted services; services more ignoble than those performed by him who wields the stiletto. Let any one of discretion examine the outpourings of such papers as the N. Y. American, &c. (but we shall not disgust the reader with quotations of their abuse,) and they can soon decide as to the justness of our remarks. Nor does Mr. C. stand the shock alone. Those who have reposed their confidence in him (and they are shown by the vote which elevated him to the important office which he fills, to be by no means small in number) do not escape these foul aspersions.—Alex. Herald.

LIST OF PUBLIC ACTS.

- Passed at the First Session of the 19th Congress. An act to extend the time for locating Virginia Military Land Warrants, and returning surveys thereon to the General Land Office. Authorizing the payment of interest to the State of New York. Appropriating a sum of money for the repair of the Post Road from the Chatahoocly to Line Creek, in Alabama. Authorizing the payment of interest due to the State of Delaware. To revive and continue in force the act fixing the compensations of the Secretary of the Senate, and Clerk of the House of Representatives, of the Clerks employed in the offices, and of the Librarian. For altering the time of holding the session of the Supreme Court of the United States and of the sessions of the Circuit Court of the United States for the Districts of Georgia and South Carolina. For the sale of a house and lot at New Orleans, and a store house at the Quarantine Ground in Louisiana. For the survey of a route for a Canal between the Atlantic and the Gulf of Mexico. To amend an act, concerning wreckers and wrecked property, passed by the Governor and Legislative Council of the Territory of Florida. To authorize the Legislature of Mississippi to appropriate the amount of the 3 per cent. fund, arising from the sales of Public Lands. Appropriating a sum of money for the repair of the Post Road between Jackson and Columbus, in Mississippi. To confirm the supplementary report of the Commissioners of the Western District of Louisiana. To exempt the Professors, Tutors, Stewards, and Students, of the different Seminaries of Learning in the District of Columbia, from militia duty. To authorize the State of Pennsylvania to lay out and make a Canal through the United States' Public Ground, near the city of Pittsburgh. To enable the President of the the United States to hold a treaty with the Choctaw and Chickasaw nation of Indians. To authorize a subscription of stock, on the part of the United States, in the Louisville and Portland Canal Company.

- Authorizing the payment of interest due to the State of Maryland. To authorize the President of the United States to run and mark the line dividing the Territory of Florida, from the State of Georgia. To alter the times of holding the Circuit Courts of the United States, for the District of New York, and the April term of the Circuit Court for the District of Connecticut. To equalize the duties on vessels of the Republic of Colombia, and their cargoes. To amend the several acts for the establishment of a Territorial Government in Florida. To aid certain Indians of the Creek nation in their removal to the West of the Mississippi. To regulate the summoning of grand jurors in the District Courts. Relative to the issuing of executions in the District and Circuit Courts of the United States, in certain cases. To enable the President to hold treaties with certain Indian tribes. To compensate Receivers of Public Money, for transporting and depositing the same. To compensate the Registers and Receivers of the Land Offices, for extra services rendered under the provisions of the act of the second of March, 1821. Making appropriation for compensation to the members and officers, and for the contingent expenses of the two Houses of Congress. To authorize the Legislature of the State of Ohio to sell the lands heretofore appropriated for the use of schools in that State. Making appropriation for the payment of the Revolutionary and other pensioners of the United States. Making certain alterations in the mode of making payment to the enlisted soldiers of the army in order to prevent the crime of desertion. Making appropriation for certain fortifications of the United States for 1826, and for other purposes. To extend the time allowed for the redemption of land sold for direct taxes in certain cases.

- Further to amend the Judicial System of the United States. For the benefit of the incorporated Kentucky Asylum for teaching the Deaf and Dumb. Authorizing the importation of statues of Gen. Washington and Alexander Hamilton free of duty. To confirm the right of pre-emption in the purchase of lands to certain settlers in the States of Alabama, Mississippi, and Territory of Florida. To authorize the importation of brandy in casks of a capacity not less than 15 gallons. To provide for erecting a Penitentiary in the District of Columbia, to reform the penal law of said District, and for other purposes. To perpetuate the evidence relating to the sale of dwelling houses, lots, and lands, for the non-payment of direct taxes. Making further provision for the extinguishment of the debt due to the United States by the purchasers of public lands. For the subscription of stock in the Dismal Swamp Canal. To regulate the accountability for clothing and equipage issued to the Army of the U. States, and for the better organization of the Quartermaster's Department. To confirm the reports of the commissioners for ascertaining claims and titles to land in West Florida, and for other purposes. Making appropriation for the support of Government for the year 1826. Making appropriation for the military service of the United States for the year 1826. Making appropriation for the support of the Navy of the United States for the year 1826. Making appropriations for the Indian Department for the year 1826. Further to amend the charter of Georgetown, in the District of Columbia. To extend the Land Districts in the Territory of Arkansas. To alter the line between the land districts in the Territory of Michigan. To extend the limits of Georgetown, in the District of Columbia. To provide for the apprehension and delivery of deserters from French ships in ports of the United States. Authorizing certain soldiers in the late war to surrender the bounty land drawn by them, and to locate others in lieu thereof. Remitting the duties upon certain articles imported for the use of the University of Virginia. To amend an act entitled "An act to incorporate a company for making a certain turnpike road in the county of Alexandria," passed 13th July 1811. Making appropriation for the purchase of books, and defraying certain expenses for the use of the Library of Congress. To allow the transportation of goods, wares, and merchandise, to and from Philadelphia and Baltimore, by the way of Lancaster and York, or by the mail route. To allow compensation to such witnesses, on the part of the United States, as may be imprisoned to compel their attendance in Court, on account of their inability to give security in recognizance. Further to amend the charter of the town of Alexandria. Concerning the United States' Arsenal, in Georgia. To authorize the sale and conveyance of a house and lot, belonging to the United States, at the Hague. To appropriate lands for the support of Schools in certain townships and fractional townships, not before provided for. To provide for the employment of an additional naval force. Making appropriation for the public buildings in Washington. Supplementary to the several acts for ascertaining titles and claims to lands in the St. Helena and Jackson Court House Land Districts. To authorize the Secretary of the War Department to purchase a site for an arsenal at St. Louis, in the State of Missouri, and to provide for the erection of an arsenal on the same. For the relief of James Monroe. Making appropriations to defray the expenses of negotiating, and for carrying into effect certain Indian Treaties. Making appropriations for carrying into ef-

- fect the appointment of a mission at the Congress of Panama. For authorizing the building of light houses and light vessels, and erecting beacon lights, placing buoys, and removing obstructions in the River Savannah, and for other purposes. To extend the width of the Washington Canal. For improving certain harbors, and the navigation of certain rivers and creeks, for authorizing surveys to be made of certain bays, sounds, and rivers, therein mentioned. For altering the time for holding the courts of the United States, in the Western District of Virginia. To fix the times of holding the Circuit and District Courts of the United States, in the District of Ohio. Supplementary to the act, "To incorporate the inhabitants of the City of Washington, and to repeal all acts heretofore passed for that purpose," passed May 15, 1820. To authorize the Judge of the District Court for the Western District of Virginia to hold the District Court for the Western District of Pennsylvania, for the trial of certain cases. Declaring valid and legalizing certain sales of land in the State of Mississippi. To alter the time of holding the District Courts in the district of North Carolina. Making appropriations for carrying into effect the treaty concluded between the United States and the Creek Nation, ratified April 22, 1826. Making further appropriation for ten sloops of War, and re-appropriating certain balances, carried to the surplus fund. Making further appropriation for compensation and mileage to the members of the Senate and House of Representatives. Supplementary to an act for the gradual increase of the Navy of the United States. To fix the times and places of holding the District Courts of the United States in the District of Alabama.

CONGRESS.

The House of Representatives having refused to extend the session of Congress beyond Monday last; on that day both houses adjourned to meet again on the first Monday in December next. A vast number of bills were necessarily laid over, and much business remained undone, which it was desirable should have been completed at the recent session. We copy from the National Journal an abstract of the proceedings of the two last days, which follows:—Petersburg Republican. In the Senate on Saturday, the Hon. Nathaniel Macon, of North Carolina, was elected President, pro tem. after seventeen ballotings, he having received a majority of two on that ballot. A large number of bills was passed, and both Houses continued in session until five o'clock Sunday morning. In the House of Representatives, on Saturday, no less than four attempts were made to prolong the session. When the resolution came from the Senate, fixing the day of adjournment for Thursday, the House refused to accede to it.—The report of the Committee of Conference on the subject of the disagreeing vote with the Senate relative to the Creek Appropriation Bill was then taken up, discussed, and agreed to. A motion was then made to reconsider the vote by which the resolution of the Senate respecting the prolongation of the session was rejected, but the House refused to entertain the motion. Various bills were then read a third time, and passed; and, on motion of Mr. Cook, a joint resolution suspending the rule which prohibits the sending of bills to the President for signature on the last day of the session, was adopted, and sent to the Senate, which body refused to concur in the resolution. The House then took a recess from four to six o'clock. The evening session commenced with a call of the House, there not being a quorum present at half pass 6 o'clock. As soon as the quorum was obtained, Mr. Everett introduced a joint resolution to prolong the session until Wednesday, but the House refused to consider it. In the course of the evening Mr. Henry made another attempt, but no question was taken on it. The House acted on the various bills from the Senate, which were about thirty in number; of these about twenty were disposed of, the greater part of them being passed. About midnight, there being no quorum, a call of the House took place, which was carried so far as to close the doors; after which, two or three members were brought in the custody of the Sergeant at Arms, and made their personal apologies. The further proceedings were then dispensed with, and the House continued in session until five o'clock Sunday morning. For the last three hours there was no quorum, and the motions for adjournment and for a call of the House were almost unintermitted during that time. Monday, May 22. In the Senate, the morning was principally spent in the consideration of Executive business. The resolution offered by Mr. Beaton, to continue the business over till the next session, was rejected, Ayes 13, Noes 18. At 12 o'clock the Senate adjourned, sine die. The House of Representatives met