

The RALEIGH MINERVA.

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THURSDAY, FEBRUARY 1, 1810.

No. 722.

Congress.

HOUSE OF REPRESENTATIVES.

DEBATE

ON THE JOINT RESOLUTION,

relating to the conduct of the Executive in relation to the refusal to receive any further communication from Francis James Jackson.

DECEMBER 28.

STANFORD said, so many were the objectionable features of the present resolution before the House, he should vote for its indefinite postponement, and with permission of the House give his reasons for his vote. In the first place, he thought the language and style of the resolution highly objectionable, and calculated to do that which was already bad enough, still to do it in the second place a strange innovation upon all former usage and practice in the present government; and lastly, that it was entirely unconstitutional. Thus much he endeavored to shew, and trusted he would be able to do it to the satisfaction of the House.

He then premised that he had disapproved the resolution of the House of Representatives at the last session; that he considered unnecessary the present he considered not only unnecessary but even pernicious; that was a pacific and belligerent in all its aspects. He had tried a mode to one or two gentlemen, of the aid of that one, if they had thought proper in which case he should have contributed to have gotten clear of it. But had been put in a direct form he should have offered from his colleague (Mr. Macon) in which he should have voted for it. He could have done honestly otherwise, as he had most approved the arrangement made by our present with Mr. Erskine. Further, that as the rejection of Mr. Jackson, he thought with his colleague, that he might well have been dismissed on the receipt of his first letter tells us for what he had been sent and intended to do: In the case of the Chesapeake, the "declarations" and to receive counter-arrangements simultaneously, in other words, arrogance, insults and murders we had and suffered, he came to stipulate at once if we would stipulate a sort of counter-arrangement at the same time. Stipulation for stipulation rate! It had "not appeared to his majesty" to command him to propose to our present any formal agreement to take place rejected one! For the matter, said Mr. S. Jackson's instructions, much rather than manner of his negotiation might the commission have been cut off with him. Both had manner were to be sure objectionable, former in his estimation formed much the ground of dismissal. It was but too the mission of Mr. Jackson would end as one had done; that he did not come to us was too manifest!

The resolution before us, sir, affects to the Executive government against insult. Language "highly indecorous," it descends to the style of expression itself, more culpable and unworthy, indeed, of the country and of its government. It was a flattering to know that in the style of diplomatic correspondence the American side of the question had not in comparison with that of any other, late as well as former instances the advantage been calculated, as he presumed, to in every American bosom with just sentiments. Had it, therefore, been recommended by his colleague (Mr. Macon) had advised, he had it could have been amended, and rendered worthy of consideration as a state paper, is likely to be in its present dress and

des, Mr. Speaker, if the measure be intended to have any effect, it must be a bad one. It is towards war. Already are our difficulties great Britain critical enough, but if gentlemen war, the thing is altogether appropriate and well calculated not to support, but to the pacific views and intentions of the Executive. We may in this way foreclose the door of negotiation, which the Executive by message shewed us he had kept open. The British minister, in his correspondence with our government, had it not been their part? Had they not amply redressed the individual? It might well afford consolation to ourselves and the country other wrongs and insults had been even as repaired as this. Besides the murder of the more horrid murders on board the peace, the continuation of impressments for we have had instances more than one, it of other ministers conspiring with your government at defiance, here in the ten square, and the sensibility of Congress had before been awakened to a resolution of this defence of the Executive. The truth is, never needed it, nor does it now. We very deed, Mr. Speaker, refined upon the substantial insults we have suffered, till we have reduced it to a war of "words." It is expressions" of the individual we are committing and pledging the whole force of the government against the consequences, and not the more palpable injuries received to Heaven, sir, such a resolution had been brought forward! It is unworthy of us

unworthy of the political professions we here tofore made, even those made at our late session.

That a resolution of approbation, Mr. Speaker, is against all example for the last eight years; that it is an innovation upon all usage and practice, reference need only be had to the speeches of gentlemen during the last session. They afford the most ample proof. They were then unwilling to pour out the oil of adulation upon the Executive head. It was deemed unnecessary, anti-republican to do so. He hoped gentlemen understood him—he was using their own language upon that occasion, and not his own. He borrowed it for its excellence and fitness upon the present occasion. Such language conveyed his sentiments then, and still did so, and for his part, he could not comprehend how it could be correct then, and now the reverse of correct. Some gentlemen on the floor perfectly remembered that when Mr. Jefferson came into the Presidency eight years ago, he changed the mode of personal address into that of written message. "In doing this," said he, in his first message, "I have had a principal regard to the convenience of the legislature, to the economy of their time, to their relief from the embarrassment of immediate answers on subjects not yet fully before them, and to the benefits thence resulting to the public affairs." All acquiesced in this new course, and from that time till the late instance mentioned, no time had been wasted in pouring back the oil of adulation or approbation in any form on the Executive head. The only instance which could be cited during the last eight years, was found incidentally incorporated in a resolution relating to the navigation of the Mississippi. The words were "and relying with perfect confidence on the vigilance and wisdom of the Executive." This then was the only drop of this oil which the last administration produced, and has been called up at this first ordinary session of a new administration to form an example to follow; or rather, might we not say, to resume the exploded practice of former times, and thus echo back messages in this new form of joint resolution. But what was the style in which gentlemen spoke at our last summer session, when the subject of approbation was then before us. The language of one was, "if it were the object to bring before the House a discussion upon the message of the President, and to return an answer to his excellency's most gracious message, he should certainly be opposed to it. If there had ever been a particular part of the former administration, which had met the approbation of the republicans generally of this country, it was the discontinuance of the practice." Another had told us he was "opposed to a deviation from what he conceived to be the duty and becoming the dignity of the House." "He thought the House had nobler duties to perform than passing abstract resolutions, out of which no legislative act is contemplated, merely for the purpose of pouring the oil of adulation upon the head of the chief magistrate." And again, the gentleman from Pennsylvania (Mr. Findley) whose opinions are always so much relied upon, and respected in this House, and he (Mr. S.) trusted by few more sincerely than himself, had upon that occasion with singular bitterness and force spoken thus, "Law, (said the gentleman) is the only language of a legislature. It is the only language that can command obedience and respect. Any equal number of citizens met in a tavern, and there passing a resolution of approbation, would have equal force with such a resolution passed in this House, and would be more in character. They are acting without authority from the constitution or the rules of the House." It would be for that gentleman to tell us—to tell the House, and he would beg the gentleman's pardon for the particular request; but he must request that he would take the occasion to let us all know how his doctrine then is now to be gotten over. For his own part, he could not comprehend how right and wrong could change their respective sides in so short a time.

The gentleman from N. York, (Mr. Fisk) had also at the late session of Congress made a long, and by no means unhandsome display of his talents, in a speech against "approbating the Executive," and a like lengthy display at the present session in favor of "approbating." The gentleman then thought a resolution of the kind "extraordinary." "He was against giving his vote of approbation as a representative in this body, however meritorious might be the action which he had performed. He had not done an act of supererogation. He had only done his duty." Again, "he never wished to see that House converted into a temple for offering up adulation to the Executive magistrate," and finally concluded with saying "he should vote for the indefinite postponement of the resolution. The House were setting a dangerous precedent, highly pernicious to the nation. They were going out of the line of their duty, pointed out by the constitution. If the motion to postpone did not succeed, he should not vote at all." The gentleman had, indeed, referred us back to the unexampled times of '98-'99, when we know the echoing approbation system was the fashion, not with a view, perhaps, in so many words to recommend them for our present model, but to shew that gentlemen on the other side of the House they had once thought differently, and had in the course of ten years played the "political roundabout" and yet by the same shewing the gentleman had himself shewed that he had played the "political roundabout" in six short months. The "wheel and the dust" flew in one direction at the last session, and at the present it flies in the opposite direction with equal velocity and more "dust," and the gentleman all the while keeps

pleasantly on the top, that part of the wheel which they say, in Virginia, runs the fastest, and he believed they were right, for so it does here and there too.

His colleague (Mr. Macon) in referring to former times, had expressed some doubt whether the majority were the same party now they were then. He felt no doubt himself they were the same; but there was no room to doubt from the present question itself, they had undergone some strange modification since former times. The doctrines then must be well remembered by him, yourself, Mr. Speaker, and a few others on this floor. The advocates of this sort of adulation must go back beyond the times of the late and last administration, if they would introduce the fashion again. At the opening of the Fifth Congress, in the answer of this House to the speech of the President, these words are used—"We cannot omit to testify our approbation of the measure, and to pledge ourselves that no considerations of private inconvenience shall prevent, on our part, a faithful discharge of the duties to which we are called"—and again, this sentence, "whilst we view with satisfaction, the wisdom, dignity and moderation, which have marked the measures of the supreme Executive of our country, in its attempt to remove by candid explanations, the complaints and jealousies of France, we feel the full force of that indignity which has been offered our country in the rejection of its minister." This language was too much in the style of adulation for us then to brook, and our names, sir, stand recorded together against it.—Let gentlemen compare for themselves.

It is the peculiar misfortune, sir, of this system, if again to be revived, that the right of approbation implies the right of disapprobation and censure, and during the same administration of which we are speaking, this right of disapprobation and censuring was also attempted to be exercised. The resolution was introduced at the first session of the Sixth Congress, by a gentleman then from the city of New York, (Mr. Livingston) in the case of Jonathan Robbins. The same gentleman is occasionally present here at this time, and seems yet to be a stickler for judicial decision, and still thinks the Executive against an individual matchless odds. The part of the resolution alluded to, runs thus, "that the decision of those questions by the President of the U. S. against the jurisdiction of the courts of the United States, in a case where those courts had already assumed and exercised jurisdiction, and his advice and request to the judge of the district court, that the person thus charged should be delivered up; provided only such evidence of his criminality should be produced as would justify his apprehension and commitment for trial, are a dangerous interference of the Executive with judicial decisions." Gentlemen, sir, it might be easily seen from a practice of this sort, that a whole session might be wasted without doing any part of the public business. The thing would be endless.

In the 4th Congress, on the subject of a call for papers in relation to the British treaty, an unhappy difference arose between this House and the Executive—Gen. Washington was the President. His reply to the House was, that "a just regard to the constitution and to the duty of his office forbade a compliance with their request." The House again by resolution asserted their rights disclaiming, however, at the same time, any agency in making treaties. Notwithstanding the violence and passion of the moment, this House did not then think they had any right to meddle with the making of treaties; but now it would seem the present House were disposed to join the Senate by this sort of interference in the negotiations of the Executive to form a treaty.

In all cases alluded, sir, it should be distinctly kept in view, that each House had acted for itself in voting their approbation and homage to Executive speeches and proclamations. He had referred to the proclamation of neutrality by General Washington. This was the first time Congress ever legislated approbation before.

But Mr. S. said not to protract the observations he had intended to make an unnecessary length, he would come to his last position, which he deemed unanswerably conclusive; but if he had misconceived the real force of that argument or any other, it was competent for any gentleman to shew it. The different gentlemen of the House had discovered much learning and research upon the occasion, in hunting up authorities; but what had books on the laws of nations to do with the present resolution before us? What Wicquefort, Grotius, Martens, Puffendorf and Vattel, had to do with it, he was entirely at a loss to perceive. A case against a case, gentlemen had pretty clearly made out from these differing and different writers. Admit the arguments on either side, and still the propriety or impropriety of passing the present resolution was not to be affected or involved. He held in his hand the constitution of the United States. He would make that his text book, and would beg leave to call the attention of the House to a single paragraph, which it contained. It was the 3d of the 7th section and 1st article, and reads thus, "Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States—and before the same shall take effect, be approved by him; or being disapproved by him, shall be repassed by two thirds of both Houses, according to the rules prescribed in the case of a bill."

Mr. Stanford then observed, he trusted the House would recollect that Congress were about

to act upon the present occasion in their joint solemn legislative capacity; that the resolution was a joint one, and being so it was one, "to which the concurrence of the Senate and House of Representatives may be, and was, necessary," indispensable. Hence then, of necessity, it must be presented to the President for his approbation before it could take effect, or being disapproved by him, would have to take the course prescribed in the case of bills. Thus we see the unprecedented novelty not to say the absurdity of the thing. Both Houses, the Congress, the legislature of the United States pass a resolution approving the President. The President has to receive it, and approve our approbation—in other words, to approve himself; for as to disapprobation that must be presumed to be out of the question—that could not be imagined. It would place the President in an unpleasant predicament, a thing no way necessary to be done, and for one, he would not contribute to do it. And besides when a paper like the present shall have been legislated through the several branches of the government, shall have passed through all its forms in the great councils of the nation; it must be considered a state paper of no ordinary cast. And in all probability would become the subject of diplomatic correspondence abroad; at least, it was likely our minister in London would have to be informed something about the occasion, the style, the form and motives of such a resolution on the part of our government. He had seen almost every state paper required some such explanation, and we had no reason to believe such necessary explanation would be withheld.

Among the enumerated and specific powers given to Congress were to be seen the power to lay and collect taxes, borrow money, regulate commerce, establish rules of naturalization, coin money and the like—all looking to some fair and proper object of general legislation,—thence some exercise of the executive function, and some ultimate, probable public good—but nothing of all his attaches to the present measure. It is in its true character nothing but "words"—an abstract, inoperative thing; a dead letter the moment it is passed. Powers not delegated were retained, reserved to the people, and no such power as that we were about to exercise could be made appear to belong to Congress as a legislature. It was the peculiar right of the people to approve or disapprove their functionaries, but not of the Congress in any other way than the constitution pointed out. If any gentleman on the floor could lay his hand upon his heart and read this paragraph of the constitution and then say that we could or ought to pass upon such a resolution, (for let it be remembered we are legislating—acting in our joint capacity,) it was more than he could allow himself to say, or to believe under his oath, to support it. If, indeed, we are now to form a new precedent to be resorted to upon all future occasions to give into this abstract species of legislation, the field is an extended one, and we shall but distract ourselves and commit an endless waste of time to no good purpose. Nothing good, and much evil may grow out of it.

Should the resolution, said Mr. S. be finally adopted, he would be permitted to say it was the first of the kind Congress ever had passed before and he would defy the research of any gentleman in the House, however accurate, to find a single example of the kind since the government commenced. The proceedings of both Houses were of record, and spread on the Journals of each, and if there was the shadow of a precedent for the measure he hoped it would be found. He humbly intreated of gentlemen to point it out. Mr. S. concluded with saying, so exceptionable was the resolution to him in point of style, in point of form, and in point of constitutionality, he sincerely wished its postponement, and if that would not do, and it must finally pass, it would have to do it without his vote.

Friday, January 19.

Mr. Newton from the committee of commerce and manufactures reported a bill "to prevent the issuing sea letters except to certain vessels," referred to a committee of the whole house on Monday.

Mr. Macon's bill regulating commerce was called up. Mr. Rhea's motion to strike out the last section, so as to make the law permanent, under consideration.

Mr. Livingston spoke against the amendment. He was followed by Mr. Sturges, in a very able and argumentative speech against the amendment.

Mr. Cutts spoke in favor of the bill.

Mr. Root against it.

Mr. Potter spoke with great and good sense and great good humour against making the bill permanent.

Mr. Sawyer spoke against the bill—Mr. Mason followed in favor of his beloved child.

Mr. Kry rose to speak against the amendment, when he was called to order by Mr. Sheffield and silenced. The question on the amendment of Mr. Rhea was then taken and lost—Ayes 26—Noes 102.

Mr. Macon's motion to limit the rest to the present session of congress was taken and lost—Ayes 54—Noes 71.

The house then adjourned.

Saturday, January 20.

AMERICAN NAVIGATION BILL.

The bill concerning commercial intercourse, &c. was further discussed today.

Mr. Newton offered the following two amendments as an amendment to the bill.