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## Congress of the United States.

### HOUSE OF REPRESENTATIVES, DEBATE

On the enquiry into the conduct of General Wilkinson.  
Tuesday, December 18.

The following resolution, offered by Mr. Pearson, being under consideration:  
Resolved, That a committee be appointed to enquire into the conduct of Brigadier General James Wilkinson in relation to his having at any time, whilst in the service of the United States, corruptly received money from the government of Spain or its agents, or in relation to his having, during the time aforesaid, been an accomplice, or in any way concerned with the agents of any foreign power, or with Aaron Burr, in a project against the dominions of the king of Spain, or to dismember these United States. And that the said committee enquire generally into the conduct of the said James Wilkinson as Brigadier General of the army of the United States: That the said committee have power to send for persons and papers and compel their attendance and production, and that they report the result of their enquiry to this House.

Mr. Root said he hoped this question would not be taken very hastily. He wished the motion might lie on the table for two or three days. He believed one member of the resolution to be unnecessary, nay, improper. He said he was not now prepared to refer to documents or reports or to the sentence of a military court of enquiry to prove it. He alluded to that member of the resolution which regarded the Spanish business. There had been causes, he said, unfolded to the committee at the last session which would show them the impropriety of enquiring into the business of the Spanish pension. It would be premature now to state the reasons which governed his mind in wishing to strike it out. He moved that the resolution should lie on the table.

Mr. Taylor said he had always been of opinion that the power of this House did not extend to the subject of this enquiry. That opinion however had not been in coincidence with the opinion of a majority of this House. Neither should he now attempt to argue this ground over again. He was, and he believed a great majority of this House was, pretty well tired of this subject; and if the investigation was to come to any thing, he would be for giving to the committee, who were to have the subject in charge, the earliest possible opportunity to commence their labors. For, he said he believed if this individual possessed a grain of popularity, a penny-weight of character, this mode of bringing forward this subject so late in the session that it was impossible to come to a conclusion; this holding up his character on the benches of public opinion; the course pursued throughout the whole business, would make the worse the better side. He said he was unwilling, if this person was unworthy of the confidence of the government, that he should hold a situation, where the government could not take hold of him; and he would therefore not postpone the subject a day or an hour, but give it to the committee, if it was the sense of the House—for, he would say, that the government of the United States, in respect to this individual, from the time of his being ordered from command, had their hands tied, not having the power of dismissing him from service, even if it had been proper. You, by your acts (said Mr. Taylor) snatch the victim from public opinion, and produce a conviction that he cannot be dismissed from service lest his improper actions should implicate the Executive, who could but do as they have done. Censure has been passed upon this officer by the government inasmuch as he has been superceded in an important command, previously too, as it appears, to the motion of the gentleman from North-Carolina (Mr. Pearson) at the last session; Mr. T. said he was not for putting it off; he was for meeting the thing. If gentlemen of the House were determined to enquire, he said, let it be speedily, so that there might be an end to the business, and to the unjust imputations on the government for keeping him in employ, when it was the opinion of many (he had already expressed his) that he should be removed. Mr. T. said he was against postponement for a day or an hour. Even if he were anxious for the reputation of the individual, he should be of the same opinion. He was anxious also for the reputation of the Executive in retaining him office, which would be committed by keeping him in command, if Congress, by a sort of committee of safety, an unconstitutional court or committee of enquiry, had not stepped in between him and them. He was extremely averse to postponement.

Mr. Smith said he agreed with his friend from North Carolina in one respect, but could not vote with him on this question; because he considered his business, from its commencement to this day as an unconstitutional proceeding on the part of this House. The House appeared determined to go on; so let them, but it should not be with the aid of his vote. When a few more difficulties had been created by the proceeding, they would come to a proper understanding of the subject. He was not sorry, he said, but so far from being glad that this subject had been renewed; the excess of the evil would correct itself most eventually, when every man would turn his eyes upon himself, and reflect upon the precariousness of his own situation, if a committee of this House would hang him up before the Public, at the

same time that he was liable to be brought to trial before another authority. He could not aid the progress of the enquiry by any vote of his, though he rejoiced that the matter was again taken up.

Mr. Pitkin said, that if this subject were new, and now for the first time agitated, he presumed there would be no objection to its lying on the table. But as it was not new, the subject having been particularly before the House at the last session, and an enquiry partially had and a report made on the subject, he could see no sufficient reason for its lying on the table. If the majority was determined, that there should be no further enquiry, it ought to be decided immediately, for the reasons mentioned by the gentleman from South Carolina; for the honor of the Executive and of the person whose conduct was the subject of enquiry. The limited duration of the session was also a strong argument in favor of an early decision.

The question on the resolution's lying on the table was lost, 33 to 78.

Mr. Troup moved to amend the resolution by adding thereto the following words; "and further, that the said James Wilkinson be notified of the time and place of meeting of said committee, and be heard in his defence."

Mr. Stanford said, he had never doubted, as well from the constitution as from the plainest dictates of common sense, that the House had the right to enquire into the state and conduct of the army, or that of one of its commanding officers—and had more than once authorised committees for that purpose; but the form of a court to sit, collect testimony, hear and try a military officer, had never before been attempted; because to the mere purpose of enquiry no such thing was necessary, if proper. If the committee is to go into this form into the business, and then again the House in like manner, there would be no end to the business. The amendment now proposed assuming the form of trying General Wilkinson, he hoped it would not be adopted.—He had no idea of a committee of this House, calling a gentleman of the military garb before them; hear him, as it is said, in his defence, and it would seem, as a thing of course, afterwards to pronounce guilty or not guilty.

Mr. Pearson said it had been believed by the committee at the last session of Congress, that they had the power to receive any evidence General Wilkinson might think proper to bring forward, and in the manner which should have been deemed most consistent with the duty of the committee, and the honor of the House who appointed them; and he believed that every member of the committee had been at all times during the session perfectly willing to receive any communication which General Wilkinson might have thought proper to offer. If it was the object of the mover merely that the committee should receive any evidence relative to the subject, he conceived that the amendment of the gentleman, though not improper, was unnecessary. He believed it was the understanding of all gentlemen who were in favor of the resolution that testimony should not be entirely *ex parte*; but the committee ought not, he conceived, to be bound to receive the evidence, unless they deemed it conducive to the end of enquiry. He was opposed to the amendment more because it was unnecessary than improper.

Mr. Troup supported his amendment. Was it possible, he asked, that this House could ever think of coming to a decision on the character and conduct of an individual without hearing him in his defence? If they heard *ex parte* testimony, was it possible that they would come to an *ex parte* conclusion? Gen. Wilkinson must either be heard by the House in his defence before they pronounced on his conduct, or acted in relation to him as if they had done so. Suppose the House should on this occasion chuse to consider itself as an inquisitorial tribunal, as the grand inquest of the nation as it was called—why, he might be tried twice for the same offence; by what was called the grand inquest of this house, and petty jury of his country. The house would observe, that in the case of their proceeding, although there was a grand jury to find the bill, there was not a petty jury to determine the question of guilty or not guilty. After pronouncing as far as they could, the house were to turn him over to the laws, according to which he must appear before another grand inquest, and afterwards be tried whether guilty or not guilty before a petty jury. If they proceeded in this way, there would be a double prosecution for the same offence. Mr. T. was therefore decidedly of opinion that if the house pursued the subject, Gen. Wilkinson ought to have his constitutional and legal right to confront his accusers.

Mr. Rhea said this amendment would cap the climax of the unconstitutionality of their proceedings; for it would give to the enquiry all the formality of trial. General Wilkinson was to put in his plea of guilty or not guilty; the committee must rejoin; evidence must be taken, on which the committee would pronounce. This would be a trial to all intents and purposes, except that in other cases the party was not called upon to answer before a bill were found. If there was any provision contained in the constitution to warrant such a proceeding, it was unknown to him. If he were desirous to add to the absurdity of the original prosecution, he should vote for the amendment; but he had no such disposition. He had risen for the purpose of requiring the yeas and nays on the question.

Mr. W. Alston said that unquestionably if the house had a right to enquire into the guilt they had a right to enquire into the innocence of Gen. Wilkinson. Would it be right or just to collect every thing against an individual to blast his character for ever, without hearing his side of the question? Who knew, if they heard him in his defence, but the charges against him might be all disproved. If truth were the only thing they were in search of, could any one object to hearing both sides of the question? Every one, who had even attended courts, must have been satisfied that one story was good till another was told. The objections to this amendment shewed that one side of the question was wanted and not the other.

Mr. Smith said, one thing he wanted to know of gentlemen who patronized this resolution—what was their object. The business had arrived to that stage, that it was time to declare what they ultimately meant. Did they mean, after the enquiry was finished, that the house was to decide on the guilt or innocence of this officer? If this was what was meant, they ought to tell it; and in that case the amendment was necessary. If the committee passed sentence, they ought to shew whence the power was derived. From the constitution it could not be, for there was no such power there. He supposed, however, that they did not mean to carry the matter so far, but merely to pursue the enquiry and blast the man's character by publishing the result of a one-side enquiry. Mr. S. appealed to gentlemen whether after this Gen. Wilkinson could have a fair trial before either of the courts, civil or military, before whom he might be called. He hoped at all events they would declare what was their object; either to judge the man and pronounce sentence on him, or publish to the world every thing they could collect against the character of the man. Indeed, in his opinion, the house had got into a situation in which they would always find themselves when they took a wrong step. His opinion had uniformly been that the house did not possess an inquisitorial power as such; that where they had no power to impeach they had no power to make enquiry into the conduct of an individual.

Mr. Pearson said, on further reflection he had thought proper to accept the amendment offered by Mr. Troup as part of his motion.

The amendment of Mr. Troup having thus become a part of Mr. Pearson's resolution—

Mr. T. Moore said that now this amendment was incorporated in the original motion, he found himself under the necessity of voting against the whole. He had always considered that the house had a right to enquire into the conduct of general Wilkinson; but he could never agree that they had a right to try him. The gentleman from Pennsylvania had stated, that if the house proceeded and sent that officer before a court martial with the sentence of the house on his back, it would be holding him up to public view in a way which would be very unfavorable. For his part, Mr. M. said, he could see that officer in no other point of view than as a person before a grand jury, against whom a bill was to be found. How would that operate? Would it prevent justice? No; every day's experience proved the contrary. The amendment carried with it the appearance of putting general Wilkinson on his trial. Mr. M. was therefore against it.

Mr. Stanford said he had no idea that the house had a right to go into the full form of trying a military officer by one its committees. Believing the amendment had given the proposition a form which rendered it questionable whether in passing it they were borne out by the constitution or not, he must vote against the resolution in that character. The house had on a former occasion collected testimony and sent it to the executive, on which testimony he presumed, the court of enquiry had been held in due form. He was not disposed to go farther in this case than sending, the testimony to be collected to the executive. He therefore moved to strike out those words which had been inserted in the resolution at the suggestion of the gentleman from Georgia.

Mr. Butler said, that situated as he had been during the last session of congress, he found himself called upon to answer the question of the gentleman from Pennsylvania, who asked what gentlemen mean by this enquiry. I trust, Mr. Speaker, (said he) I shall be among the last either in this house or elsewhere, that would say or do any act that would unjustly detract from the merits of the man that is brave and virtuous; and the gen's bravery was not doubted. But, whilst I am anxious to guard the reputation of the individual, I wish to pay some attention to the honor and independence of the American republic; and believing, as I now do, that general Wilkinson, as commander in chief of the American army, has been guilty of improper conduct, I am willing this house shall make the enquiry, and after hearing the evidence on both sides, if the charge exhibited against general Wilkinson shall be refuted, I wish to say to the world that he is an innocent and persecuted man; and if on the other hand after mature investigation the facts as already stated in the report of the committee, of which I was last session a member, should appear to be correct, as a representative of the people of the U. States, I will not hesitate to say, that general Wilkinson ought to be made a public example of. That was my meaning when on the committee last session; what may be the idea of the committee of this session is not for me to say.

The question was then taken on Mr. Stanford's motion, and lost, 30 to 89.

The question recurring on the resolution as amended—

Mr. Mitchell said he was opposed to it on the broad ground that it had already occupied too much of the attention of the house. He therefore wished it dismissed; and that the person concerned might be left to be dealt with by the Executive as the constitution directs, and as he would be if it were not for the intervention of the house. Mr. M. said he thought the house had better adhere to its legislative functions, in which it had enough to do, and leave to the executive to perform his functions as commander in chief of the armies of the U. States.

Mr. Root said he would not detain the house by moving to strike out any part of the resolution; for he was convinced, from the votes which had been taken, that the resolution would pass as it now stood; but, as he had at the last session voted for a resolution similar to that under consideration, and had the honor to be appointed one of the committee, he felt it a duty which he owed to himself and the house to state some of the reasons which had induced him to change his opinion on the subject. An aged and honorable friend (Mr. Smith) had at the last session given admission of the impropriety of their proceeding, and Mr. R. said the longer he sat upon the committee the more he became convinced of the incorrectness of his vote. At that time the popular clamor had been loud; the public had appeared to demand the enquiry; and he had heard of the lamentable destruction of the army in the marshes of Terre-aux-Beuf. Without much reflection on the constitutionality of the question, Mr. R. said, he had voted for the enquiry; and he had thought that perhaps something might grow out of it; that the house might withhold supplies as long as the executive continued in command a man whom the house on a full investigation should deem unworthy of the public confidence. He had thought also, that it might lead to another object—the repeal of the law creating the offices of Brigadier General. This enquiry by the house, Mr. R. said, he believed had prevented the dismissal of general Wilkinson, or at least an executive enquiry into his conduct. He said that he had found that a committee would be unable, and must of necessity be unable to do justice to the character of the individual and justice to the nation. By what means, he asked, could the committee compel the attendance of witnesses, and how were they to be informed of the persons proper to be subpoenaed, unless from officers who had been, or now were under the command of general Wilkinson, and were willing to volunteer their services against him? How should these things be known, unless from those whose object it was, instead of allaying, to increase the popular clamor? To be sure the resolution now looked as if general Wilkinson was to be heard before the committee. But were the house certain that he would avail himself of the opportunity? He had not at the last session asked to be heard of the committee, because the powers of that committee did not extend to declaring his guilt or innocence.

This resolution, Mr. R. said, embraced three objects, two of which had been already sufficiently examined. His conduct on the marshes below New Orleans had been sufficiently investigated, by a committee appointed at the last session expressly to enquire into that subject. His conduct as to the Spanish pension had been investigated before a military court instituted for the purpose; and by that court it had been reported that there was no evidence of his having been a Spanish pensioner, but that his having received money from the Spanish government was on account of a tobacco contract. But even if that were not the fact, the length of time elapsed and the circumstances attending the transaction would be sufficient to render an investigation on that point inexpedient.—As long ago as 1786 or 1787, when the mouths of the Mississippi were held by Spain, the inhabitants on its waters were taking measures, if not for independence of the United States, at least for a connection with Spain. But was this any thing new? Had it not been communicated to General Washington and also to Mr. Adams? Yes; and what had they done? They had given instructions to search into the matter; but when the treaty had been made with Spain in 1795, and the association was dissolved, there having been many persons involved whose names had been heard on this side the Alleghany, the government had thought proper to make the investigation. At the last session, Mr. R. said he had seen letters communicated to Mr. M'Henry when Secretary of War, giving information on the subject. Those letters had not been put upon the files of the War office, but had been retained among his private papers. It had been deemed prudent by Washington and Adams to suffer the matter to go to rest. What occasion then was there now to revive this enquiry; to rake up the ashes of the dead? With a knowledge of every thing relating to the subject, General Wilkinson had been permitted by three successive administrations to remain in office.

Mr. R. said he felt a confidence that, if upon investigation the charges against him had been found to be well grounded, General Wilkinson would have been before this time removed from the command from which he had been suspended; but for the enquiry. He was unwilling that another enquiry by the house should protract the time when a proper enquiry should take place, and his dismissal from service ensue if it should then appear necessary. He was therefore opposed to the resolution.

Mr. Gholson said he had voted in favor of the motion to lay the resolution then before the house on the table. He had also voted for its passage.