THE NORTH-CAROLINA MINERVA.

RALEIGH:—PUBLISHED EVERY TUESDAY BY HODGE & BOYLAN.

Twenty-five Shillings per Year.] TUESDAY, FEBRUARY 17, 1801. VOL. V. NUMB 253.

Congress of the U. States.

HOUSE OF REPRESENTATIVES.

Wednesday, January 21.

DEBATE ON THE SEDITION LAW.
(CONTINUED.)

House in committee, Mr. Morris in the chair.

House of Rrepresentatives in committee of the whole, upon the Report of the committee of revisal and unfinished business recommending the continuance of the *Sedition Act* without limitation of time.

Mr. Platt moved that the committee of the whole concur in the report: upon which *Mr. Eggleston* called for the reasons of this extraordinary measure.

Mr. Platt said he had intended to have remained silent; but as the Reasons for the Report had been demanded, he would undertake to explain them. It was notorious that the Law now under consideration, had been objected to, on the ground of *Constitutionality* as well as *Expediency*. The committee who made this Report, supposed the law to be perfectly consistent with the Constitution and highly proper and expedient. I will not (said Mr. Platt) undertake to repeat the arguments which have so often been used to prove the constitutionality of the law, because I presume, they must be familiar to all who have attended to the subject, and because I think we have a right now to consider this point as *settled*. It is established by the concurring opinions of both branches of the Legislature, of the Executive, and of the Judiciary. It is impossible to demonstrate truths of this kind, with mathematical certainty; there is perhaps no article of the constitution on which every body will agree in the same construction—and if gentlemen will not respect the deliberate, solemn, and uniform decisions of our highest courts of justice, concurring in the same interpretation of the constitution with the other departments of the government, I can perceive no Test by which we are to determine the true construction of the constitution in any case whatever. If gentlemen refuse to admit this standard, they adopt a principle which not only infringes, but absolutely destroys the Constitution: because, to deny all the rules and evidences by which we can ascertain its meaning, is to deny its existence. If gentlemen on the opposite side dislike the constitution as thus interpreted, it is incumbent on them to propose amendments. Do they pretend that the Legislature in passing the law, or the Judges in their administration of it, have acted corruptly; then it is their duty to bring forward an impeachment.

To those, sir, who are accustomed to consider government as an Evil, and who suppose mankind require very few laws and very little restraint, the constitution no doubt must appear very limited in its powers. Such men view it with an eye of jealousy, and are always inclined to construe it with the same degree of strictness as they would a penal statute. But, sir, those who really believe that government is a Blessing, will also believe that the Constitution was designed to secure our political happiness, that it is the Friend, and not the Enemy of public Liberty: they will perceive that the powers and provisions of the constitution are commensurate with their great objects; and they will naturally give it a more liberal construction. It is therefore not at all surprising, that such different tempers, and such different habits of thinking should have produced different opinions on this subject.

As to the expediency of the measure now under consideration, I consider this statute as a wise and wholesome modification of the common law.

The doctrine of our good old mother, the common law, is very rigid on the subject of Libel, and such as I think incompatible with the spirit of a republican government. This statute, sir, mitigates that rigor; and defines the mutual rights of the government and the individual; and places them in my opinion, on the most fair and reasonable grounds. On the one hand, goverment has the means of protecting itself against false and malicious slanders, and seditious practices; on the other hand, any person has a right to investigate, to censure, and accuse the conduct of the government, with perfect security, unless it can be shewn that his accusations are false and malicious, and such as tend to defame a virtuous administration. Can any thing be more reasonable than this? Is there any thing in it which an honest man ought to dread?

Our government, above all others, is dependent upon the breath of popular opinion: It cannot exist without public confidence: Parties and factious demagogues are inseparable from it: and if the government will not exert the power contained in this law, it abandons the most essential means of self preservation. The power of punishing treason itself, is not more necessary to it, nor in my opinion more fairly deducible from the constitution.

We have lately been told with an air of triumph, that "*a new order of things is shortly to take place*"; and that "*the Sun of Federalism is about to set forever.*"

I confess Sir, I dread with horror the awful night which is to follow: But, while I have a seat here, these threats will have no influence on my conduct. I think sir, we ought to legislate on this subject without any reference to the state of parties, without any regard to this *new order of things*, with which gentlemen are pleased to threaten us. I think the law now under consideration, is proper in itself: it is expedient at all times, and under every administration. I believe it has been salutary in its effects; and so far as my information has extended, its penalties have fallen only upon those who deserved them. It is a rule to which I would subject others, and to which I cheerfully submit myself.

Upon these considerations the committee who reported this resolution suppose that our duty to the government, and a regard to consistency which we owe to ourselves, demand that this law should be continued.

Those who deny the common law jurisdiction in the case of libels, have asserted, and the assertion has been repeated in a thousand insulting forms, that this statute was framed for the purpose of fencing round the character of President Adams, and to screen his corrupt administration from public scrutiny,; and that with this view it was limited in its duration to the period for which he was chosen. It has lately been styled "*the federal safeguard.*"

Sir, we now have a fair opportunity of proving that these insinuations are a foul aspersion of our motives. This consideration however is not a sufficient motive for acting on this floor: But those who admit that our courts have cognizance of these offences at common law, will perceive much stronger reasons why this law ought to be continued The arbitrary rules of the common law declare, that in criminal prosecutions for libel, the truth of the words charged as a libel, shall not be given in evidence: another rule is that the court exclusively shall judge of the law, and the extent of punishment depends on the discretion of the court almost without limitation. This statute declares that the truth shall be admitted as a justification; that the jury shall have a right to judge of the law, as well as the fact; and limits the discretion of the court as to fine and imprisonment. The common law doctrines are certainly very rigorous; they are not suited to a free elective government: a regard to public liberty demands this interference of the Legislature. Sir, it is of great importance at this period especially, to secure to the people of the U. States, the sacred right of giving the truth in evidence. If "*the sun of federalism be about to set,*" I hope gentlemen on the opposite side will consider, that the liberty of speech and the liberty of the press, I mean the liberty of speaking and printing the truth, are the foundation and support of a free government: they ought to be prized above all price. I beseech gentlemen to recollect, that the right of trial by jury, is the palladium of liberty: and we shall now have a fair opportunity to discover, who most respect these important privileges.

Mr. Dana said, a principal part of the arguments of gentlemen in the opposition were calculated to prove that the administration of our country was wilfully corrupt. They had told the house that necessary testimony had been refused, and that the various abuses of this kind had actually occurred in our courts, who were actuated by a spirit of party, to the great injury of persons not born in this country.

[Mr. Nicholson—I spoke facts: I did not say the administration was wilfully corrupt: these are the gentleman's own words]

Mr. Dana. There could be no other implication from the gentleman's words, nor was it in the power of human invention to distinguish between a violation of the principles of justice in the manner represented, and a most wilful and gross corruption. As it would be extremely improper to leave so great a charge in this unqualified manner, Mr D. would proceed to examine this conduct of the judges of the United States. Who are those judges? Nominated by the President of the United States, and chosen by the Senate agreeably to the constitution: How long or at whose pleasure are these judges to continue in their high offices? At the pleasure of no man, nor set of men, but during good behavior.—Surely if there be any part of the government, or any set of men in the United States, who were placed above the spirit of party, and beyond the reach of corruption, it is the judges of the United States: and yet, above all others, these are the men charged with a party spirit, and with corrupt principles—these men who are singled out as men of the most profound wisdom and integrity among us, and who are superior to the dread of removal from office, excepting only by impeachment for misbehavior. Yet this is the substance of the reasons gentlemen assume why this law should not be continued.

Would not prudence dictate, would not justice, that justice which is due to the character of every man, demand that before these charges would be even suggested, the proof ought to be decisive; that it ought to be "damning?" This has not been produced.

He would not go into the details of the law, but examine it upon general principles. He would admit that there had been much opposition to this law, and that most particularly it had been opposed and condemned by the legislature of one of the largest states in the union. But he was not inclined to judge of a measure, upon the opinions of others; that house ought not to be over awed by the multitude of petitioners, nor by the remonstrances of the legislature of any state whatever; it should act with a spirit of independence.

One of the extravagancies of that state, and many of the people, had been to arraign, to their extremely weak and partial judgement, the common law: the existence of it was altogether denied. That common law which most undoubtedly secured to every individual its most endeared rights, and afforded security against every species of legal oppression, whilst it preserves to the government that protection against the licentious and false slanders which polluted some of the presses of the U. States, and maintained upon established principles, the rights of our jurisprudence and our morality. This was the true character of what was termed the common law.

It would seem to him, Mr. Dana said, that no honest man could wish for a liberty to utter defamation and falsehood. It was perfectly incomprehensible to him how a man who held dear the principles of liberty and of good government could attempt to utter falsehoods against the government. The rights of the people and of the press were here held up. How, he would ask gentlemen, could the rights of the people require a liberty to utter falsehood? How could it be right to do wrong? If this was liberty, he had been hitherto totally ignorant of its principles, and wished to remain so. And yet the only crime made by that part of the law, so much the subject of complaint, is the uttering of a scandalous and malicious falsehood, with intent to defame. Most certainly truth is not always the motive of investigating the measures of our government, and so far as truth is deviated from, so far is the government libelled, and virtue proportionately becomes beclouded by misrepresentation. Could not public opinion become corrupt? Could no falsehood be disseminated that would gain credit from the people? Then how could gentlemen pretend to suppose that truth must overcome falsehood? how could they suppose that misrepresentation and calumny could do no manner of harm? How often are calumnies and falsehoods published against the government; but when is a contradiction of those falsehoods seen in the same paper? No, falsehoods will have their effect, and even if afterwards contradicted, it is not so until the falsehood has had its effect, and at that time the truth avails but little. Thus, though upon general principles truth may be said to be an antidote to falsehood, truth does not always make its appearance in time to prevent the evil intended by the evil disposed. Suppose the reputation of the government to have been attacked, and the affections of the people weaned from it, of what avail will be the remedy? The poison is swallowed beyond the power of expulsion, even by the most powerful antidote. If this then be true, & that it is, indubitable; a check ought to be provided in due time, whilst yet its qualities may completely prevent any possible harm.

And what danger, Mr. Dana asked could result from this law? As he observed before, it was not the will of the judges, those arbitrary party spirited characters, that could convict. No, every cause is submitted to a jury of twelve honest men, who are sworn to decide upon the fact, and the security is so great that if but one man out of the twelve should be of opinion that the person arraigned is not wilfully an offender, and that he has not traduced the government falsely and maliciously, he must be acquitted of the indictment.

What better barrier to the liberties of an individual can be presented than this? The only answer gentlemen can give is that the juries, are packed. But he would ask, whether the juries were not returned as fairly in this as in other cases under the laws of the land? If then there was an evil, it was not solely applicable to this law, but to all laws, and to the general principles upon which juries were collected. He could scarcely conceive that men of character, under the solemnity of their oath, could act so unprincipled.

Upon the whole he could see nothing but unfounded arguments in opposition to this law, and that gentlemen had no other way to get rid of their dilemma but by charging the courts and juries with corruption. And when men began to charge with evil design the sanctuary of justice, it was time to bid adieu to all public happiness and every hope to enjoy the blessings of freedom.

Mr. Huger acknowledged that he had been somewhat surprized, when the report of the committee of revisal and unfinished business was first made, and found it to be their wish to renew and continue in force this act, so well known by the appellation of the sedition law. It had been generally understood, he thought, on all hands, that this act would be allowed to expire in peace, and without further notice, on the 3d of March next. As the subject, however, was again brought forward, he was happy to perceive that gentlemen were inclined to treat it with calmness and moderation. There appeared indeed, no great anxiety in the committee to enter largely into the discussion of this question—neither did he feel himself any strong inclination to do so. But as he should in the present instance probably vote in opposition to the sentiments of most of those with whom he was usually in the habid of acting, he would beg leave to state some of the reasons which led him to differ from them on the present occasion. He felt some little pain, however, he acknowledged, at the idea of dissenting from and acting in opposition to his friends on this important and interesting question, because no man had a stronger conviction than himself, of the general correctness of their political views and principles, or was more persuaded of their honest intentions and patriotic views.

Mr. Huger said he would not enter into an investigation of the constitutionality or unconstitutionality of this law. The gentlemen who preceded him had not done it, and it would become him less to do so; for although it was true, he had never given it the sanction of his vote, yet if he felt any doubts as to the constitutionality of this law, it would certainly come with a very ill grace from him to urge them at this late day, and in the present state of things.

Waving then, the question of constitutionality, Mr. H. called upon gentlemen to shew the expediency or necessity of renewing this act, and continuing it longer in force. For his part, he had heard nothing, nor could he see any reason, which led him to think such a measure either expedient or necessary at the present moment. Granting that Congress possessed the constitutional power of laying some restrictions on the licentiousness of the press, and of punishing libels, yet it certainly does not follow of course, that they must necessarily, at all times and on all occasions, carry that power into operation. In times of imminent danger, in the midst of a great crisis, it might be proper to avail ourselves of such a power. And such indeed was the state of things, when this law was originally enacted. Our country was at that time threatened with foreign and perhaps domestic war. We had to guard against the machi,