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REMARKS,

On Mr. Wolcott's Address to the people of the United States.

NO. IX.

THE committee next proceed to criticize the application of money for purposes of a confidential nature in the War and Navy Departments. Upon this subject, their general assertion is, that certain acts, passed in 1793, 1798 and 1800, are the only authorities by which the President might settle any part of the accounts or monies drawn from the Treasury, by making a certificate of the amount of such expenditures as he may think it advisable not to specify, which certificates are to be taken as vouchers for the Officers of the Treasury—that in all these laws, this power is expressly confined to expenses occurring in foreign intercourse. "It is not," they add, "therefore, without considerable surprize, that the Committee have seen the same principle applied to the expenditures of the War Department." Mr. Wolcott, in reply, alter citing, at large, a report made by him upon this subject by the direction of the President, in consequence of certain doubts raised by the Accountant of the War Department, goes on to remark,

"It will be perceived, that it was merely the object of this Report to establish such a form for controuling expenditures of a confidential nature, as would most effectually prevent abuses, and "shield the Officers of Government, from odium, or suspicion." I never doubted, for one instant, that such expenditures were lawful, and that the principle should now be questioned, has excited a degree of astonishment in my mind, at least equal to the surprize of the Committee.

"It is then seriously asserted, that in the War and Navy Departments;—establishments, which, from their nature pre-suppose an actual, or probable state of War;—which are designed to protect our country against enemies, that the precise object of every expenditure must be published? Upon what principle are our Generals and Commanders, to be deprived of powers, which are sanctioned by universal usage, and expressly recognized as lawful, by all writers on the Law of Nations? If one of our naval Commanders, now in the Mediterranean, should expend a few hundred dollars for intelligence, respecting the force of his enemy, or the measures meditated by him, ought the present Administration to disallow the charge, or publish the source, from which the intelligence was derived? Is it not equivalent to a publication to leave in a public office of Accounts, a document explaining all circumstances relating to a payment? Ought the truth to be concealed, by allowing fictitious accounts? Could a more effectual mode of preventing abuses be devised, than to establish it as a rule, that all confidential expenditures should be ascertained to the satisfaction of the Chief Magistrate of our country, that his express sanction should be obtained, and that the amount of all such expenditures, should be referred to a distinct account, in the public Records?

"There exists no colourable excuse, for exciting the public jealousy on this subject;—I am confident that the secret expenses of the War Department, since the establishment of the present government, do not exceed a few thousand, probably not more than five or six thousand dollars;—The first expenditure, which I can recollect, was made in 1793, or 1791, and from the nature

of the object, as well as the usual mode of conducting such affairs, it is highly probable it was known to all the then heads of Departments;—information; that such expenditures were made, was given to Congress in 1792, as is proved by the following extract from a printed Report, in relation to an estimate for the contingent expenses of the War Department.

"It is to be observed upon this article, as well as every other in this estimate, that for every cent expended in pursuance thereof, vouchers must be produced at the Treasury, excepting perhaps the sum, which may be expended for secret intelligence, where the names might be important to be concealed;—but for the propriety of the small sums, which might be expended, the reputation of the commanding officer is pledged to the public."

"An explanation is due for Mr. Ross of Pennsylvania, who, in consequence of the certificate of President Adams, obtained a credit for five hundred dollars. It is within my knowledge, that the expence was incurred in 1796, that the object was authorized by President Washington, and that it related to supposed designs of a foreign nation.

"The Committee seem to suppose that the act of February 9th, 1793, first authorized secret expenditures in relation to the Department of State. In my opinion, they have neither traced the subject to its source, nor comprehended the object of the regulation which they have cited;—the act, which made the first provision for the expenses of foreign intercourse was passed on the first of July 1790;—this at first gave activity to the operations of the department of State under Mr. Jefferson; it authorized the President to draw from the treasury forty thousand dollars annually, for the support of such persons; as he might commission to serve the United States in foreign parts, and for the expenses incident to the business in which they might be employed; except in respect to the Salaries of Ministers and Secretaries, which were limited, the expenditure of the fund, was absolutely committed to the discretion of the President;—this discretion could not however be more unlimited, than that which was vested in respect to the fund for the contingent expenses of the Department of War;—the provision of the law of July 1st, 1790, only directed that the President should account specifically for all such expenses, as in his judgment might be made public, and also for the amount of such expenditures as he might think it advisable not to specify;—it is certain that this provision did not extend the discretionary power previously given, and it is to be understood merely as a direction respecting the mode of rendering accounts.

"The act of February 9th, 1793, cited by the Committee, expressly revives the Act of July 1st, 1790, then about to expire;—this circumstance is not stated by the Committee;—it is however important because the discretionary power of the President, was thereby continued in full force;—while the second Section which the Committee have pleaded to consider as a special authority to expend money for secret services, merely provides for the settlement of accounts, according to principles, pre supposed to be well understood, or defined.

"The Act of May 10th, 1800, the last cited by the Committee, is, if possible, more irrelevant to the subject than the former;—It merely considers expenditures for secret services in the Department of State, as a description of contingent expenses;—they must truly be so viewed;—they have been so considered by the Department of War;

—no person ever imagined that such expenses were an ordinary charge of the Government, requiring an established provision."

"The result of this examination, therefore, proves, that certain sums have been appropriated for the Contingent Expenses of the Department of State, war and the Navy; that no specific objects have been defined in the laws, to which these funds should be applied; that the application, in respect to all the Departments, has been equally discretionary; and therefore that all the expenditures have been equally lawful or unlawful; that a few inconsiderable expenses have been incurred in the War Department, the objects of which could not, with propriety, be communicated to the public; and that in the mode of adjusting the amount of these expenses, a rule has been pursued, which the legislature had previously established, in respect to the department of State.

"The committee with to have it believed, that a special authority has been given to the Department of State, to expend money for secret services, and to infer, from the defect of a similar authority in the other Departments, that the expenditures have been illegal. As the facts, relating to the subject, were not fully and correctly stated, the inferences have been demonstrated to be unfounded; If, however, the erroneous premises of the committee must be assumed, it is proper to note, to what conclusions a spirit of charity would lead. It might be observed, that it is the duty of the Secretary of State, to conduct negotiations, in time of war, for the purpose of obtaining peace; and in time of peace, by friendly and sincere representations to the agents of foreign nations, to preserve the peace; and that no duty, which has not a pacific tendency, or relation. If the refinements of casuistry must be substituted for the maxims, which ordinarily govern men of business; if the possession of a *modus vivendi* necessarily implies the concealment of some immorality; and if the funds of secret services are always employed for purposes of corruption, (position which I do not admit), and it might be urged, with a semblance of argument, at least equal to that of the Committee, that the laws of War authorize the employment of Spies, and in many instances, the sanction of enemies; but that all artifice, bribery and corruption, in the Civil Intercourse of nations, is declared to be unjustifiable. From hence it might be concluded, that while no doubt could exist, of the right of a Secretary of War, or a Secretary of the Navy, to employ money as an engine of hostility, a *Legislativa dispensation* was requisite, to satisfy the philosophic scruples of a Secretary of State.

"The suggestion of the Committee, that the practice of the former Administration is not reconcilable with the principles of a representative government, is as incorrect as their other observations. If they had proved, that the Government had united all the citizens in one bond of affection and confidence; that it had purified all the exotic and spurious elements; that it had so elevated the virtue, and confirmed the patriotism of the people, that the funds of foreign nations could here find no employment; then indeed there would be cause for congratulation, that these principles had received a desired illustration: but to be silent on these topics, and to deny to our government the means of repelling the force, or combating the intrigues, of foreign nations, is virtually to declare, that our own magistrates, chosen by ourselves, have no integrity, and that unlighted confidence may be placed in the justice and virtue of foreign rulers."

The last items in the catalogue of the financial crimes of the late administration, sufficiently, "importa for the precedents they may hereafter furnish" to attract the attention of the Committee, are two cases of expenditure in the War Department.—One being a payment to URIAH TRACY, Esq. the other to Mrs. ARIANA FRENCH. Concerning the first, the Committee assert—That Mr. Tracy was appointed to examine into the state of the garrisons, in the North-west Territory; that he received a compensation for his traveling and other incidental expenses, as well as for his own services; that although he performed some of the most important, "he did not fulfil the other objects of his mission." Upon which, they remark—that Mr. Tracy's acceptance of this appointment has the appearance at least of inconsistency with that part of the Constitution, which provides that "no person, holding an office under the United States, shall be a member of either House of Congress." They proceed to state, that he was, at that time, a member of the Senate of the United States, by the pay-roll of which, it appears that for the last seventeen days of his mission he had a double compensation from the public—viz. his expenses and pay as agent, and his travelling expenses, as a member of the Senate, from *Litchfield*.

The circumstances of the payment to Mrs. ARIANA FRENCH, as stated by the Committee, are, that Mr. M'HENRY, former Secretary of War, had, in April, 1800, leased a house of her for one year, to commence on the first of June succeeding; that in May he resigned his office of Secretary of War, and an

clared that Mr. M'HENRY should pay to Mrs. FRENCH 208 dollars and 95 cents, for her damage sustained by his not accupying the house according to contract; and that in conformity to the opinions of the Secretary of the Treasury and of the Secretary of the Navy, and by the direction of the Secretary of War, this sum was paid Mrs. French out of the fund for defraying the contingent expenses of the War Department.

Upon these charges Mr. Wolcott remarks:

"The ideas to be collected from this narrative, in respect to Mr. Tracy, are, that this gentleman, while a Senator of the United States, received an appointment which has the appearance of inconsistency with the Constitution; that but a small proportion of the duty assigned was performed; that an excessive allowance has been made for his services as agent, and that for seventeen days he received a double compensation, both as an agent and as a senator.

From what the people have heard of repeated violations of the Constitution by the former Administration, and what they have observed, during the short career of the present, it is but fair to conclude, that, owing to the force of the passions of men or other causes, an observance of its injunctions is a task of no little difficulty. After what has happened it is high time to dismiss all concern about appearances, and consider whether the Constitution has, or has not in fact, been violated.

Though the Committee have cited a part of the Constitution, they have not said, in what manner it has been violated. They surely do not maintain the opinion, that the President cannot appoint agents for special services, without being expressly authorized by law; this power has been exercised from the commencement of the government, and repeatedly by Mr. Jefferson, since his