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## CONGRESS OF THE U. STATES

HOUSE OF REPRESENTATIVES.

MONDAY, OCT. 24.

### IMPORTANT DEBATE

On Mr. R. Griswold's resolution for calling on the president for the evidences of title to the province of Louisiana.

Mr. R. Griswold said, that he had observed by averting to the message of the president of the 21st instant, that it was expected congress would forthwith provide by law for the preservation of order and tranquility in the province of Louisiana. The general subject together with the treaties with France of the 30th of April had been already referred to a committee of the whole house and made the order of that day, and he presumed the first object which would engage the attention of the committee would be that to which he had alluded. He did not however think that the message of the president or the treaty which attended it, furnished that evidence of our right to interfere in the government of Louisiana, which could justify the house in passing any law on that subject.

He thought it became necessary to obtain further evidence of our title before we attempted to exercise a jurisdiction over a country and over a people whom perhaps we had no right to controul.

The only article said Mr. G. which relates to the title, is the first article of the treaty, and it is thus expressed:

ART. I. WHEREAS, by the article the third of the treaty concluded at St. Idelfonso, the 9th Vendemiaire, an. 9 [1st October, 1800,] between the First Consul of the French Republic and his Catholic Majesty, it was agreed as follows:

"His Catholic majesty promises and engages on his part, to cede to the French republic, six months after the full and entire execution of the conditions and stipulations herein relative to his royal highness the duke of Parma, the colony or province of Louisiana, with the same extent that it now has in the hands of Spain, and that it had when France possessed it; and such as it should be after the treaties subsequently entered into between Spain and other states."

This article in the first place recognizes, what has been well understood, that Louisiana was a province of Spain, and in the next place it declares, that by the treaty of France and Spain of the 1st of October, 1800, Spain has stipulated that she will, six months after the full and entire execution of the conditions and stipulations relative to the Duke of Parma, cede to France the province of Louisiana. The title of the United States therefore, depends upon the execution of those conditions and stipulations. For it will be admitted, if France has never fulfilled the conditions, she has acquired no title to the country, and could sell nothing, nor could we purchase. It becomes important then, before congress proceed to legislate for the government of these people, that we should ascertain what were the extent of the stipulations in respect to the Duke of Parma, and whether those stipulations had been executed; for on this, our title might probably depend. A recurrence to the message and the treaty would throw no light upon these points, and it became necessary to look further before the house proceeded to decide.

The treaty of Idelfonso between France and Spain of the 1st of October, 1800, had been referred to in the treaty under consideration; it was the instrument by which France had acquired the title, if she had ever obtained one, and being one of the title deeds of the domain, it must be presumed that the government of the United States, had been careful to obtain a copy.

That treaty was equally important to the executive and to the legislature, for without possessing it, it must be presumed that the executive could not have consented to the purchase, and without examining it, the legislature could not decide whether we had acquired a rightful jurisdiction over the country. Under these impressions he thought it necessary and proper that a call should be made on the president for a copy of that treaty.

Mr. Griswold said, he would observe also, that the treaty of Idelfonso would not probably ascertain all the facts which

it was necessary to establish in regard to the title. That treaty contained only a promise to cede the country in question, as appeared by the article which had been transcribed; and this only upon the performance of certain conditions. The actual cession had not been disclosed; but for the purpose of clearing up the title the deed or instrument of cession ought to appear.

There was an additional fact which Mr. G. thought it important to ascertain, whether Spain had consented to the transfer of this country to the United States. This fact may be important in several points of view. If Spain consents to the transfer, she either admits that the conditions have been executed on the part of France, or she waves her claim to a full execution of them, and in either event, it may be said that the claims of Spain have been extinguished. But if Spain has remonstrated against the transfer, it presents a strong reason to believe that the conditions have never been fulfilled, or if they have been fulfilled, that we shall be compelled to possess this country by force.—The complexion and extent of our preparations to possess the country must in a measure be regulated by the disposition of Spain towards us.

With this view of the subject, Mr. G. said that he could not doubt the necessity of calling on the president for further information before the house proceeded to act. In doing this however he would be careful not to ask an improper disclosure of executive secrets, or interfere with the prerogatives of the executive in respect to treaties. The treaty of Idelfonso he presumed could be no secret, as one article of that instrument had been transcribed into the treaty under consideration. Nor could the actual cession or any of the evidences of title be considered as secrets to be withheld from the legislature; because without possessing them, congress could never know what legislative provisions were necessary for a full execution of the treaty. He had always believed that the power of making treaties under the constitution belonged exclusively to the President with the consent of two thirds of the senate and that when a treaty was once fairly and constitutionally made and ratified, it became the law of the land, and as such every branch of the government was bound to carry it into execution. But in order to do this, it became necessary to know the extent and effect of the Treaty. And in the present case, if it should be found after a full examination of the title, that the claim of France was defective, and of course that the United States had gained neither territory or subjects by this quit claim which France had given us, it would be absurd, and a direct usurpation for congress to pass laws for governing the country. The call which he proposed to make, would therefore be confined to those objects which must be known, before the legislature can with a knowledge of the subject, decide how the treaty is to be carried into execution. And he would take the liberty of submitting to the house a resolution which was confined to those objects, & it seconded, would lay it on the table.

Mr. J. Randolph rose and said, I hope the house, will not agree to this resolution. I am well aware of the consequences which may result from requiring papers from the executive before the business comes fully before the house. The gentleman who brings it forward, has varied a little in mentioning the word *subject*. I know it is a favourite expression with the gentleman. The peculiar penchant, of some gentlemen for this expression, will be an excuse for my varying my phraseology. A commissary has been sent from France to Louisiana, to do that which may be necessary, and of which the gentleman is doubtful, and to transmit his proceedings to the president of the United States.—It appears by this that provision is making on the part of France, to put us in possession of the territory, and of the citizens of Louisiana, as soon as we on our part ratify the treaty. There is therefore a necessity for our making provision to carry it into effect. There was in the famous treaty with Great Britain, objections, almost innumerable. Language of this kind was then held up in the house, it was said we detest your treaty. A treaty now very

different from that of London—a treaty advantageous and popular is made with France. If we find it a good treaty, we surely ought to make provision for it.— Shall we take an exception to our own title, when France has pledged herself for its validity? Shall we refuse to be put in possession? Can any gentleman doubt that as far as France can bestow, we have a title?—Can they doubt, but that France has not a title from Spain? Will our passing an act to make provision for carrying this treaty into effect impair our title? If it should hereafter appear that Spain has a title, and that title is unconveyed to France, it certainly will not.— It appears to me that it will be little better than a mockery, to enquire at this time whether we have a title to this territory. So long as we are informed by the executive that we are to be put in possession, and that he has powers so to do, we need not in the present instance inquire farther.

Mr. Lynn. I rise only to observe that I think this resolution, has been brought forward in a disrespectful manner. Had it been decent & respectful I should have voted for it. It implies that the executive has made a bargain to which he had no title. I wish the gentleman who bro't this resolution forward had shewn a little more respect for the executive. I have for my own part no objection to the documents being brought forward. I think they should be brought forward. Every person might have seen the fact from the newspapers. I only rose to mention the manner in which this business has been brought forward.

Mr. Goddard. The object to be obtained by seeing the papers requested to be laid before us, is to ascertain, whether France, from whom we have received a cession of Louisiana, had derived from Spain, any title to that country. Gentlemen say that it is unnecessary for us to know this;—that France has declared in the treaty, that she has an incontestible title to the domain and to the possession of the said territory. Such indeed are the words of the Treaty, but France has not left the matter here.— If that declaration had been simply made, there would have been more in the argument—but the Treaty has gone further, and told us what that incontestible title is? And what is it? All the title of France to the ceded territory is derived from the third article of her treaty with Spain, of the first October, 1800. That article is introduced into the treaty, now on our tables, and is nothing more than a promise on the part of his Catholic majesty, "To cede to the French republic six months after the full and entire execution of the conditions and stipulations herein, relative to his royal highness the Duke of Parma, the colony and province of Louisiana, &c." Our treaty with France then goes on to say, "and whereas in pursuance of the said treaty, and particularly the third article, the French republic has an incontestible title," &c. So that France not only tells us that she has an incontestible title to the ceded territory, but she also tells us what that incontestible title is—and it is nothing but a promise on the part of Spain, to cede six months after the fulfilment of certain conditions relating to the duke of Parma. What then do we purchase upon the face of the treaty itself? Not a country, but his Catholic majesty's promise to cede a country at a future time and on certain conditions.—Now as the treaty itself furnishes no evidence of title, we enquire for the evidence on this subject? We ask, have the conditions of the treaty between France and Spain, ever been fulfilled? Have the six months elapsed? If so, let us see the actual cession which Spain promised to make. If not, has Spain ever waved the performance of those conditions, and thereby yielded the title to France? If Spain has ever done this, we ask for the evidence of it. Let us know whether Spain assents or dissents to our taking possession of the country.

This information, we desire, not for the purpose of ratifying or rejecting the treaty; this belongs to the president and senate alone, but for the purpose of enabling us to judge, what laws, are necessary to be passed, or whether any, for the government of the country. But it is said that the treaty provides that a commissary shall be sent by France

to the ceded territory, to receive its possession from Spain and transmit it to us. Is it therefore of no importance to us to know, whether France has any title? If the commissary cannot receive possession from Spain, he cannot transmit it to us. But suppose the mandate of the First consul of France, is now law to Spain may not the time come when a different state of things will exist? And may we not, before we pay fifteen millions of dollars, enquire whether our title to the Territory is sound?

But a gentleman from Virginia (Mr. Randolph) has said that there is a great difference between this case and that of the British treaty to which he has referred. In that case, says the gentleman the house of representatives laid to the president, "sit we detest your treaty." But this treaty the gentleman says, has been hailed by the country as a blessed thing. I do not know sir, how the people of this country can have expressed their approbation of this treaty. It is now for the first time, been made public, and its terms and conditions, have been, heretofore unknown, and I cannot suppose that the people of this country will consider it as a blessed thing to pay fifteen millions of dollars for a country, to which they get no title.

Mr. Smilie. I remember something of the kind, that has been observed by the last gentleman who spoke, and it would be well to look into it. It was said upon a former occasion that we had no right to call for papers, and I still think so; but we may judge how far it is necessary now to call for them, (Mr. S. here read the resolution moved to call for papers pending the British treaty.) I see no occasion for so doing in the present instance.

Mr. J. Randolph. I should be willing to call for papers were they necessary, but I see no reason for the present resolution. The president has treated with the first consul of France for Louisiana; and the senate has ratified the treaty.— The French have declared that they will send a commissary to give possession, as soon as the treaty was ratified by the senate. That has a ready been done, and I can state to this house that there is now a commissary there on the part of France.

Mr. Elliot. I greatly admire the talents of the gentleman who moved and supported this resolution, but I think it premature. The first of these gentlemen is not only inquisitive but indefatigable—the second, ingenious and animated.— The gentlemen wish to have it ascertained whether we have a title to Louisiana. It is very true we have not attained an absolute jurisdiction, because the terms of the treaty are not yet complied with. The gentlemen's inquiries are visionary. Young as I am, and little versed in the subject, I am unwilling to enter at length upon it. The president tells us that the enlightened government of France has, on certain conditions, and under certain stipulations conveyed Louisiana to the U. States of America. The gentleman Mr. (Goddard) asks will the people be content to pay fifteen million of dollars—not for a territory, but for a promise? It was stipulated between France and Spain, that Spain should cede Louisiana upon certain conditions to the Duke of Parma within six months.— I acknowledge it to be only an assertion of the French that they have a title, and I confess that we do not receive at present any more than their title to the Territory.— No such consequences can result as those deprecated by the gentleman from Connecticut—they are premature. A Treaty has been entered into by which France has transferred the right of domain; & they send a commissary to deliver possession to the United States.— Now if the treaty is carried into effect we must have a legal title, and acquire possession. We ought to do every thing in our power to carry the treaty into effect—for we are not subjected to pay a single cent until we are put in possession. Presuming upon the good faith of the French government, we may safely go on in making the provision. I conceive that the arguments of the two gentlemen from Connecticut, with their abilities, can be of no avail.

Mr. Thatcher. The gentleman from Pennsylvania (Mr. Smilie) has compared

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