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DAVID OUTLAW, } Editors.
THOS. J. LEMAY, }

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Twenty-Fourth Congress.

DEBATE IN THE SENATE.

Thursday, Jan. 14.

The Senate having resumed the consideration of the resolutions moved by Mr. Benton, for setting apart the surplus revenue for the defence of the country, the debate thereon was continued, as follows:

Mr. EWING, of Ohio, addressed the Chair as follows: Mr. President, the resolutions which gave rise to the discussion a day or two since, and which are now before the Senate, having been almost wholly lost sight of, and the debate has turned upon matters relating to them but incidentally.—Those matters I shall not overlook in the remarks which I propose to offer to the Senate; but I will in the first place give my views of the resolutions themselves, or rather of the resolution; for I deem the first only of importance, and shall consider that only.

This resolution proposes to set apart the surplus revenue now on hand, and, as I understand it—for it is not very definite in its language—the accruing surplus for the future to be applied to the purposes of national defence. Now, before I vote for this resolution, I wish to have a definite idea of its meaning—not a vague, confused notion of something about it that may or may not be well enough; but I must understand it, especially the important words which are the substance, the very body and soul, of the resolution; that is, the surplus revenue; what is it?

It certainly is not any thing that is wanted for the purposes of Government, which are, I believe, generally, the civil list, foreign intercourse, military service, including the building and arming fortresses, &c. and the naval service, including the gradual improvement of the navy. These, if not all, are some of the ordinary expenditures of the Government; and so long as any money is wanting for these, there can be no surplus revenue; and if an extraordinary occasion should arise when it was necessary to summon and concentrate all our energies upon any of these objects of expenditure, there could be no "surplus revenue" until that necessity was met and satisfied. This, then, seems to me to be the interpretation of the resolution. After we have expended all the money that it is necessary to expend, or which can be expended upon our fortifications and our navy, we will set apart all the residue of our available means, to be applied to the same objects.

Mr. President, I am in favor of making as perfect as possible our national defences, and will go as far as any gentleman to effect that object; but I must go about it, if at all, in the ordinary and legitimate mode of legislation. I am not disposed to consider that a thing to be done only when we have nothing else to do—a matter to spend money on, instead of a necessary duty to be performed. I would appropriate, not out of the surplus, but out of the revenue of the nation, so much as is necessary, and as can be applied and expended advantageously, from year to year, upon these objects; but, having done all that was necessary, I would not by resolution determine to expend or to set apart all the residue of our national funds to those objects, however important, after they have been fully answered. Nor am I disposed, in this matter of public defence, to thrust the Senate in advance of the Executive, or to lend my aid in enabling Congress to usurp this important function of the Chief Magistrate of the Union.

The President is commander in chief of the armies and navies of the United States; as such, it is his duty to see that they are at all times well appointed, and in a situation to perform the services which the exigencies of the times may require of them. If money is necessary to finish or to repair our forts, to arm, to man them, or to erect new ones, it is from him that this information should come to us, and we cannot properly act upon it coming from any other source. Nay, the Constitution enjoins on him the duty of communicating such matters to Congress.

"He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient."

If, then, he deems it necessary or expedient that appropriations of public money should be made for our fortifications or our navy, let him tell us so; and not tell us, in the language of this resolution, that he wants all the

have, or all the surplus; but let him, as all his predecessors have done—let him tell us the amount wanted, and which can be expended advantageously upon these objects—the specific objects to which it ought to be applied, and I, for one, will go far, very far, in the way of appropriation, to satisfy all his requisitions.

I am opposed to this resolution, for another reason. Its prime object does not seem to be the defence of the country, but the expenditure of the surplus revenue. It is not offered because a fort is wanting here, or a fleet there, to guard our coast or protect our commerce. It is because we have plenty of money, and this is a good way to get rid of it. The object, then, being chiefly to spend money, and but as an incident to build fortifications, it must be expected that those who shall have the charge of it will pay special attention to their principal duty—*spend it fully and effectually*—spend much money, though they may build but few ships or fortresses. But it seems this resolution is not of itself an appropriation; it merely declares that the whole surplus revenue—the twenty millions of money now in the hands of the Executive, and the accruing surplus, shall be set apart for this purpose. It then amounts to this: that this money shall remain where it is, in the coffers of a few favorite banks, to be used by them to increase their dividends, until some eight or ten years hence, it can be appropriated; and some four or five years thereafter expended upon our navy or our fortifications.

I have said that I am prepared to go very far, as far as may be within any reasonable bounds, in voting appropriations for our fortifications and navy; but to all this, however proper and necessary, there is a limit, which it is injurious to the very object to pass. If there be an attempt to apply too much money to these objects, and hasten them over much, you necessarily entrust their execution, in part, to incompetent engineers or superintendents. You have to employ inferior workmen, and to use defective materials; so that the very object of our solicitude sustains injury from the effort to urge it forward too rapidly. But if this large and sweeping appropriation be made and the President take the necessary time to apply it, what is the effect? It places the whole surplus revenue at once in his hands, *by law*. It is out of the ordinary control of Congress, or, more properly, in a situation in which Congress has not generally exercised a control over it, and there it would remain for years; the unexpended balances in the hands of the Executive, rising from eight millions, the present amount in hand, to twenty, thirty, or forty millions of dollars. This would be equivalent to a law that the President should deposit the public money where he pleased, and the accumulating surplus should remain, to an indefinite period, subject to his disposition and control.

It will not soon be forgotten that the ordinary appropriation for fortifications failed the last year in the House of Representatives; for what reason I shall not just now inquire. Yet, notwithstanding this, the balance of old appropriations was not all expended. The whole amount of unexpended appropriations on hand is stated by the Secretary of the Treasury at \$7,593,374. That part of this is of the appropriations for fortifications, I infer from the fact that, in the report of the Secretary of War, he states as an excuse for the slow progress made in some of the fortifications, that mechanics and laborers could not be procured to perform the work. If we should now appropriate the whole surplus revenue of twenty millions, how many years would it remain on hand unexpended, swelling the fortunes of the favored capitalist, or ready for use as the convenient instrument of corruption?

But the Senator from Missouri tells us that the seaboard is defenceless, that our forts are unfinished or dismantled, and our navy unfit for service. He has drawn an appalling picture of the wretched state of these our arms of defence, which clearly indicates somewhere a degree of shameful negligence or mismanagement; and where does this heavy responsibility rest?

The present Chief Magistrate, and those who act with him, have held the control of this Government for now almost seven full years. At the time they received it from the hands of their predecessors, no complaint was made of the state of the defences of the country; nor do I believe there was then any reason for such complaint. They were in a state of steady and regular improvement, gradually becoming all that was necessary for the security of the country. Why are they now in the miserable condition described? Why have they been for so many years neglected by this Administration, which has been all-powerful in the nation, and which has possessed a treasury full even to redundancy? Has the Senate interposed to prevent appropriations for these objects? No, never—never within my

knowledge and recollection, in a single instance. No appropriation which was asked for by the Executive for these objects has, as far as I know, been withheld, diminished, or given grudgingly by this body. Why, then, is this the state of our country at this time, if indeed it be so? Sir, here is the solution: This has been an Administration whose capacities and whose powers have been fitted and directed to pulling down every thing and to building up nothing. Look around throughout the country, and see if there is a single monument, a great and important monument, raised by it, or founded by it, to rise hereafter, and extend its beneficence to future times. But it has been successful in the works of destruction. One after another the institutions of the country have been made to fall or totter before it; but nothing has been built up—nothing strengthened, save on the Executive power itself.—There was no time to erect fortifications; to build, to equip, or to repair our ships; our foreign defences occupied no portion of the attention of our Executive or his Departments. And the consequence seems to be, what any one might have predicted—our seaboard is now defenceless, and subject to the mercy of the first Power that may see fit to attack us.

But the Senate of the United States are charged here, upon their own floor, and by a member of their own body, with high crimes against their country, because of this unprotected state of our maritime frontier; as if we were to go in advance of the Executive—to procure for him and hunt out the objects of necessity, and offer him appropriations, and ask him to expend them. But the last session of the Senate was the one in which many and heavy crimes are said to have been committed, in the refusal of appropriations. The Senator has produced here a schedule setting out, one after another, a list of our misdeeds; and I first, is our refusal to pass, last winter, a resolution similar to that which is now under consideration. He might have spared himself the trouble of enumerating this; for, unless I am deceived, he will soon have another instance—a fresh repetition of the same offence.

Sir, anxious as I was, and as I am, that the necessary defences of the country should be duly and promptly attended to, I did not and I will not vote for this cruel, unformed, and shapeless proposition, nor any other like absurdity, though it may seem to tend to the effecting of a desirable object. I require something more—not merely that the object be a good one, but that the means of effecting it be appropriate. But I let this go for what it is worth, and proceed to the next specification. The Senate is charged with having put down an amendment which the Senator from Missouri proposed last winter to the fortification bill, containing an additional appropriation of \$500,000.—This matter is one of which I have no recollection whatever. It appears that the proposition was made by the honorable Senator from Missouri by order of the Committee on Military Affairs; and my honorable friend from Delaware (Mr. CLAYTON) has already put that matter at rest, in the brief but forcible exposition which he gave us of it the other day. The Senator from Missouri gave up the point, and admitted, most expressly, that, though he presented the proposition, he abandoned it on a suggestion; and such I see, on inspection of the papers of that day, was the fact. It is reported shortly thus:

"Mr. Benton moved to amend the bill by inserting an additional appropriation of \$500,000.

"At the suggestion of Mr. Webster, the consideration of this amendment was waived by Mr. Benton for the present."

So that, on a conversation between the Senator from Missouri and the Chairman of the Committee on Finance, the honorable Senator, in effect, withdrew his proposition; and he has now charged this Senate with a dereliction of duty and a want of patriotism because we did not adopt the measure which he presented. It is true, but put out of our power by virtually withdrawing it. What did we know of the necessity or the propriety of his proposition? He who presented it did not explain it, did not press it, did not ask for its adoption, but expressly declared that he would not press it, which on this floor is equivalent to saying that he did not wish it to be adopted. It is most unfortunate that the Senator from Missouri did not recollect the actual state of things before he advanced this among the other grave charges against the Senate. It is true, as I have already said, that when this special matter was commented upon by the Senator from Delaware, the gentleman from Missouri gave it up, and admitted that it was he, and not the Senate, that had disposed of that proposition. But all who understand the tactics of the party press know that his charge will be sent abroad throughout the whole land, so far as a newspaper circulates, but the reputation of the charge, and the admission that it was unfounded and mistaken, will never find its place in one of them, no, not

one; and the honest yeomanry of the country who read and believe, will be led thereby to suppose a state of things existed which did not in fact exist, and be led to an unjust and injurious censure of the conduct of some of their public agents. It is, therefore, unfortunate that the honorable Senator had not better refreshed his recollection before he made this accusation. This is the second specification in his bill of indictment against the Senate; but, lastly, and chiefly, the loss of the fortification bill of last year, the whole blame of which he very liberally and generously takes upon this body. Let us look to it; it is easy to make charges with or without foundation; and in this case, fortunately, the proof is at hand, and it is direct, clear, and conclusive. This is the history of the transaction. The fortification bill was passed in the House on the 21st day of January, and on the same day sent to the Senate. The relations of our country with France were upon that day precisely the same as they were on the 3d of March at the close of the session. The bill at that time contained no appropriation of three millions for the general purposes of defence; and if it had been deemed necessary, can any one doubt that it would have been inserted by a committee in the confidence of the Executive, and by a House devoted to his interests? But no such thing. The bill came to this body containing appropriations for fortifications to the amount of about \$50,000, an amount evidently too small for the energetic prosecution of the works on hand. The Committee on Finance, to whom this bill was referred, detained it for some time, that information might be obtained, which would enable them to supply the deficiencies of the bill, and make it what it ought to have been when it came to us from the House. I can say, sir, for I was then a member of that committee, that it appeared to be the anxious wish of the chairman as well as of all the other members to do every thing that could be done to supply the deficiency arising from the neglect or inaction of the other branch of Congress, and make up to the public service what they had left deficient. The bill was reported back with various amendments, increasing the appropriations about \$200,000. With these amendments, it was returned to the House on the 24th day of February, where it slumbered until just at the close of the session, at a late hour of the last evening. Until that hour we had supposed the amendments of the Senate had been agreed to by the House, and that the bill had become, or was about to become, a law, without any further action on our part; but on the evening of the 3d of March, after the Senate had taken its recess, and after the chamber was lighted up for the night, in the midst of multifarious and pressing business, both legislative and executive, which was then crowded upon us, this bill was returned to us from the House, with an amendment to one of the amendments of the Senate, appropriating the round sum of three millions of dollars, "to be expended in whole or in part, under the direction of the President of the United States, for the military and naval service, including fortifications, and ordnance, and increase of the navy"—an amendment giving \$3,000,000, attached to an amendment making an appropriation of perhaps \$75,000—thrust in upon us here in the very last moments of the session—no time left for deliberation, none for reference, none to enable us to modify or amend; it involved, in the very nature of things, immediate acceptance or immediate rejection. Waiving for a moment the decisive objection growing out of a solemn requisition of the Constitution, what was there as a matter of expediency, which could permit us to accept it? It was not recommended to us or asked for by the President; he had sent us no message—informed us of no public necessity that required it—expressed no wish that it should be made. It was not an ordinary appropriation; for all that was ordinary and in the usual course of the Government had been already hunted up by the committees of the Senate, and inserted in that or other bills, in place or out of place, wherever we could put them, so that the wheels of Government should not stop. This amendment was sent to us by the House, but on whose responsibility? It was first acted on there in Committee of the Whole on the 3d of March, and passed, with little examination or discussion. We had not even the authority of that body, such as it would have been had their vote passed upon deliberation, with time for discussion. Under these circumstances, I say without hesitation, it is my firm belief that those who caused that amendment to be inserted knew that it would not pass this body, and did not intend that it should pass it. The very sum appropriated—the time which was chosen to send it to the Senate—the necessity of passing it, if at all, out of all the rules and without the application of any of the guards which legislative bodies never can properly dispense with in the appropriation of public money,

must have satisfied those who controlled this matter, and who gave it movement and direction, that it must be rejected by the Senate. But, lest there should be any doubt on the subject, lest it might have taken it with all the objections to which it was otherwise liable, it was sent to us in a form, and in substance too, violatory of the spirit of the Constitution. It would have been an appropriation in form, but not in fact. It would have been voting money generally into the hands of the President to appropriate as he might think fit, provided it were applied to the purposes of national defence. And it would have been putting it in the power of the President to raise an army, to make and to carry on war without the further aid or interposition of Congress. I do not believe, sir, that any man who reasoned could think for a moment that that measure could or ought to pass this body; and I am yet to be convinced that the friends of the Administration here would have given it their votes, if they had believed their votes would have made it a law. They would at least have weighed well the matter, much better than they could have weighed it during the hour that it was pending here, before they would have assumed the responsibility which the passage of that measure involved.

But, sir, it was rejected. I do not stand here to defend myself for the part I took in its rejection, nor to apologetize for the act. I stand ready now, and at all times, to proclaim the participation which I had in it—to claim it as one of the good works which I have helped to perform; and to avow that will, before me as a subject for my action, will meet a like immediate and indignant rejection.

But, sir, the bill to which this three millions is an amendment, was also lost. How, sir, and where? Not in the Senate. The bill was perfectly safe if the House chose that it should be so, after the rejection of this amendment. It was returned to them much better than when they first sent it to the Senate—with much more extensive appropriations for our national defence; and that body had nothing to do in order to make it a law, but pass the bill when returned to them, without the amendment which the Senate had rejected. This they did not do.—They asked for a conference, which was at once conceded. The conference met, and the chairman of the Committee on Finance returned in a few moments, and reported an agreement to strike out the three millions, and appropriate \$500,000 for the increase of the navy, and \$500,000 additional for the repairing and arming our fortifications. The bill was still in the hands of the House of Representatives; and it was in their power still to have made it a law in a few moments' time—a law with the addition of \$800,000 to the ordinary appropriations, and with a full million added to the original bill as they had sent it to the Senate. We waited until late at night, and the bill was not named in their body again. Message after message came to us, but this came not. Before the session closed, a message was sent by this body to the House, respectfully reminding them of the bill, and the agreement of the committee of conference. It was read in the House, but no answer was returned. There sleeps the bill, and there let it sleep forever. And if any evil has happened, or shall happen, to the country for the want of the appropriations which it contained, let the censure of the nation fall, I care not how heavily, on those who contrived and produced its loss.

THE "SPECIAL MESSAGE."

MESSAGE FROM THE PRESIDENT TO BOTH HOUSES OF CONGRESS.

Received, and read, and referred to the Committee on Foreign Relations in both Houses.

MONDAY, JANUARY 18.

To the Senate and House of Representatives.

GENTLEMEN: In my message at the opening of your session, I informed you that our Charge d'Affaires at Paris had been instructed to ask for the final determination of the French Government, in relation to the payment of the indemnification secured by the treaty of the 4th of July, 1831, and that, when advice of the result should be received, it would be made the subject of a special communication.

In execution of this design, I now transmit to you the papers numbered from 1 to 13, inclusive, containing, among other things, the correspondence on this subject between our Charge d'Affaires and the French Minister of Foreign Affairs, from which it will be seen that France requires, as a condition precedent to the execution of a treaty unconditionally ratified, and to the payment of a debt acknowledged by all the branches of her Government to be due, that certain explanations shall be made, of which she dictates the terms. These terms are such as that Government has already been officially informed cannot be complied

with; and, if persisted in, they must be considered as a delib-rate refusal on the part of France to fulfil engagements binding by the laws of nations, and held sacred by the whole civilized world. The nature of the act which France requires from this Government is clearly set forth in the letter of the French Minister, marked No. 4. We will pay the money, says he, when "the Government of the United States is ready on its part to declare to us, by addressing its claim to us officially in writing, that it regrets the misunderstanding which has arisen between the two countries; that this misunderstanding is founded on a mistake; that it never entered into its intention to call in question the good faith of the French Government, nor to take a menacing attitude towards France;" and he adds, "if the Government of the United States does not give this assurance, we shall be obliged to think that this misunderstanding is not the result of an error."

In the letter marked No. 6, the French Minister also remarks that "the Government of the U. States knows that upon itself depends the execution of the Treaty of July 4, 1831."

Obliged by the precise language thus used by the French minister, to view it as a peremptory refusal to execute the Treaty, except on terms incompatible with the honor and independence of the United States, and persuaded that, on considering the correspondence now submitted to you, you can regard it in no other light, it becomes my duty to call your attention to such measures as the exigency of the case demands, if the claim of interfering in the communications between the different branches of our Government shall be persisted in.—This pretension is rendered the more unreasonable by the fact that the substance of the required explanation has been repeatedly and voluntarily given before it was insisted on as a condition—a condition the more humiliating because it is demanded as the equivalent of a pecuniary consideration. Does France desire only a declaration that we had no intention to obtain our rights by an address to her fears rather than to her justice? She has already had it, frankly and explicitly given by our Minister accredited to her Government, his act ratified by me, and my confirmation of it officially communicated by him, in his letter to the French Minister of Foreign Affairs of the 23rd of April, 1835, and repeated by my published approval of that letter after the passage of the bill of indemnification. Does France want a degrading, servile repetition of this act in terms which she shall dictate, and which will involve an acknowledgment of her assumed right to interfere in our domestic councils? She will never obtain it. The spirit of the American People, the dignity of the Legislature, and the firm resolve of their Executive Government forbid it.

As the answer of the French Minister to our Charge d'Affaires at Paris contains an allusion to a letter addressed by him to the Representatives of France at this place, it now becomes proper to lay before you the correspondence had between that functionary and the Secretary of State relative to that letter, and to accompany the same with such explanations as will enable you to understand the course of the Executive in regard to it. Recurring to the historical statement made at the commencement of your session, of the origin and progress of our difficulties with France, it will be recollected that, on the return of our Minister to the United States, I caused my official approval of the explanations he had given to the French Minister of Foreign Affairs to be made public. As the French Government had noticed the message without its being officially communicated, it was not doubted that, if they were disposed to pay the money due to us, they would notice any public explanation of the Government of the United States in the same way.—But, contrary to these well-founded expectations, the French Ministry did not take this fair opportunity to relieve themselves from their unfortunate position, and to do justice to the United States.

Whilst, however, the Government of the United States was awaiting the movements of the French Government, in perfect confidence that the difficulty was at an end, the Secretary of State received a call from the French Charge d'Affaires in Washington, who desired to read to him a letter he had received from the French Minister of Foreign Affairs. He was asked whether he was instructed or directed to make any official communication, and replied, that he was only authorized to read the letter, and furnish a copy if requested. The substance of its contents, it is presumed, may be gathered from Nos. 4 and 6, herewith transmitted. It was an attempt to make known to the Government of the United States, privately, in what manner it could make explanations, apparently voluntary, but really dictated by France, acceptable to her, and thus obtain payment of the twenty-five millions of francs. No exception was