

LEGISLATURE OF VIRGINIA.

RESIGNATION OF MR. TYLER.

House of Delegates, March 2.

Mr. SMITH G., presented a communication from the Hon. John Tyler, which was read as follows:

WASHINGTON, Feb. 29, 1836. To the Speaker and members of the General Assembly of Virginia.

GENTLEMEN:—Certain resolutions of the General Assembly, instructing their Senators in the Congress of the United States, to introduce and to vote for a resolution to expunge the journal of a previous Senate in the particulars therein mentioned, and pointing out the precise manner in which the act shall be performed, have been made known to me. After the most deliberate examination which I am capable of bestowing upon them, and with a sincere desire to conform my conduct to the wishes of the General Assembly, I find it impossible to reconcile the performance of the prescribed task, with the obligations of the solemn oath which I have taken to support the Constitution of the United States. With what promptitude I should comply with the instructions of the Legislature, if compliance was permitted me, may readily be inferred from my past course of conduct, and I beg your indulgence, gentlemen, whilst I advert to the most prominent incidents of my life, in connection with the great question of instruction. I was very young when I first took my seat in the House of Delegates, to which I had been elected within a few days after I had attained the age of 21. The then Senators from Virginia, (Messrs. Giles and Brent,) stood obnoxious to the charge of having disregarded the instructions of the Legislature, which had been adopted on the motion of a gentleman, then a distinguished member, (Gov. Barbour,) to vote against re-chartering the Bank of the U. S.—The first, while he voted against the Bank, denied the right of the Legislature to instruct him—the last disregarded the instructions altogether, and voted for a bank. Impelled by no other motives than to uphold the Legislature in its right to instruct its deputed organs, I introduced a resolution disapproving the course which had been pursued by the Senators. My motive in doing so, was single and unmixt. I was too young to seek profit by their overthrow. The resolution thus introduced by me, passed into other hands, and was substituted by other resolves, which were finally adopted by the two Houses of Assembly by large and overwhelming majorities. At the age of twenty-five I took my seat in the House of Representatives of the United States. The repeal of the compensation law soon came under discussion. I came in to supply a vacancy, and brought with me the wishes of my constituents in regard to that measure, I made them known, and claimed the repeal of the law, as due to the well-ascertained wishes of the people. This brought into discussion the obligation of instructions; and I contended for the right, under the same restrictions and limitations as had been laid down in the resolutions before alluded to. I now re-affirm the opinion at all times heretofore expressed by me, that instructions are mandatory, provided they do not require a violation of the Constitution or the commission of an act of moral turpitude. When acting under an oath, the public agent, whether a Senator or a Juror, is bound by obligations of a higher and more controlling character than can proceed from any earthly source. The Constitution of the United States is the original and primary letter of instructions, supreme over all, and binding upon all. For, the agent who is sworn to support it, to violate it knowingly and intentionally, would be an act of the grossest immorality and most unmitigated debasement. Such is the condition in which, in my view of the subject, obedience to your instructions would place me. It is known to you, gentlemen, that on my entering the Senate, the only oath which I took was an oath to support the Constitution of the United States; to support it in all and each of its provisions; to yield it neither to force, persuasion nor expediency. No matter what the object; should its attainment confer upon me the greatest personal advantage, still to remain unswayed—not to touch that forbidden fruit. I entered into a covenant with my Creator—to break which, would not fail to place in my bosom a Promethian vulture, to tear and devour me. The obligation, then, to obey an instruction which calls upon me to break that covenant, cannot possibly exist. I should be unworthy the confidence of all honorable men, if I could be induced, under any circumstances, to commit an act of deliberate perjury. Instead of a seat in the Senate, I should richly deserve to be put in the pillory and to lose both my ears as an indelible mark of my baseness—and such would be the sentence which the laws of Virginia would pronounce against me. You have admitted the truth of this position in the alternatives presented in your second resolution. Between those alternatives I cannot hesitate to choose. It is not for every difference of opinion between the representative and constituent, that the constituent would necessarily require the resignation of the representative. In the course of a some-what long political life, it must have occurred that my

opinions had been various from the opinions of those I represented; but in presenting to me the alternative of resignation in this instance, you give me to be distinctly informed that the accomplishment of your object is regarded as of such primary importance, that my resignation is desired, if compliance cannot be yielded. I am bound to consider you, as in this, fairly representing the sentiments of our common constituents, the People of Virginia, to whom alone you are amenable if you have mistaken their wishes. My position in regard to this whole subject, is of a character to preclude me from going into abstractions. I do not hesitate, on the contrary, to declare that, if you had, as the accredited organs of the people, addressed me a request to vacate my seat in the Senate, your request would have had with me the force of law—not a day or an hour could I desire to remain in the Senate beyond that hour wherein I came to be informed that it was the settled wish of the people of Virginia that I should retire from their service. That people have honored me with the highest offices within their gift. If the talents which I have brought into their service be humble, I shall have at least brought fidelity to their interests. No where else have I looked for reward, but to their approbation. I have served under four Administrations, and might doubtless, by a course of subserviency and sycophancy, have obtained what is called by some preferment. But what could have compensated for the baseness of my prostitution, and the betrayal of the confidence reposed in me by a generous people? The Executive files furnish no record of my name as an applicant for any of the crumbs which have fallen from the Executive table. I repeat, that I have looked exclusively to the people of Virginia; and when they have extended to me their confidence for twenty-odd years—when I am indebted to them for whatsoever of credit and standing I possess in the world, I cannot and will not permit myself to remain in the Senate for a moment beyond the time that their accredited organs shall instruct me that my services are no longer acceptable. If gratitude for the past did not, my own conscious weakness would control my course. What would it profit the country or myself, for me to remain in the Senate against their wishes? By retaining my place in opposition to their fixed, declared and settled will, I should aid no cause—advance no great purpose—be powerless for good, and provoke only to harm—reposing on my feeble strength, I should vainly flatter myself that I could with my single arm sustain the Constitution, and keep back what I might consider the tide of error, when in very truth I should but excite the popular prejudices more strongly, and imminently endanger the Constitution, and my very efforts to sustain it.

In resigning then, gentlemen, into your hands, my place in the Senate of the United States, to which I was called by your predecessors, I trust I shall be indulged in a brief exposition of the reasons which have led me to the conclusion, that to obey your instructions would be to violate the Constitution of the United States. I shall do so boldly and fearlessly, but with all becoming respect, and with all the brevity in my power. The Senate is ordered by the Constitution to keep a journal of its proceedings, and to publish it from time to time. This injunction is thus solemnly imposed upon the aggregate body, and on each individual Senator. Whatever shall be done, shall be faithfully recorded by the Secretary, and shall be faithfully kept—not for an hour, and then to be defaced—not for a day, and then to be erased; nor for a year, and then to be expunged—but forever, as a perpetual witness, a faithful history, by which the conduct, the motives, the actions of men, shall be judged, not by those of the present day only, but through all time. It was a wise custom among the Chinese, which required the biography of each Emperor to be written before the close of his life, and placed before him, so as to give him foreknowledge of what the world would think of him after his death. It was designed to restrain his evil passions—to curb the exercise of despotic sway. It addressed itself to his ambition, and excited within him a longing for an immortality in the gratitude and admiration of succeeding ages. But this provision in our Constitution is still wiser. Each Senator writes daily his own biography. He is required to record his own acts, and takes an oath to keep that record and to publish it from time to time. The applause or censure of his fellow-men is not postponed until he has descended to the tomb. It is daily uttered by the living generation. How powerful are the inducements thus addressed to each member to be faithful to the trust confided to him! How much to be admired the wisdom of our ancestors in framing the Constitution! If this was its only feature, their title to immortality would be established.

This simple provision is one of the great securities of American liberty. It takes nothing upon trust. If the Senate kept no journal, it would be a secret conclave, where deeds the most revolting might be performed in secrecy and darkness. The train might there be laid the mine prepared, and the first knowledge of the treason might be the explosion, and consequent overthrow of free government.

Liberty could not co-exist with such a state of things. There is no liberty where there is no responsibility, and there can be no responsibility where nothing is known. To have a Secretary seated at the table of the Senate, to write down its proceedings, and to claim for itself the right to cancel, obliterate, or expunge what he had written, is equivalent to having no journal at all—a mockery and a fraud. The journal of the morning may be cancelled in the evening—that of to-day may be expunged on to-morrow—cancel it in any way, whether by black or red marks, whether with circles or by straight lines, it ceases to be a journal, and that which was, is not. The journal is to be published, but there is no journal. There was one yesterday, but ere it can reach the press, it is cancelled, marked out, or expunged.—These are the necessary results of obedience to your instructions. If that journal contain a transaction discreditable to the Senate, I should preserve it as a perpetual monument of its disgrace. If to a party leader, I will give him and his friends who may temporarily have the ascendancy, no warrant to erase or blur the page on which such an act of misconduct is recorded. I should be afraid, after performing such a deed, if Virginia is what she once was—and I do not doubt it,—to return within her limits. The execrations of her people would be thundered in my ears. The soil which had been trod by her heroes and statesmen would furnish me no resting-place. I should feel myself guilty, most guilty; and however I might succeed in concealing myself from the sight of men, I could not, in my view of the subject, save myself from the upbraiding of my own perjured conscience. How could I return to mix among her people, to share their hospitality and kindness, with the declaration on my lips, "I have violated my oath for office, and sooner than surrender my place in the Senate, have struck down the Constitution?"

If the Senate has a right to touch the Journal under instructions, it has a right to do so without—If to cancel a part, a right to expunge the whole: If to use ink from a pen, a right to pour it from a bottle—to destroy the Journal in any other way—to burn it—to make a bonfire of all that is bright and glorious in our history. I know it has been said that the process directed to be adopted by your resolution is not designed to expunge. I cannot believe this, and reject it as equally injurious to yourselves and unjust to those you represent. You direct the words "Expunged by order of the Senate," to be written across the resolutions on which you propose to make war. I will not believe that you merely design to ensnare my conscience—much less I will indulge for a moment the idea, that you direct a falsehood to be recorded by me. Those do not understand you who make such ascriptions, and I am not misled by them. The General Assembly of a proud and lofty State, is incapable of a mere quibble, and such an one as would disgrace a King's jester. No, gentlemen, the act which you direct to be performed, is designed to be, and is equivalent to, an actual obliteration in all its practical results. The manner of accomplishing this act of cancellation, is wholly immaterial. In publishing this journal, from time to time hereafter, the resolution thus cancelled cannot be published as a part of it. It is declared to be expunged upon its face. But, if in this I could possibly be mistaken—if, after all, it is merely child's play—the making a few flourishes, and putting the Secretary of the Senate to the trouble to write a few unmeaning words, the question would not be changed. Such as the journal, so shall it be kept, unaltered in a letter, unchanged in a comma—the same as it now is, "to the last syllable of recorded time." Such is the fiat of the Constitution. There is not a clerk or deputy clerk in the Commonwealth of Virginia who would execute such an order in regard to his records. The people would be alive to the question, and in vindication of their rights, would expunge the Court sooner than permit the record containing the titles to their estates to be cancelled in any manner whatever. They surely cannot take less interest in the preservation of the Constitution, the great charter of all their rights.

The effort has been made to hunt up precedents to justify this act. The pages of English Parliamentary history have been ransacked, and an array has been made of examples drawn from the times of the Jameses and Georges of England. With equal force might examples be quoted to justify an American President in executing capitally a citizen of any one of the States without the form of a trial. He might equally be justified in the use of the bow-string, because such is the power of the Grand Signior. The power of the English Parliament is unlimited. So is that of many of the States of this Union, in regard to this particular subject. No precedent can have force to overthrow an express enactment of the Constitution. Under its provision, the Senate is directed to keep a journal of its proceedings. If I were permitted to look elsewhere than to that Constitution, I would go to Virginia for bright and glorious examples to conduct me in safety. The first in point of prominence, although not in point of time, is the course attempted to be adopted by the King's party in the House of Burgesses in 1765, as to

the celebrated resolutions of Patrick Henry, of that period. These resolutions were declaratory of the rights of British America. After their adoption, many of those who voted for them left the city of Williamsburg, thereby giving to the opposite party the accidental ascendancy; and they immediately formed the resolution to expunge them from the journal. But by a stroke of policy as bold as it was successful, Mr. Henry saved those resolutions from being expunged, which form at this day one of the brightest pages of Virginia History, and recorded on any man's tomb would eternize his fame. And yet, to expunge them from the journal, was regarded as much an act of duty by those who proposed it, as you, gentlemen, can esteem it to be in the case under consideration. They failed—and my prayer, as a citizen of a free country is, that you too may be unsuccessful—your posterity may have good cause to rejoice in your failure.

Another example, almost as illustrious, is to be found in the conduct of Robert Beverly, during the administration of Lord Culpeper. The history of the incidents of that transaction are not only instructive, but highly interesting. Lord Culpeper, armed with all the authority of the King of England, his master ordered that a resolution adopted by the House of Burgesses during the administration of Herbert Jeffries, should be expunged from their records, "as highly derogatory to his Majesty's prerogative." Robert Beverly was Clerk to the House of Burgesses. Every effort was made to induce him to produce the journal, in order to have it expunged. He was subjected to all manner of persecutions; but he gloried in his sufferings, and his noble spirit rose in proportion to his persecutions. He peremptorily refused to comply, alleging "that his master, the House of Burgesses, had alone a right to make such a demand, and that their authority alone he durst or would obey." And I too, reply to these orders, which are now given me,—that I will not expunge the records of the Senate until the Constitution, which, while it is permitted to remain, is master over all, shall be changed, altered or abolished. You will have full opportunity, gentlemen, to appoint another in my place. For my part, I will not consent to be made an instrument to accomplish such an object—nor shall I envy any successor whom you may send on such a mission.

Had your resolutions directed me to repeal or rescind the resolution of the Senate, I would have obeyed your orders, although with great reluctance. I would, nevertheless, have felt myself constrained to do so by my recognition of your right to instruct me. That proceeding would have reversed and annulled the act complained of. If your object was to vindicate the President in the authority which he assumed and still exercises over the public money, and esteemed it necessary in order to do so, to have had your opinions expressed through me in the Senate Chamber, they should have been faithfully represented.—His vindication, after all, cannot consist in the form in which it may be urged. It is to be found alone in the legislative expression of opinion; and even if your declarations in his behalf were confined to your own journals, the historian would not fail to avail himself of them as efficiently as if they stood emblazoned on the heavens.—From my knowledge of you, I am sure that you would not be willing to pull down the Constitution unnecessarily and without object.

In your effort to vindicate the President, you have cast on me, in common with others, the very reproach which you are pleased to regard so offensive in reference to him. You have publicly, and before the world, declared a resolution for which I voted, to be "subversive of the rights of the House of Representatives and the fundamental principles of free government." If you design to charge me with impurity of motive in the vote thus given, your accusation would imply the highest censure. But this I do not ascribe to you. You intend to say no more than that your judgment and opinion differs from that expressed by me upon the subject out of which grew the resolution of the Senate, and that the Senate committed an error, which, in its effects, is calculated to subvert "the rights of the House of Representatives and the fundamental principles of free government," by having declared in substance, what as a member of the Senate I did by my vote, declare, that the President had mistaken his course, and that his conduct was "in derogation of the Constitution and laws." Have I done more in this, than you have done in your declaration? And if not, I submit it in all candor to your dispassionate judgment to say whether—if I was liable to trial on impeachment before you, you would consider yourselves as having already pronounced upon my guilt in advance. I should certainly

not dream of excepting to you as my judges; because, resting on my integrity of motive, I should feel confident of acquittal. There can be no guilt without a criminal design—and I am sure you would be among the last to ascribe to the President any criminality of design. Am I to understand you as declaring, that because the House of Representatives may originate an impeachment against the President or other officer of the Government, the Senate has no right to express an opinion as to any act of the President or such other officer? No matter what may be the act, even if it annihilates the powers of the Senate—has it no power inherent in all other bodies, of self-protection and defence? A Brennus may invade the body and pluck it by the beard, and yet according to this, it has no authority to strike. Go to that venerable Patriarch of Montpelier, (Mr. Madison,) and ask him whether, in framing the Constitution, he designed that the Senate should be a mere motionless stock, or a vigilant sentinel to give notice of the approach of danger to that very Constitution which it is sworn to support—whether the Representatives of the sovereign States are such mere automata as to move offily when they are bidden, and to sit in their placid statures, to record such edicts as may come to them? If the President recommends a measure which the Senate believes impolitic, shall it not say so? So, if he adopt a course which he may believe to be correct, but which the Senate thinks unconstitutional—may it not say so? And does its so declaring tend to subvert or to support "the fundamental principles of free government?" You surely can be at no loss to decide. The Senate, in the instance of the late Postmaster-General, (Mr. Barry,) who had contracted loans in his official character for the use of his Department without authority, declared by an unanimous vote, that his proceedings in this respect were in violation of the Constitution—and yet no complaint has ever been uttered against that resolution of the Senate. How comes it about, that anathemas have not been thundered in the ears of the Senate because of that vote? Why is not that also declared to be "subversive of the rights of the House of Representatives, and of the fundamental principles of free government?" Is not the error vital when it affects William T. Barry, as when it affects Andrew Jackson? If so, every motive of generosity prompted an interference in behalf of the first. He was powerless, and is now in his grave. I had a personal regard for Mr. Barry. He was talented, and his fault lay in being too confiding. Honest himself, he did not suspect others, and they deceived him. This was the rock on which he split. In voting for that resolution I did not design to impute to him moral guilt; I did not believe it—I designed nothing more than to vindicate the Constitution. I thought that in doing so, I gave support to "the fundamental principles of free government," and never once dreamed that I had done an act in the remotest degree, subversive of the rights of the House of Representatives.

But say that in all this I was wrong. In voting for the resolution of the Senate against which, you are now so indignant, I did no more than carry out the people's declared views of the Legislature, as expressed in their resolutions of that day, and which were passed by overwhelming majorities of more than two to one in both houses. The terms employed by the Legislature were strong and decided. The conduct of the President was represented as dangerous and alarming. I was told that it could not be too strongly condemned—that he had manifested a disposition greatly to extend his official influence—and because, with these declarations before me, I voted for a resolution which declares "that the President in the late Executive proceedings, has assumed upon himself authority and power not conferred by the Constitution and Laws, but in derogation of both." I am now ostracised by your fiat, which requires obedience or resignation. Compare the resolutions of the General Assembly of that day with the above resolution, and its mildness will be entirely obvious. I submit, with all due deference to yourselves, what is to be the condition of a Senator in future, if, for yielding obedience to the wishes of one Legislature, he is to be called upon to resign by another? If he disobeys the first, he is condemned—if he obeys the last, he violates his oath and becomes an object of scorn and contempt. I respectfully ask, if this be the mode by which the great right of instructions is to be sustained; may it not degenerate into an engine of faction—an instrument to be employed by the outs to get in. Instead of being directed to noble purposes—to the advancement of the cause of civil liberty—may it not be converted into a political guillotine, devoted to the worst of purposes? Nor are these anticipations at all weakened by the fact, as it exists in the case now under consideration, that several of those who constitute the present majority in the General Assembly, and who now call upon me to expunge the journal or to resign my seat, actually voted for the very resolutions of a previous session to which I have referred.

I have thus, gentlemen, with frank-

ness, but without designing offence, expressed to you my opinions. With the question, whether the resolution of the Senate which you direct to be expunged, be true or false, I have nothing in this place to do. If false, to rescind or repeat it, was to annihilate its force as effectually as to cancel it. You have preferred to adopt a different course. I dare not touch the journal of the Senate. The Constitution forbids it. In the midst of all the agitations of party, I have heretofore stood by that sacred instrument. It is the only post of honor and of safety. Parties are continually changing. The men of to-day give place to the men of to-morrow; and the idols which one set worships, the next destroyed. The only object of my political worship shall be the Constitution of my country. I will not be the instrument to overthrow it. A seat in the Senate is sufficiently elevated to fill the measure of any man's ambition; and as an evidence of the sincerity of my convictions that your resolutions cannot be executed without violating my oath, I surrender into your hands three unexpired years of my term. I shall carry with me into retirement, the principles which I brought with me into public life—and by the surrender of the high station to which I was called by the voice of the People of Virginia, I shall set an example to my children, which shall teach them to regard as nothing place and office, when either be attained or held at the sacrifice of honor.

I am, gentlemen, your Fellow-Citizen, JOHN TYLER.

On motion of Mr. Smith of G, the letter was laid upon the table, and Mr. S. moved that 10,000 copies be printed for distribution throughout the State.

Mr. Botts moved to amend the motion, and that 25,000 copies be printed. Mr. Smith accepted this modification of his motion.

On this question considerable discussion took place, in which Messrs. Brown of P., Botts, Gilmer, Witcher, Dorman, Gregory, Summers, Stanard, and Brooke supported, and Messrs. Miller, Harrison, Garland of M., Watkins, Woolfolk, Madison, and Holleman opposed to motion.

Mr. Miller moved that 1000 copies be printed.

The ayes and noes having been ordered at the call of Mr. Benton, the motion to print 25000 copies, the vote was taken and decided in the negatives as follows:

Ayes—Messrs. Ginalda, Drummond, Gilmer, Southall, Garland of A., Brooke, Craig, Campbell, Pate, Hunter of B., Henshaw, Henning, Christian, Wilson, of C. Servant, Ball, Price, Hale of F., Davidson, Smith of Frederick, Smith of Gloucester, Wethered, Mullen, Botts, Gregory, Griggs, Berry, Summers, Carter, Neill, Beard, Powell, Taylor of L., Hagsdale, Waggoner, Benton, Murdough, Cooke, Masters Swanson, Witchee, Morris, Dorman, Leysburn, Barley, Delaham, Jett, Cunningham, Brown, Stanard—50. Noes—Messrs. Banks, (Speaker,) Layne, Wiley, Miller, Wilson of B., Decamp, Turnbull, Maloney, Booker, Austin, Daniel, Samuel, Nicholson, Johnson, Hill, Vaughan, Hunter of E., Smith of F., Hickerson, Stranegy, Steger, Holland, Bowen, Watts, Watkins, Hall of G., Arent, Carrington, Coleman, Sloan, Nixon, Goodall, Harrison, Kinkelme, Fontaine, Holleman, Fleet, Robinson, Hays, Straton, Harris, Taylor of M. & M., Rogers, Garland of M., Wiley, Morgan, Chapman, Ingles, Sherrard, Brown of N., Leand, Fitzgerald, Woolfolk, Almond, Adams M'Gov, Cackley, Hopkins, Carroll Madison, Shands, Williams, Martener, Nicklin, Moffitt, Conrad, Jesse, M'Mullen, Bare, Rinker, Butts, Centerville, Moncre, Hargrave, Gibson, Prentiss, Saunders—78.

After a few remarks from Mr. Gilmer, Mr. Miller withdrew his motion, and 185 copies of the letter were ordered to be printed for the use of the General Assembly.

A motion of Mr. Powell that 815 additional copies, making in all 1000, be printed, was rejected.

On motion of Mr. Watkins, it was Resolved, That this House will on to-morrow proceed by joint vote with the Senate, to the election of a Senator to serve in the Congress of the United States, to supply the place of the Hon. John Tyler resigned.

Twenty-Fourth Congress.

Correspondence of the Baltimore Chronicle.

WASHINGTON, February 24, 1836. The Senate was yesterday the scene of the most splendid and fervid eloquence—an eloquence that was argumentative as well as rhetorical. I will never forget it—the impression it has made is indelible.

The galleries, in spite of the threatening appearance of the weather, were well filled—and let it be remembered by the readers of this letter as one of the most interesting circumstances of the day, was the presence of the daughter and brother of the orator, and also the daughter of his colleague, (Mr. Calhoun.) The daughter of the distinguished Southerner seemed wrapped in attention to his glowing and splendid flights; and I felt happy that she was there to witness his well-earned admiration. After some statistical readings of Mr. Benton, at a few minutes past one, Mr. Preston took the floor, the order of the day being the report of the Military Committee making appropriations for the collection of materials and the purchase of sites, and to commence the construction of fortifications and for other purposes.

He expressed his opinion upon the merits of the bill at large—said that looked with great anxiety upon the Treasury of the United States, he was aware how important it was to legislate upon this subject—the treasury was in a plethoric state—overcharged with an enormous amount on hand—thirty millions of dollars. But this bill would not drain it, No, no. You might scatter money abroad—lavish it—build your forts of Parian marble, but still the mighty torrent would flow on with the vastness of the ocean. The country was an immense one—it was rich beyond computation—it was like the ancient lady who was covered with barbaric helmets and treasures. We were striving to throw off the glittering incumbrance, but we could not. He then went into a history of fortification propositions—spoke of fortifications as a favorite theory of Washington—favorable the-