

be open upon that boundless field of fraud, corruption, and ruin, in which we see the various modes resorted to, to give preference to particular creditors, to the utter exclusion of others equally meritorious and just; by which those funds which should be fairly distributed to alleviate the losses of all, are bestowed on a few, who may be preferred by caprice, by friendship, by blood, or by future expectations, held out to the debtor. The whole power and machinery of assignments, judgements, attachments, are brought into action to promote and secure a purpose so immoral and unjust; but at the same time so authorized by the law as to be placed beyond the reach of morality or justice. Nor does the mischief go no further than to secure an unjust preference between creditors of equal claims: but the means by which this may be done furnish also a full opportunity to place property in the hands of friends and relations, to whom nothing is due, to come afterwards to the use of the insolvent himself. Mr. H. said, that, under the patronage of these insolvent laws, the merchants had now established a code of laws for the payment of their debts, which is at once destructive of all commercial credit, and of every principle of moral justice; they have, what they are pleased to call their debts of honor, & their debts of business; and the former are preferred to the exclusion of the latter. Indorsements are considered of the first class; yes, the indorser, by whose aid he has been enabled to sustain his credit long after he ought to have sunk; by whose means he has been enabled to make purchases of goods from honest, unsuspecting vendors—this indorser finally carries off all the property, perhaps the very goods purchased on their immediate proceeds, and the sellers of them obtain not a farthing from the wreck. To say nothing of the moral injustice of such distinctions, observe the effect it has upon the commercial interest and prosperity of the country. The debts of the failing merchant may be 100,000 dollars—this property may amount to 50,000 dollars—of course, a fair distribution of his effects would afford to each creditor 50 per cent. of his debt, and the loss would then be ruinous to none. But if he is permitted to give the whole of his estate to his creditors of honor, they may retrieve the full amount of their debts, and the others, equally meritorious at least, obtain not a cent perhaps to their entire ruin. A strong case of this sort was lately stated in a Philadelphia paper, and is but one of many which occur almost daily. A merchant, said Mr. H. whose dealings have been very extensive, but who has lately failed, assured me that his destruction was owing entirely to this system of preference; for had he but got a fair proportion of the effects of his debtors who had previously failed, he would have been able to continue his business; but whenever such a failure occurred, he found all the property appropriated to a few favorites of the debtor. This shocking and destructive system, said Mr. H. can be broken up only by a general bankrupt law, by which the effects of an insolvent trader will be taken from his caprice as well as his fraud, and put into the hands of those who will distribute them in just proportions among those whose claims are equal. Mr. H. made some further illustrations of the pernicious effects of these preferences, made entirely at the will of the debtor, at a time when in truth, all his control over his property ought to have ceased.—But, said Mr. H. one of the best uses of a bankrupt-law yet remains to be mentioned. It is the inducements it holds out to an embarrassed man, when he finds his affairs irretrievable, to surrender them into the hands of his creditors, before every thing is wasted in violent efforts to save himself. At present, seeing nothing before him but a goal, to be followed by a perpetual bondage; and knowing that these consequences are precisely the same, whether he pays to his creditors one half of their debts, or not one cent, he plunges on in mere despair; postponing the catastrophe as long as possible; diminishing his property by desperate expedients; dragging into the vortex of his ruin every friend from whom he can obtain either credit or money; and finally falls, bringing down with him all who have trusted him, and spreading his misfortune to every point within his reach and influence.

If, said Mr. H. such are the inconveniences and injuries to the creditor, the debtor and the community, under the present insolvent systems, what advantages do they possess to counter-balance the evil? What has the creditor? Nothing but the chance, the valueless chance, of his obtaining his debt from the future acquisitions and earnings of his debtor; it is a right, it is true, but it is an empty, worthless, unproductive right; which may, indeed, be used to gratify malice, to satiate revenge, to oppress the afflicted, to tread on the fallen; but to obtain the debt, never. How is this property

which is to pay the debt, to be obtained?

Can the insolvent earn it by his industry, when you place him in a situation in which industry will be useless? Can he earn it without capital? and you will not suffer him to have one that may not be torn from him in a moment. Can he even rely on the aid of his friends, when it would be idle in them to afford him the means of helping himself, knowing they could not place it at his disposal for an hour? It is an undeniable truth, that the very right the creditor has to the future earnings of the debtor, is destructive to itself, and renders it impossible that any such earnings can ever be obtained; the mere circumstance that he cannot hold or enjoy what he may acquire, will prevent the attempt, if not the desire to acquire it. Mr. H. appealed to experience, and asserted, that of the many thousands of persons who have been discharged by insolvent laws, he had never heard of one who afterwards paid his debts; and concluded, that this right of the creditor was a mere fallacy and delusion, and ought not to weigh a feather against the great and manifest usefulness of a bankrupt law. He asserted, that you take from the debtor every stimulus to exertion, every hope of reinstating himself; that you make him a rogue from necessity; you compel him to live by stealth; to feed and clothe himself & his children by fraud, for, on this strict principle, that all he may afterwards have is the property of his creditors, it is evident that he supports life by that which does not belong to him; and exists, from day to day, by a sort of petty pilfering! When misfortune, overtook him, he may have been honest and honorable; but, if he continues so under the corrupting influence and merciless lash of an insolvent law, it will be miraculous. How different is the case if you put this man at large, his honor unimpaired, his self-respect not destroyed, to exercise his powers of mind and body, to use his friends, and reassemble his usefulness in society, improved by experience, and chastened by misfortune! Again, said Mr. H. if there is no instance of an insolvent's afterwards paying his debts, how few are there, in which he has had any property, of any consideration, to surrender to his creditors. No property, real or personal, is the usual return, and for the reasons already mentioned; he has no inducement to stop until every farthing is gone; but every inducement to go on to the last extremity; and it is not in the power of the creditor to stop him as he may under the bankrupt law. Mr. H. mentioned some cases, where considerable property had been obtained by the powers of the bankrupt law, which would have been lost under the insolvent system.

The obvious recommendations of a bankrupt law, said Mr. H. are these: 1st. It furnishes ample time & means to the creditors to investigate the conduct of the debtor before his bankruptcy, to ascertain the cause of it, and inform themselves of the fulness and fairness of the surrender of his effects, and to grant or withhold his discharge, as they shall find him worthy of it, or otherwise. 2d. It puts the citizens of different states on a footing of equality in their mutual dealings; and gives a known and certain rule on the subject. 3d. It puts our citizens on a footing with foreigners in their relations of debtor and creditor. 4th. It over-reaches all preferences and partial assignments; and fairly distributes the property among the creditors in proportion to their debts. 5th. It offers fair inducements to embarrassed men to make a surrender of their affairs, before they have squandered their property and involved their friends. 6th. It will restore to society a great mass of industry and talent, now lying useless, indeed burdensome, to the community; and, lastly, it will pay a just respect to the rights of humanity, which are outraged by the power the creditor now possesses over the whole life of his debtor.

Mr. H. said, the most difficult question, in relation to the bill, would be presented by the first section. It will be found to differ essentially from the English bankrupt law, as well as from that passed here in 1800. An attempt is now made to limit the extent of the operation of the law, and bring it back to what was, certainly, its original object and design. Although it was in the beginning intended for traders, and all the reasons and policy, urged in its behalf, apply to such men, yet it is well known that by a long course of judicial decisions, the provisions of the law had, by degrees, been extended to every man, who could bring himself within the terms, "buying and selling," although clearly his principal occupation was of a different description.—This construction is now so established in England, that, although the Judges constantly complain of it as a departure from the real object of the law, they do not feel themselves at liberty to unsettle it. As our law of 1800 followed the terms of the English statutes in this respect, we also adopted the construction that had been given to them; and, said Mr. H. I believe much

of the evil and unpopularity of that law may be traced to this source. In framing the bill now proposed, all these judicial decisions had been carefully examined, and specially excepted, and some general words of description adopted, calculated to keep the law within its proper legitimate bounds; and excluding those persons "whose living is substantially gotten by mechanical labor, though with some mixture of buying and selling," a limitation taken from the recommendation of the Judges of the Court of King's Bench. In introducing this restriction, it is presumed not only that the law is brought back to its first and proper objects, but that it will be more acceptable to the people of this country, who seem to have complained of the universality of the former system.

[The above is an abridged, but a correct report of Mr. Hopkinson's speech, which occupied two hours in the delivery.] Debate to be continued.

## CONGRESS.

### HOUSE OF REPRESENTATIVES.

MONDAY, MARCH 2.

The Speaker laid before the House a report of the commissioner of claims, of the facts in 103 claims for property destroyed by the late enemy on the Niagara frontier, in the state of New-York, with the evidence in each case taken by a second commission, attended by a special agent of the United States; which report was referred to the committee on claims.

The President of the United States informed the House by message, that the commissioners of the two governments, under the 4th article of Ghent, having come to a decision upon the questions submitted to them, and laying copies of that decision, together with copies of the declaration signed and reported by the commissioners to this government.

Also a report from the Secretary of State, together with the papers relating to the claims of merchants of the United States upon the government of Naples, in conformity with the resolution of the House of the 30th of January last.

And a copy of a letter from the Governor of the state of South-Carolina, to the Secretary of State, together with extracts from the journals of proceedings in both branches of the Legislature of that Commonwealth, relative to a proposed amendment of the Constitution, which letter and extracts are connected with the subject of the President's communication to the House of the 6th inst.

The House then resumed the consideration of the unfinished business of Saturday; being a motion to lay upon the table the bill (the first section having been stricken out,) concerning expatriation.

Mr. Johnson, of Va. submitted some additional remarks on the subject, and, after expressing the regret he should feel if the House, during a session so auspicious to a candid decision, were, by the course it should adopt on this subject, lead to an erroneous construction hereafter of its sentiments on the right of expatriation; and anxious that it should not be dismissed without the declaration of some affirmative opinion thereon, that would prevent such a misconstruction, moved, by way of amendment, the following substitute for the remaining section of the bill:

"That whereas sundry persons, who had been citizens of the United States of America, and who has exercised the right of dissolving the connection which bound them to the United States in the character of citizens, by voluntarily and regularly becoming citizens or subjects of other Governments, have been held bound to answer in the character of citizens, in the courts of the United States, for offences alleged to have been committed subsequently to the exercise of this right; and for which citizens only would be amenable in the said courts: And whereas in the declaration of Independence of the thirteen United States of America, the following truths are held to be self evident: That all men are created equal; they are endowed by their creator with certain unalienable rights; that among these are life, liberty and the pursuit of happiness; therefore be it enacted, and it is hereby expressly enacted and declared, that all men do possess the right to seek their happiness in any climate and under any form of government they may elect; and that, consequently, the right to dissolve the connection which binds the individual to the government of the United States, in the character of a citizen, and to form a similar connection with any other government, is equally unalienable, and founded on truth equally self-evident."

Mr. Colston, of Va. moved that the whole subject be indefinitely postponed.

Mr. Williams of N. C. spoke in opposition to any legislation on the subject, and entered at large into his views of the different propositions thereon.

Several other members spoke on the subject, and the motion was at length negatived 88 to 73.

The question recurring on Mr. Johnson's substitute, the question was taken on it, after some debate, and decided in the negative 77 to 64.

Mr. Robertson, of Louisiana, then offered the following substitute to the remaining section of the bill:

"That in all prosecutions which may hereafter be instituted against any person for having engaged in military or naval service for or against any foreign power when without the jurisdiction of the United States, who, before the commission of the fact with which he may stand charged, shall have been a citizen of the United States, but shall have exercised his right of expatriation by becoming the citizen or subject of any foreign state or community by adoption, it shall be lawful for such person to give such fact of expatriation in evidence upon the general issue, and if, upon the trial of such person so charged as aforesaid, he shall prove such fact to the satisfaction of the jury, he shall be discharged from such prosecution."

To give time for a little reflection on this new proposition, Mr. Trimble moved that the amendment be laid on the table and be printed; which was agreed to; and the House adjourned.

TUESDAY, MARCH 3.

Mr. Robertson, of Louisiana, from the committee on public lands, to whom was referred the petition of Charles Smith, a wealthy citizen, who wishes to build a church and school-house, at his own expense, if Congress shall grant him the pre-emption right to a certain tract of prairie land, whereon to build the same, made a report thereon, expressive of their high respect for the motives and object of the petitioner, but adverse to his prayer on general principles. The report was concurred in.

The House then, proceeded to the consideration of the proposition submitted a few days ago, contemplating the adjournment of Congress on the day of March inst.

On this subject there took place a debate, or rather conversation, which occupied an hour and a half, and would have been reported at length, if the resolution had been finally acted on; which it was not, but was put aside to make way for a different proposition.

At the conclusion of this conversation, it was agreed to lay the proposition on the table, 81 to 78: and

Mr. Taylor of New-York, offered for consideration the following resolution:

Resolved, That a joint committee of both Houses be appointed to consider and report when the present session of Congress may be terminated.

The resolution was read, once, twice, thrice, passed and sent to the Senate for concurrence.

The House resolved itself into a committee of the whole, on the bill authorizing the payment of certain claims of Georgia Militia for services rendered during the years 1793-4.

Mr. Cobb spoke at some length, recalling the attention of the House to the observations he had made at an early period of the session in support of this claim, and adducing some further arguments, drawn from facts not in his possession when he first expressed his views of the subject.

After some amendments had been made to the details of the bill, a motion was made to strike out the first section of the bill—

Mr. Tallmadge rose in support of the motion, the merits of which he examined with reference to the documents on which it had been sustained, as well as to the old age of the claim, and its repeated rejections in former days, and during the administration of Washington, when the real nature of the claim was better understood, he said, than it possibly could be at the present day. He also took the ground against this claim, that it was intended and understood, by some of the Commissioners at least, and so reported by a committee of the House, to have been merged in the amount of 1,250,000 dollars, which the United States agreed to pay to Georgia for the territory ceded by that state to the United States.

Mr. Forsyth replied to Mr. Tallmadge, point by point. He denied that long denial of justice ought to constitute an obstacle to its final award, or that repeated refusals ought to be plead in bar to a just claim. He went into a full examination of the grounds of the claim, which he sustained with eagerness. In regard to Mr. Attorney General Lincoln's unsupported impressions respecting the liquidation of his claim by the convention between Georgia and the United States, which had been quoted by Mr. Tallmadge, he denied them any weight whatever, particularly where there was direct testimony by two other of the commissioners, positively denying Mr. Lincoln's impression.—Mr. F. concluded his comprehensive views of this question, by expressing his earnest hope, that justice would at length be done to these complainants.

The question was then taken on striking out the first section of the bill, and decided in the negative, 60 to 59.

The committee then rose & reported the bill to the House; but, before coming to any decision thereon, the House adjourned.

WEDNESDAY, MARCH 4.

Mr. Pleasants from the naval committee, made a report on the petition of Capt. Samuel C. Reid on behalf of the officers and crew of the late private armed brig General Armstrong, accompanied by a bill, authorizing the distribution of a sum of money among the officers and crew of the said brig, which was twice read and committed.

The House then proceeded to the consideration of the remaining section of the Expatiation bill. The question was on the adoption of the substitute offered by Mr. Robertson of Lou. as an amendment to the remaining section of the bill, which after receiving several amendments, was agreed to by a small majority; but upon the question of ordering the bill to be engrossed for a third reading, was decided in the negative, 75 to 61. So the bill was finally rejected.

The House then took up the report of the committee of the whole, on the bill providing for the payment of certain claims from the state of Georgia for militia services rendered in 1793 and 1794.

The committee had reported the bill filled up with the sum of \$143,500; which amendment the House refused to concur in.

Mr. Cobb then moved to fill the blank with \$140,000, and spoke at some length, and earnestly in favor of the bill and his motion; which however, was negatived.

Mr. Taylor, thinking the House had clearly indicated its hostility to the bill moved its indefinite postponement. This motion brought on a very long and animated debate.

The question was ultimately decided in the negative, 64 to 54, and the House adjourned.

THURSDAY, MARCH 5.

Mr. Lowndes, from the committee of Ways and Means, reported a bill supplementary to the several acts relative to direct taxes and internal duties; which was twice read and committed.

Mr. Bloomfield, from the committee, to whom the subject was referred having made a report on the amendments of the Senate to the bill concerning certain surviving officers and soldiers of the revolution—

A motion was made by Mr. Edwards, in order to enlarge the provisions of the bill, and make them as comprehensive as he could, to strike out of the Senate's amendment the words "on the continental establishment." This amendment would have the effect to embrace all who served for nine months in the military service, and were in service at the end of the war, thus including the militia as well as the regulars.

This motion gave rise to considerable debate, in which Messrs. Edwards, Simkins and Strother urgently supported the motion, and Messrs. Palmer and Bloomfield opposed it.

In favor of the motion, was adduced the important services of the militia during the revolution, frequently of the highest importance, and always more meritorious than those of the regulars, because not under the impulse of professional inducements and obligations.

Against the motion, the main argument was, the impolicy of the amendment, as tending to defeat the bill on its return to the Senate, whose disposition on the subject had been sufficiently indicated by the amendments it had already made to the bill. The merit of the services of the militia was not denied, but the difficulty of discriminating between those who served occasionally, and those who served for a particular term of time, was mentioned as constituting an obstacle to any provision on the subject.

The question on this motion was decided in the negative—Yeas 60; Nays 91.

Mr. Bayly moved to amend that part of the Senate's amendment which provides that the relief contemplated should not be allowed to any of those officers and soldiers who are already on the pension list of the United States or of any individual State, by striking thereout the words "or of any individual State." This motion was supported by Mr. Bayly, and opposed by Mr. Edwards and Mr. Bloomfield, as going to destroy the principle of the bill, which was to relieve only the indigent. This motion prevailed by a vote of 79 to 61.

After some other amendments of detail proposed by Mr. J. S. Smith, Mr. Austin, and others, the question was taken on agreeing to the amendments of the Senate, as amended, and agreed to; and the bill was returned to the Senate for concurrence in the amendments to the amendments of that body.

The House resumed the unfinished business of yesterday, being the bill for the payment for services rendered by certain Georgia Militia in 1793-4.

Mr. Cobb moved an amendment to the bill, with a view to obviate the objection which had been thrown against the bill, and which he feared might defeat it, requiring that the sums claimed and proved to be due, to the satisfaction