CONGRESS.

HOUSE OF REPRESENTATIVES

DEBATE

On the Resolution for requesting the President to cause an enquiry to be made into the conduct of GENERAL WILKINSON.

THURSDAY JANUARY 7

(CONTINUED.)

MR. FORWELL's motion for calling on Mr. Randolph and Mr. Clark for information being yet under consideration—

MR. RANDOLPH conceived that some weight was due to the representation which had been made to the House by the gentleman from New Orleans: & if that gentleman was called upon to state what was within his knowledge on the subject, that means should be afforded him to substantiate what he might testify. It was due to the gentleman's character that means should be afforded to him of supporting his oath by corroborative testimony. The situation of that gentleman was indeed as he had expressed it, extremely delicate; and when they considered the weight of evidence which might be brought, and which had indeed in part been produced, it must be allowed that the gentleman's representation was entitled to the candid consideration of this House. Mr. R. said he scarcely felt himself justified, friendly as he was to the motion, in voting for it under these circumstances. He did not say that he should vote against it; but if he voted for it, it would be with a reluctance which he had not believed it was possible for him to have felt on this occasion.

It was evident to his mind, that the course which was pursued in the year 1791, on the subject of Gen. St. Clair's defeat, was the course which ought to have been taken in this instance. He should be told perhaps by the gentleman from Pennsylvania (Mr. Smilie) who at the same time contradicted his argument by the vote which he was about to give, of the incompetency of this House to make the enquiry, of their usurping the powers of the Executive, and of their interfering with matters which did not concern them, to the extreme prejudice of the citizen. Was this an ordinary case and to be measured by the ordinary rules of common practice? Certainly not. It had been likened to cases of murder or treason. There was no similarity. In cases of murder the relatives of the deceased would always be ready to urge a prosecution. In cases of treason, there were officers appointed as public accusers, and grand juries, whose province and duty it was to enquire into infractions of the civil law. The offence charged upon this person was not merely a military offence, but was of a peculiar nature—not merely as it regarded the *act* itself, but as it regarded the *person* by whom the act was committed. He would ask gentlemen if they had ever heard in the course of their lives, of a court martial held upon the conduct of a commander in chief? Was it held in the case of St. Clair? Such a court must be composed of subaltern officers, who might be induced to put the commander out of the way that they might mount the ladder of promotion, or might be influenced by his former military authority over them. They must be ruled by every breath, whether real imaginary, with every suspicion they might entertain of the disposition of the supreme power towards the individual over whom they sate in judgment. Mr. R. believed it was for this reason that no man had ever heard, at least he had not, of a court martial upon a commander in chief. Now, when he had the honor of laying before the House the resolution which brought forward this discussion, his object had not extended to a military enquiry——he had not contemplated such a thing as a military enquiry; neither would a military enquiry attain his object, which was, that the President of the U. S. to whom the commander in chief was responsible, should institute an enquiry into the conduct of that officer, and that he should, after having obtained all the evidence (and he might say, all the information) which was attainable, act as justice to the individual and to the country, but more especially as a regard to the public safety, might require—and Mr. R. would go further and say, as a regard to public opinion might require. His excellent friend from N. Carolina, (Mr. Macon) had a few days ago told them that it was impossible that the people of the U. S. could repose confidence in the commander in chief under present circumstances; the consequence would be that the militia might not turn out under such a commander.

In the irregular manner in which he was sensible he was addressing the House, though it was certainly not his purpose to say any thing which had not a direct bearing on the question, Mr. R said he would make a few more observations.

They were asked for authority on which to adopt the proposed measure. Was it fair (although in his opinion the case of St. Clair was a case in point) in a government like ours, scarcely twenty years of age, yet in its infancy, to ask for precedents in every case? Must there not occur almost daily cases novel in their nature, cases unforeseen and unprecedented? As curators of the constitution, as persons vested with the trust of seeing the constitution faithfully executed, they had a right to act in this and every other matter in such a manner as would in their judgment promote the public safety and the public good, so that they did not trench on the exclusive provinces of other departments of the government, or on the authority of the states, or transgress the restrictions imposed upon them by the constitution. The gentleman from Pennsylvania had quoted the constitutional provisions touching the life and liberty of the citizen in common criminal cases. Let the gentleman, said Mr. R. take the constitution in one hand and the rules and articles of war in the other, and see how they would agree in this sense. But did not the gentleman himself, in quoting the constitution, read an exception of all cases, arising in the land and naval service; and therefore to talk of an invasion of the rights of the citizen, while the House was taking measures for the detection and exposure, and removal from office, (if guilty) of a dangerous military character, was entirely idle. There was one motive that might be assigned for making this enquiry, which Mr. R. considered sound; which was, that, after this House should have taken such measures as they deemed the public good to require, if those departments of the government whose business it was also to supervise the public concerns, were remiss in their duty, such conduct would be one of the strongest reasons for the proper punishment of such departments; and the power to apply this punishment rested at least in part with this House.

Mr. R. would suppose that the House were in possession of information, instead of Aaron Burr, the late Vice President of the U. States having conspired against our national existence, that the commander in chief was that conspirator. Suppose this case, (said Mr. R.) and that we were to have been put out of this House, not by Aaron Burr—but by James Wilkinson. Suppose such information were in possession of the House; should we do our duty, if, instead of wasting our time in idle debate, we did not request the President instantly to cause an enquiry?

But it seemed that the party in question had enjoyed the confidence of a long line of Presidents, and that this was one reason for supposing him innocent. Suppose him innocent, said Mr. R. that is one of the best reasons for assenting to an enquiry which is to establish that innocence. But how long had it become a principle in our government that confidence, not only in Presidents, but in any in whom they might have confided at any time, was to become the sole rule of action to the legislature of the country? If they had acted on the principle of confidence, they would have said that it was equally impossible that Aaron Burr, a man who had been a Senator of the U. States from the great and respectable state of N. York, and who had enjoyed the important office of Vice President of the U. S. by an equal vote with the present President—should be guilty of the crimes laid to his charge. But this sort of reasoning did not accord with fact. Ours is not a government of confidence, said Mr. R. It is a government of diffidence and of suspicion, and it is only by being suspicious that it can remain a free government.

He observed that it was a wonderful revolution in human affairs that could give sanctity to and bleach into unsullied whiteness characters that had remained under suspicion, and strong suspicion too, for years.—When the present President of the U. S. first came into power, it was a question with the leading and he might say ruling party, whether the army of the U. S. could not be reduced so that the highest commander should be excluded. There was a most decided majority (as the gentlemen then in Congress knew) in favor of that reduction; but by a finesse unparalleled perhaps in legislative history, the disposition of that majority was eluded & evaded, and matters were suffered to stand as they now are. But at that very session, he believed, so little was confidence the order of the day, that in order to prevent (this was not said on the floor of the House, but publicly spoken of out of doors) the embezzlement not merely of Spanish dollars, but of our own, to cut off all possibility of peculation, a fixed salary was given to the commander in chief.—Mr. R. said he had then his opinions on the subject—they were not new. He was informed from a respectable source of the government—he would not name it, but he believed it was from the same channel that a dozen members of the House received the information—that such a step was absolutely necessary. And at this day, after these facts were known, should a character remain unspotted which had so long lain under odium? He knew that it had been a very general opinion with many members of the House, that at the moment the President of the U. S. had put his name to that act, he would think it a matter of course to remove the officer who had compelled them in self-defence to pass that law. Upon this subject Mr. R. said he felt no delicacy. In discussing the conduct of a person whom he believed, upon the very best evidence, to have been six or eight years ago guilty of peculation—a person against whom he had been compelled on oath to say that he believed him to be guilty of misprision of treason—he felt no hesitation. It would be mere affectation to pretend to feel any; it was out of the question. The gentleman from Pennsylvania or any other might say what he pleased about this person's being prejudged; but the case had been prejudged long ago; and it was impossible to proceed on it without prejudging on one side or the other.

While up, as it might save trouble, and as he found some little contradiction in the public prints respecting the papers which he had submitted to the House, he would take the liberty of telling the House at what time and in what way they came into his hands. On Thursday, the day preceding Christmas day, (said Mr.R.) a gentleman, an utter stranger to me, gave me some information which he had conceived might be interesting to me as a private man; and at the same time informed me that evidence of this kind was within my reach. The purport of it was stated to me at several different times; and the day preceding that on which I submitted the matter to the consideration of the House, Power's letter was put into my hands. I immediately called upon the Secretary of the Treasury, and asked him if he knew, or if government were apprized that there existed information of this nature, who replied that they were not; I then requested him inasmuch as it would be brought forward in a public way, to say nothing about it. And, on the next day, although I had seen them before, the certified copy of the cyphered letter to Gayoso and the copy of the original of the Baron de Carondelet's letter to capt. Portell were put into my hands—the very day on which their contents were disclosed to this House. I have nothing more to say.

MR. MACON said he had not intended when he first spoke on this subject, though he might have expressed himself inaccurately, to express an opinion on the guilt of gen. Wilkinson. His object was to give no opinion on the subject. He had then stated as a reason why the House ought to adopt the resolution, that the observations which had fallen from the gentleman from Kentucky, (Mr. Johnson) would have been sufficient ground for it. He wished to express no opinion on the merits or demerits of this affair.

MR. LOVE said his principal object in rising a second time, was to know whether he had understood the precedent, read from the journals of a former session by the gentleman from North Carolina (Mr. Macon) and relied on by the gentleman from Virginia (Mr. Randolph.) For if he had understood the journals right, without intending any disrespect, to either of those gentlemen, he must acknowledge, they did not in this instance, seem to have exercised, the powers of discrimination, which he had supposed their minds to be endowed with: If he had heard distinctly the reading of the journal, it stated that, a resolution had been introduced requesting the President, to enquire into the causes of the defeat, the American arms had sustained under General Sinclair; which was negatived by a large majority—but, that on a motion to refer that enquiry, to a committee of their own body, it was agreed to: The resolution which was adopted, and is said to form the precedent for this, was nothing more, than that a committee should enquire into the causes of this defeat; this said Mr. L. was surely proper, it related to a subject which Congress might properly feel it its duty, and for its own exculpation, to enquire into; it did not contemplate as the original resolution in this case does, an enquiry into the conduct of any military officer, but such an enquiry as would enable Congress itself to shew, that the terrible defeat our armies had suffered, was not attributable to any improper conduct on their part, in withholding the necessary means of victory, or the proper supplies for our army; really said Mr. L. the selection of this precedent seems to be an unfortunate one for those who rely on it, one which he should gladly have adduced for the very opposite purpose for which it had been adduced.

But a contradictory conduct, Mr. L. said had been attributed to those, who professed a willingness to adopt the present resolution, and at the same time contended against the power of acting on the subject: if there was such semblance of contradiction, surely a moment's reflection would satisfy any gentleman it was not in reality so. This subject had been obtruded on the House, how properly would be hereafter judged of, they had so far entertained and acted on it, he was now willing to take such steps as would enable them to get rid of it; but the resolution he advocated the adoption of, was of a nature totally different from the one originally proposed, and contained in it no infraction of the constitutional right of another department of the government: The most that can be said of this, is that it may produce an unprofitable waste of our time, and that we ought only to act on it in order to get clear of a greater evil; the other is of a dangerous kind. Mr. L. said he was astonished at the manner, in which this subject had been treated; instead of an attempt to reply to the objections urged against the original resolution, the House had been occupied in listening to personal invective, and general, undefined, vague charges against a military character, who had not here the power of reply; it would certainly have been more proper, and in every respect more correct, to address the understanding on the subject, introduced to the consideration of Congress, and to have endeavored, at least to answer the argument objected to the right of entertaining it.

MR. ROWAN was opposed to this resolution, not because of the extent of power which it assumed, but because it was short of the power which ought to be exercised on this occason; nor was he opposed to enquiry, because its effect would be to place a solitary individual against a host, when in fact the host was in his favor. If information was necessary, at all, why confine it? If necessary, why not procure all within their power? By admitting that Daniel Clark should lay on the table the information in his possession, they admitted that it was proper to have information; then why not admit all the information requisite to a clear understanding and fair decision of this question?

I have another objection, (said Mr. R.) to this course of proceeding: this House will have gone into a discussion on the subject of an enquiry; the testimony adduced may not be relevant, and the character of the man will shine the brighter after the discussion—and why? Because testimony will have been collected? No. Because a discussion under color of an enquiry will have taken place without effect. It will serve only as an additional buoy to his character. Make the resolution ample; go into a full enquiry. You have power, exercise it and you shall have my feeble support. But it was said that there was no precedent for this case. How were precedents formed in the first instance? There must first be a case on which to create them. The present case is unprecedented; and I shall not flinch from acting on it because there is not a similar case on record.

Mr. R. contended that it was an incidental power of this House to make an enquiry. Who makes war? This House. Who conducts it by appropriations of blood and treasure? This House. Shall it be said that we have power to make war and to support it, and not to enquire into the loyalty of our commander? It was said that the President only had a right to enquire, and that the President had confidence in him. Mr. R. said there might be a case (he did not mean to say that it now existed) in which a President should conspire with the commander in chief against the government, and as the latter officer was accountable to the President only, whatever confidence they might possess in the President would be unavailing. Suppose a general treasonable; suppose a war was now to break forth, of what avail would be the responsibility of the President in this case, when contrasted with the general evil which might result? Suppose a battle was impending, by which the fate of the nation was to be decided, and the House had a suspicion that the commanding officer was disaffected, or had a disposition to injure the interest of the country, would they not enquire into the case? Certainly they would; and thus he contended that this power of enquiry was inseparably incident to the great power of making war.

But besides its residing thus in this House, it resulted from the general construction of the constitution. This officer was responsible to the President, The President's responsibility only affected his reputation; while a breach of duty in him might destroy the nation. It might be said that no such imminent danger was now to be apprehended; but gen. W. was commander in chief, the charges were heavy, no less than for receiving money, from a foreign nation with whom the U. S. were at war for aught Mr. R. knew—for no person could say what their actual relation with that power was: a negociation had been so long pending that its object was almost forgotten. The charge against him is of being a Spanish pensioner. The world knows (though it is a subject worthy of further enquiry) that that power did propose to the people of the western country a dismemberment from the union; that she did offer to furnish 100,000 dollars for arms, and another 100,000 for corrupting the public papers and distributing among the people; and that all who lost commissions from their attachment to her should be indemnified for the loss. It was known that there was a Spanish consul in the little town of Frankfort—Argote. It was also known that sums of money were coming up the river under the care of a person who had been murdered and the money made away with. This money must have been for somebody; whether for Wilkinson or not was uncertain.

When they considered the present critical state of the union, and that this man was commander in chief of the army; when it was known that money had been corruptly received in the western country, and that Wilkinson himself had received money, for what purpose it was not known, but was worthy of being enquired into; when all this was known, suppose the President were to *refuse* an enquiry, should this matter therefore not be enquired into? Would they after what had been said in the public prints and in the House trust him with the command of our army *against Spain?* There was to be an enquiry, it was said; but they were not told of what nature it was. If you pass this resolution, said Mr. R. the information before the House will be laid before that tribunal; they will have a *colour* of evidence, and the result may be easily foretold. I will not express an opinion on the conduct of Gen. W. but I have long been under an impression of his guilt. I do not know the man; I never even saw him; but I live in a part of the country where much doubt prevails of his integrity. I have been present at an enquiry before a branch of the legislature of Kentucky, in which much information came forth. There is no doubt if this enquiry is entered into, it will be found that there are other men enjoying the public confidence, and triumphing in their security, who would be exposed to their country. I am therefore opposed to the passage of this resolution, because it would be adding another shade of doubt to the present obscurity. Something like evidence which might be produced of no effect, would pass upon many for a solemn investigation. Either make the enquiry or leave it with the Executive. I have no idea of stepping between in this manner, relieving the Executive, taking no responsibility upon ourselves, and leaving the friends of this man to turn it to the best use to themselves.

The observations of the gentleman from Pennsylvania were inapplicable. The rights of the man would be respected; and the gentleman's quotation of the right of the habeas corpus would have no other effect than to remind the House that this sacred provision of the constitution had been infringed, and no enquiry made into it. Every one regretted its prostration, and Mr. R. said he regretted that no enquiry had been made into the cause of it. He had no personal motive for wishing the conduct of Wilkinson to be investigated; he did not know him; and he hoped he might come out well; but his love to his country urged him to declare that he wanted an enquiry; the interest of the country required it. It was time that those only should enjoy confidence who really deserved it. The public papers had long resounded these charges from one end of the continent to the other, and no enquiry had been made. A court of enquiry indeed was said to be called; but we all know, said he, what will be the result of an enquiry except we conduct it so as to reach the great point.

He should therefore vote against the resolution, not that he doubted the power of the House, but because it was not such an exercise of that power as they ought to make, and would only operate as a further illusion cast over circumstances into which they ought thoroughly to enquire.

MR. ALSTON said he had at first felt some doubts on this subject; but now, the resolution had been so modified as to relieve the gentleman from New Orleans from any delicacy which he might feel upon the matter; for although he was to be requested, it was discretionary with him whether he would communicate or not: and therefore, although he was a solitary individual, 1600 miles from home, if he placed himself in a critical situation,