Continued from first page.

other department of the government; and when gentlemen talked about the House of Representatives being the guardians of the public weal, he could not understand distinctly what was meant. If the authority for doing this act were not shewn in the constitution, and it could not be, he did not know whence they derived their authority. Whatever authority was not expressly granted by the constitution remained with the people; and no more authority was granted by implication to the legislature than to the Executive or judiciary. He believed it was not contended that the power to pass this resolution was given expressly by the constitution. Was it then given by implication? The power of removal for misconduct or without alleged guilt was given to the Executive alone. Had the House the power to try an officer for treason or other crimes? An authority to do this was expressly given to the judiciary department. What was the object of the resolution? It must go either to removal from office or trial for treason or misdemeanor. The power to accomplish both these objects is expressly vested in two other departments of the government, & certainly not in the House of representatives. It would not be contended he presumed that the House by implication possessed the power to do that which was expressly reposed in another department of the government.

While up he would state what he did believe—that if it were stated to the House that gen. W. had received a pension from Spain, and that the President under a knowledge of this fact had refused to remove gen. W. from office, for the purpose of examing whether it would be proper to impeach the Executive, a committee might be appointed to call for persons and papers, because there the end proposed was within the power of the House; and they were clothed with authority to do all that was necessary to accomplish the duties imposed upon or delegated to them by the constitution. So if a gentleman proposed the impeachment of a judge, and moved the appointment of a committee to send for persons and papers, it could be done, because it also was within their constitutional power.—So also, the House had power to disband the army. If the question proposed by the resolution was the collection of proof of corruption in the army, with a view to disbanding it, it would be in the power of the House by implication to erect a committee of enquiry. The object of this resolution, however, must be to collect facts, by which to enquire into the individual guilt or innocence of gen. W. and with this the House of Representatives had nothing to do. Suppose they collected evidence, what was to be done with it? They might send it to the proper department—but could it be received as evidence before judicial court? Upon the same principle as this now contended for, the House might on being informed of a murder committed in the neighborhood, appoint a committee with compulsory power to enquire into the transaction. Suppose a committee appointed agreeably to the resolution; and a witness summoned by that committee were to refuse to attend and testify, were to treat their process with contempt, and the committee were to commit this person. If application were made for a writ of habeas corpus, would not a court dismiss him by such writ, because the legislature had assumed the power to act on a subject not within their province?

He had always considered that the very existence of our government depended on keeping the several departments separate, and taking care that one should not encroach upon another. Gentlemen had said that this was an extreme case, and that as guardians of the public weal they ought to pursue this course. Mr. U. thought this principle was a dangerous one. It was as important that this House should not encroach on the judiciary as that the judiciary should not encroach upon other departments. One thing he observed that when gentlemen of the first abilities in the House had been called upon to shew authority for this resolution, they had failed to shew any. He had stated thus much, because the yeas and nays had been called, and because he could not reconcile the giving his affirmative to this resolution with his oath to support the constitution.

Mr. Rowan said, to avoid a delay of time, he would accept the amendment as part of his resolution, though he should move for a division of the question, that they might be decided on separately. Gentlemen who opposed his resolution, had gone upon the principle that by passing it, this House would transcend its power, and upon that had predicated all their objections. It was upon this ground that he advocated this resolution. He contended that this House had the power: the very first clause of the powers delegated, seemed to vest this in Congress. It must be allowed that to have a commander in chief friendly to our enemies, was against the common weal: "Congress shall have power (says the constitution) to lay and collect taxes, &c. and provide for the *common welfare* and *defence* of the U. S. &c." Would it not be providing for the general welfare to remove an officer thus situated? Suppose a commander in chief, said Mr. R. leagued secretly with our enemies, could we under these circumstances think of carrying on war? We certainly should not. What could we do in such a case? Disband the army we could not, when menaced by our adversary; for that would be throwing ourselves directly into the enemy's hands. Would you withdraw the supplies? The same consequence would result. What then could be done? Request the President to remove him? It will then be said, as it is now, that the House is encroaching on Executive prerogative. The House certainly possessed power to request the removal of the commander in chief under the general provision of the constitution; and consequently possessed the power to collect evidence for ascertaining the guilt or innocence of that officer.

Gentlemen wondered what could be the object of an enquiry? Mr. R. said he would tell them. He was unwilling to make a request without strong grounds on which to make it. The power to make the request seemed to be conceded: the power of collecting evidence on which to found it followed of course. He would then receive such information as would justify the House in impeaching—not Wilkinson, but the President, if he should refuse to remove that officer.

He contended for the power of the House because he could not see how the common defence could be maintained and the general welfare promoted without it. In vain had the convention given to Congress the power of raising and supporting armies and providing for the common weal, except it had also given the power to enquire into the conduct of the commander in chief—not, as had been said by the gentleman just sat down, to enquire into the conduct of a subaltern officer, because his misconduct would not so imminently endanger the public weal. It was under this provision of the constitution that the commander in chief became subject to enquiry as to his conduct and disposition. The President was commander in chief in time of war—Would it be said that any conduct of his in that character which would justly expose him to the animadversion of the nation, could not be enquired into—And although his misconduct in character of *military chief*, could not be the subject of impeachment, yet this House, the two characters of President and commander in chief being combined, would, and ought in promotion of the common weal to impeach and remove the President, to get clear of the commander—a destitution of this power might be fatal to the nation. Its exercise was not only deducible from the genius and texture of our government; but resulted from necessity.

My mind, said Mr. R. revolts at the idea of our not having power to enquire into the conduct of the commander in chief who conducts our armies. It seems to me that on the principle of self preservation we possess this power; the government is in fact annihilated if we do not possess it. Suppose it was declared to you that a person, the commander in chief or col. Burr for instance, was to turn Congress out of doors; suppose that the President had a secret understanding and was leagued with him, and that for the better covering their designs col. B. had threatened to tie him neck and heels and throw him into the Potomac; suppose at this time it should be necessary to raise an army of 50,000 men, and we made a request to the President in consequence of this information to remove this commander; he may not chuse to obey the request—may refuse to remove him. What power have we to compel him? Should we prosecute him for the refusal? No. You ought to lay before him such evidence as would *compel* him to *remove* this officer; and *if* he then refuses, you ought to remove him. The very opposition to this power on constitutional grounds furnishes arguments in its favor. It was lodged in this House by reasoning, by implication, and by expression.

Mr. R. did not wish to try Gen. Wilkinson; he had no desire to try him—far other were his purposes; he viewed the critical situation of the country at present—a man at the head of our army, against whom to say the least of it there was a very strong suspicion. What was to be done? Look at the proceedings of the session before this, when the President had pronounced Gen. Wilkinson a patriot, and a man of honor. Look at the papers now on your table; by these he is pronounced an enemy, as being concerned in a project for dismembering the government, and as a foreign pensioner. It was not to be expected that the President would remove Gen. W. except good grounds were shewn for that removal. How could they come at them? It was contended by the opponents of this measure that they could not come at them. It followed, that if they had no power to collect them, and the President retained his good opinion of this officer, that the armies of the U. States must continue to be commanded by Gen. Wilkinson. The President no doubt, would remove him whenever they laid before him testimony, to authorize this removal. It was to obtain this testimony, and not to punish General Wilkinson that Mr. R. wished this enquiry. When this was had, if military or civil courts chose to prosecute this person, it was very well; but his views went beyond this—he would not otherwise trouble the House with so unimportant a subject. He wished the nation either to be satisfied of the innocence of this man, or the nation and the President to be convinced of his guilt, and that the nation might have a commander in whom they could confide. How then would an enquiry infringe on any constitutional provision? It was not a trial that was now asked. It had been said by some gentlemen that this was a trial, that this person would be tried again by a court, and the House had been told that the constitution declared no person should be twice jeopardized for the same offence. If this were actually a trial that was proposed the argument would hold. But unfortunately the argument admitted that a prosecution might be instituted for a crime of this kind against a civil officer, who after impeachment and removal, falls into the hands of a court of justice, and any man would be laughed at who would say in a court of justice that a prosecution should not be instituted because Congress had enquired into the subject. These arguments only went to prove that what a man wishes he can easily find a reason for: those who were opposed to an enquiry into the conduct of this man, could find reasons against it.

As to the charge against those who advocated the resolution, that they slandered or calumniated, it was unjust and unfair. Mr. R. said he knew not Gen. Wilkinson; he should rejoice that he should come out clear of even suspicion; but he had no idea that delicacy should stand as a barrier betwixt the nation and its true interests, or that delicacy should screen this man from a timely enquiry in a time of danger. If they were to consult delicacy, or if the object of this committee was to shut out light as had been said, then indeed a majority of the House would reject the proposition, he could not, however, but admire the sapience of the position that the appointment of a committee to enquire was the exclusion of an enquiry. A tribunal of three officers was said to be competent, and delicacy was called upon to prevent the expression of a doubt of their power or competence; while the same gentleman told them that an enquiry by a committee of the House appointed by the Speaker was to be in the dark! He was not surprized that gentlemen who were so greatly in the habit of confidence, should wish that a military enquiry should have preference to an enquiry of this kind; the delicacy of courts, thank God, had not so much influence over him as to induce him to resign the rusticity of the republican to motives of delicacy towards a military tribunal. If gentlemen could reconcile with that doctrine their cry against incroachment, let them do it—he should be pleased to hear them.

But, he contended, that the Executive department was not possessed of all power, and that this power rested with this House. If it were not in this House, where did it rest? Point out the clause of the constitution which gave the President this power. If not there to be found, whence did he derive it? From this House. From a constitutional delegation of it to the Executive? Had the House so far divested itself of power as to leave itself incompetent to this enquiry? Their portion of power was indeed scant, if they had not left themselves a remnant for national purposes, and that remnant he hoped they would not from false delicacy transfer to the Executive or to a military tribunal, if indeed an enquiry was intended to be made.

As he had been asked for authority, he would in turn ask gentlemen to shew or point out the power vested in this triune court; the law of Congress or the clause of the constitution which gave to this tribunal exclusively the power, and took it from Congress. It was not arguing fairly, when they called upon him to shew an express power vested by the constitution in this House, without shewing on their part the authority of the Executive to exercise it exclusively. They were told that General Wilkinson was a military man, and ought to be tried according to the etiquette of military courts, and not upon the plain ground that members of Congress could pursue. If this was the authority which gentlemen would produce, and they were willing thus to surrender their own rights, let them do so; but he was not prepared to go with them.

Mr. R. thought it essential to the common weal that they should request the President to remove General Wilkinson; and if after this request he should still continue in command, that they should try; not Gen. W. but the President of the U. States. He did not nor would he say that it would be necessary to do it in this case: No President could withstand the voice of the nation so supported. He did not mean to say by this that the President would require any great exertion of their authority to induce him to do his duty, though he was not so fond of expressing confidence in the Executive as some gentlemen were. He had confidence in the Executive, but his confidence was seasoned with vigilance—a vigilance predicated upon the frailty, the fallibility and the corruption of human nature. It was in perfect consonance with his confidence not to rely implicitly upon a single individual; and therefore, when the common weal required an enquiry, he should not be deterred from it by the professions of confidence in the Executive, or by that delicacy and abhorrence of slander displayed by a gentleman who talked of clamor, against those who were honestly endeavoring to discharge their duty to the best of their ability. He as one did not mean in this or any other case, to effect any purpose by "clamor," he hoped always to be able to shew cause for any proposition which he should make, with a due regard to the feelings of those who might entertain a different opinion.

If Congress could not make this enquiry, and no power could be shewn in the Executive to make it exclusively, what resulted? That no enquiry could be had? Suppose the Executive did not chuse to make an enquiry (though in this case it seemed he had ordered one, after this House had taken it up) what was to be done? Was there to be no enquiry? After testimony had been produced, and that supported by circumstances almost as strong as proofs from holy writ, that the commander in chief was a pensioner of Spain and had plotted the dismemberment of the union, nothing could be done. This would be a dissolution of national power. All the arguments opposed to this power in the House, went to the very vitals of the union; they went to vest an individual with a power extremely dangerous and against which the people were more jealous than upon any other subject. And he confessed he was surprised that gentlemen who wished to be thought exclusively the advocates of the people's rights, should argue that the Executive in preference to Congress should possess a power so important to the public weal, and this doctrine supported by no better arguments than charges of slander, want of confidence and indelicacy against their opponents in opinion.

But it was urged by one gentleman that if it were stated in this resolution that the object was to impeach the Executive, he would vote for it, because it would then be within the power of the House. By fair implication this object was expressed as strongly as if specifically stated. If the resolution would have the support of the gentleman on that ground, why not give it his support when it was intended to effect that object which must be resorted to if the Executive refused to remove this officer? For if a refusal was made, it followed that all this was preparatory to an impeachment. Instead of making a request to enquire the House had wisely prepared to collect information, in order to call the Executive to account on a refusal to remove this officer, if the information when collected made his removal necessary. As he conceived that gentlemen would impeach the President if it should become necessary, they should vote for this resolution, as it was the first step to impeach him if the national weal were not consulted short of such a resort.

Mr. R. beseeched gentlemen of the House to consider the danger which might result from a decision contrary to that which he supported. He might be mistaken in his ideas; and if he was so he hoped he should be voted down. For himself, he voted with no man or set of men; he felt gratified when his opinion met the sanction of the majority; but should never abandon a subject because there was a prospect of his being in the minority.

It had been opposed as a great argument to this measure that they were assailing a character without giving him an opportunity to defend himself. Into the conduct of what officer had they ever enquired without doing it in this manner? If they involved the character of a man it was done with a view to the public good and must be submitted to—they could not enquire into the conduct of a man without implicating his character. Would any gentleman say that the door should be barred to enquiry for the public good, because it might implicate or even sacrifice an individual character? It was better to sacrifice an individual than that the nation should fall. If gen. Wilkinson was innocent, and he sincerely hoped he might be so found, though acquainted as he was with the character of the deponent, he could not but have his fears—if gen. Wilkinson should be innocent, his character would shine with additional lustre; no sacrifice of character would have taken place, and the nation would go on to perform its usual functions. If on the contrary, the statement of the gentleman from Orleans should be correct, what would be their situation? They would go on in this way, out of delicacy, with a traitor at the head of our army. He was shocked at the arguments which had been used which led to this conclusion. As to a person being put twice in jeopardy, contrary to the constitution, it was in vain to tell the nation that a court of justice could make this enquiry. A trial might be carried on in court; a jury might be packed or wrought upon by means of the press. Every one had seen books written and the presses teeming in vindication of this man, and the public papers made the vehicle of his defence. When energies of this kind were employed, who could say what might be the result? If a jury should find him guilty, fine and imprisonment. And even in this case it remained a question whether the Executive would chuse to remove him or not: the crime might not carry with it such a conviction as to compel him to remove him, and what would be the consequence? The nation would remain in this situation, said Mr. R. because we have not the power to collect evidence on which to make a request, which the President could not disobey, to remove that officer.

The arguments which had been used, much as Mr. R. might be charged with having particular views, tended to shew that there were other gentlemen in the House yet more acquainted with the business than he was. The gentleman from N. Carolina had alluded to papers which gen. Wilkinson had, and which he could not shew. Mr. R. did not know what papers the gentleman alluded to; but he did not distrust the nation or the House; if the House instituted an enquiry, this officer would have justice. The gentleman seemed to know that he had papers which would avail him much; they would not be lost; the nation would read them, and the committee of the House would read them, so as to do him complete justice. He could only say before he quitted that gentleman, that he was infinitely beyond him, when he gave the House to understand that he was prepared to prefer military to civil institutions—when he thought it safer that this power should rest with three military officers than with the grand inquest of the nation, for he must yet use this word, which had been so much carped at. Mr. R. said there was more safety, as much justice, & more propriety in an enquiry by this inquest, than by three subaltern officers of the commander in chief.

(Speech continued on second page.)

ROSS AND GETTY,

HAVE for sale at their store George Town, the following articles just received from Philadelphia, by the schooner Carolina, capt. Hand, jun. viz.

30 kegs butter,
20 barrels, New Town, Pippin Apples,
10 do. buck wheat flour,
10 do. Cranberries, and
10 do. shell bark hickory nuts.
Also a small assignment of very elegant Looking Glasses, Waiters, Tray, polished steel Shovel and Tongs, with cut and brass heads, &c. &c.

January 9—tf

LINDSAY'S HOTEL.

The Subscriber has taken that well calculated house on the Capitol Hill, Late occupied by *Mr. Frost* formerly by *Mr. Stelle*—Where he intends to open a Tavern on the 24th October. Those gentlemen who may favor him with their Custom may rely on every attention in the Power of the Public's devoted Servant.

GEO. W. LINDSAY.

N. B.—EIGHT or TEN *BOARDERS* may be conveniently accommodated.

October 19—tf