prudence would do in a work of this kind. We are told (said Mr. F.) that we are in no danger, that we are secure. The way to be secure is to be prepared for danger. The permanent, solid, substantial defence of the seacoast must be fortifications; and we are told that we are not to carry them on—why? Because the Treasury will not permit it. That is not a good reason against it; the spirit of the nation calls for it, and its resources are sufficient. We know that estimates have generally fallen short of the actual expence, and that it has been necessary to appropriate money to supply the deficiency in many cases. I rather suppose that the present estimate does not exceed the amount to be applied, but probably falls short of it. What is the use of calling for information if you will not take it as a guide, especially when gentlemen are not able to shew that it is incorrect? My object is not only to make New York but the whole country more secure. I never knew that any one contemplated making a cordon round us, like the wall betwixt the Tartars and Chinese, or that the nation was competent to do it.—But it is the opinion of practical men that New York may be completely fortified. It is asked why New York has not contributed to her own defence. I can not put my hands on documents on the subject, but at different times money has been appropriated by the state of New York, to a large amount. It is said that the Treasury cannot meet this expenditure unless we resort to loans, and that they are anti-republican. I do not know that they are when necessary for purposes of public utility, and I should not be incorrect to hazard the assertion that in 24 hours we might borrow 50 millions on account of the United States at 5 per cent. I merely rose to call the attention of the House to the amount of appropriation. The daily appropriation for the works at New York is 1000 dollars; and there is no doubt but the share of appropriation for that city will be expended before the next meeting of Congress.

Mr. Emott observed that the sum of 450 000 dollars was appropriated only last February, of which 265 000 dollars had already been expended. If this sum had been expended in so short a time, he might say that he conceived that at least the sum in the bill would be necessary before the next meeting of Congress. A word as to the necessity of the expenditure.—Was it necessary to go on to complete the fortifications? Gentlemen had said that the nation is now in a state of peace. Was it recollected that but a day or two ago a bill had been reported by the committee of foreign relations, the purport of which was to place us in a posture of resistance towards France? If this bill were passed, was it not possible that the French Emperor might think that we had done him an injury? If it was ever in his power to do any thing to injure us, would it not be by sending out a fleet of ships of war, if they could outstrip the English fleets? And were not our seaports to be put in a state of defence against such armaments? There was an absolute necessity for this appropriation. If ever there existed a necessity that the ports & harbors should be fortified, the work having been commenced, it existed peculiarly at this moment. Why would gentlemen, after appropriating so much money, now say that fortifications were not necessary? Why would they not complete those which had been commenced? After having given a pledge to fortify the seaports by commencing the works, he hoped the House would not withdraw it by refusing to complete them.

The motion for striking out seven hundred and fifty thousand dollars was then negatived by Yeas and Nays, as heretofore given.

TUESDAY, JUNE 20.

BRIGADIER GENERAL'S PAY.

Mr. J. G. Jackson observed that by the act passed in 1802, fixing the military peace establishment, among other things the pay of the Brigadier-General was fixed at 225 dollars, which was to be his full and entire compensation; and also allowed "to the commanding officer of each separate post, such additional number of rations as the President of the U. S. shall from time to time direct, having respect to the special circumstances of each post." Under this section of the act an opinion had been given by the Attorney General, in pursuance of an application to him, that the Brigadier-General besides his fixed allowance, was entitled to extra allowances. A committee had been appointed at the last session, who had reported facts on this subject, on which report no order had been taken, except that at a late hour on the last night of the session a motion was made by a gentleman from Virginia (Mr. Randolph) declaratory of the fact that that allowance was illegal and improper. The ground taken in opposition to it was, that this House could not speak except through legislative acts, and that it was only in the form of a law that an exposition could be made. It had been declared by gentlemen on almost every side of the House, that they inclined to the [illegible] the Attorney-General's opinion was not in conformity to law. But since that decision had been made by the Attorney-General, until it should be reversed by law, Mr. Jackson said it would continue to be a rule of conduct. He had felt a disposition, ever since the meeting of Congress, to have their attention drawn to this subject; and he had waited in expectation that the gentleman from Virginia (Mr. Randolph) would have brought forward some such proposition; but he had waited in vain. It was consistent with his sense of propriety that something should be done to correct the proceeding in future. By the act of 1808, two additional Brigadier-Generals had been authorised, whose allowance was but 104 dollars per month, besides their rations, for which admitting the highest value, the whole compensation could not amount to as much as 225 dollars per month, the pay of the first Brigadier-General. He wished that the allowance of the one should be expressly limited to its standard by law, and that of the other two brought up to it. He therefore moved the following resolution:

Resolved, That the committee of Ways and Means be instructed to bring in a bill declaring that the compensation to the Brigadiers-General of the army of the U. States, fixed by the act of Congress, entitled "An act fixing the military peace establishment of the U States," shall be no more than 225 dollars per month, including all rations and every other species of emoluments heretofore claimed or allowed, except the usual allowance of stationery.

Mr. Randolph said he was very glad to hear it acknowleged that the opinion of the attorney-general upon the act of 1802 was an incorrect and and illegal opinion; but he was afraid that this was not the mode to correct an illegal and incorrect act, whether of the attorney-general or of any other officer of the government of the U. States. The committee of Ways and Means to be instructed to bring in a bill declaring how a law should be construed? That to him was a novelty. The committee of Ways and Means might bring in a bill declaratory and amendatory of the law; but the introduction of a bill declaring how a law shall be construed he took to be a novelty, and moreover incommensurate with the extent of the evil. If, in the present case, a manifest departure from the law had taken place with impunity, he wished to know how this proposed law for construing law was to be enforced? Recollect (said Mr. R.) that it has been agreed on all hands (we are told so at least) that the conduct of the officers in question has been incorrect and illegal. Now if it has been incorrect or illegal, that the proper remedy is not a declaratory act, is a self-evident propositions; because there will be no more sanction for securing the observance of the new law than of the old. With respect to the case occurring at the last session, and the motion made by me in relation to it, I think the House will do me the justice to say that I certainly have pointed their attention to it even during the present session; and it will be recollected that the whole of that business is now, by a resolution of this House, in possession of a committee appointed to investigate the application of public monies to the purposes for which such monies have been appropriated; and unquestionably it will be the duty of the committee to take cognizance of it. That point was agitated this morning in committee, and it was determined to take notice of that irregular and illegal expenditure of public money as of any other and report thereupon. The law itself, Mr. Randolph said was perfectly clear, and could not require any amendment, much less an act declaring how it should be construed. To prove this, he quoted the law. If a subsequent act had established other brigadier-generalships (if he might use the expression) and had given them less monthly pay, by more than an hundred dollars, than to the brigadiers under the former act, allowing them, however, rations and forage, it placed them also without the limitation of the law in relation to extra allowance of rations and forage. They were placed by the very nature of their compensation on the same footing, rank excepted, as the colonels, majors, &c. under the old law, which as the House would observe, declared that the brigadier-general should receive a certain gross sum of money in lieu of any other, emolument whatever, stationary requisite for the use of his department excepted. To all officers other than the brigadier appointed under the act of 1802, that regulation of this section applied, which enabled the President of the United States to give to the commanding officer of each separate post "such additional number of rations as he shall from time to time direct, having respect to the special circumstances of each post." The brigadier-gens. lately appointed having a monthly pay inferior to the brigadier appointed under the former act, & having, as he had not, allowance for forage and rations, this section of the law, which had been improperly extended to the first brigadier, Mr. R. said did fairly attach to the brigadiers subsequently appointed, because they, instead of having a gross sum per month in full, had 104 dollars in part, and rations and forage also which the act in 1802 positively denied to the brigadier first appointed. So that if the committee of Ways and Means or any committee were to bring in a bill declaring how that act should be construed, they would bring in a bill declaring that, because the act of 1802 had been illegally and incorrectly expounded as to the original brigadier, it should not be legally expounded in relation to the new brigadiers, but that they should be excluded from the positive benefit of a law made for their express case. Mr. R. said he should therefore vote against this resolution; and he thought he might without arrogance say that he had demonstrated to the House the inapplicability of the resolution to the case in question, and its inefficiency as to any abuse which now existed or might hereafter occur in this Department.

Mr. J. G. Jackson observed that he had not considered it necessary to be as explicit in a resolution as in a bill. He had not said, as ascribed to him, that the *conduct* of the officer making the allowance was illegal. It was perfectly legal; for, if gentlemen would turn to the act establishing the office of attorney-general, they would find that he was bound to take an oath of office, and, upon the application of any officer of government, to give his opinion as a rule for their guide. That opinion had been given in the present instance, and in pursuance of it the allowance had been made. Have I (said Mr. J.) said that the *conduct* of the attorney-general was illegal and incorrect? I said that the *opinion* was deemed to be illegal and incorrect. But we are asked by the gentleman why legislate on the subject? You cannot have forgotten, sir, that the member from Virginia, when he offered the resolution at the last session, spoke of the high regard he had for the officer who had given the incorrect construction of the law. He then said that the having given an erroneous opinion was no disparagement to his talents, for that Homer himself sometimes nodded; that it was merely an error of the judgment in which the heart was not inculpated. But when laws have been construed differently from the intention of those who passed them, it is not at all unusual to pass laws giving an explanation of such laws. What would be the effect, the gentleman asks, if this officer were again to violate his duty? There has been no violation of duty; it was a mere error of opinion. But if there was a law expressly declaring that the emoluments of the brigadier-general should not exceed 225 dollars, the officer could not plead a misconstruction of the law. I ask the gentleman whether he can possibly wish that this erroneous opinion shall be practised on in future, for the purpose of exclaiming against the officer who is bound to act on the opinion given, so long as it is unreversed? When the legislature is informed that the officers of government expound a law differently from its intention, they usually pass a law explanatory of it—and this is a correct mode of proceeding. In every point of view I can see no good ground for opposing the resolution, and I had hoped that it would pass unanimously. With the exception of the gentleman who declared that he would oppose it, I hope so still.

Mr. Livermore observed that if the case in question had been a doubtful point or one which admitted of a doubt, it might be proper to legislate on it; but he could not conceive that a doubt existed. He did not believe it possible that a law could be made stronger in the English language—and where was the security if a law was passed confirming it, that that law too would not be violated? He did not mean to insinuate that he considered the officers of the Treasury to be corrupt; but he conceived that they had not proceeded with that correctness which ought to characterize officers in that situation. There could have been no necessity for a legal opinion in a case in which there could have been no doubt. The opinion itself was a strange one, whether considered as coming from a professional character or from a man of common intelligence. On reading the law, he was astonished that the Brigadier General could have been supposed to be entitled to a farthing more than 225 dollars per month in full. He quoted the law, observing that there was an exception of no other allowance than stationery. According to an old rule of law that an exception renders a clause stronger, this exception would clinch the meaning. Mr. L. said it would be impossible to introduce a law more explicit than this. If the attorney general was to say black was white, were the other officers of government implicitly to believe it? If he were to say that "225 dollars" meant 225 pounds, would they believe it? Surely not. It was equally impossible that the brigadier-general should have been entitled to rations, forage or other emolument when the law said expressly that he should not have them. There ought to be some mode of deciding the case without passing a law to prevent the officers from doing wrong in future. If, notwithstanding the precedent given, they should continue to make allowance to the officer in question of rations, forage, &c. in his opinion they would be liable to punishment. There was no necessity for legislation on the subject.

Mr. Eppes said that the fact was that the Secretary of War, the Attorney-General, and the Comptroller of the Treasury had all given a construction to the law different from that for which the gentleman from Mass. contended; and although he was far from wishing to disparage either the legal or any other talent of the gentleman from Massachusetts, he should be very much inclined to conceive that either the Secretary of War or the Attorney-General was as capable of giving as legal an opinion as that gentleman. A law had been passed declaring that the compensation of the Brigadier-General should consist of a certain sum. He had no doubt that it was the intention of the legislature that it should consist of that sum. Such Mr. E. said as an individual he had always believed to be the construction. In the same law was a passage declaring the commanders of separate posts should receive such additional rations as the President shall think proper to grant, having respect to the special circumstances of each post. Under that clause the law had, as he concei d, b en incorrectly construed. As a difference of opinion existed as to the construction of the law, the question was, what course should be pursued? If gentlemen believed that either the Secretary of War, the Comptroller of the Treasury or the Attorney-General had corruptly acted in the construction they had given, for any such conduct they were liable to a punishment agreeably to law. But as he imagined that there was no gentleman in the House who believed that in giving this opinion they had been actuated by corrupt motives, he could see no mode more regular than to declare by law that the compensation should consist of that sum and that only. It appeared to him that there could be no objection, in a case of this kind, to give a construction of the law; because it would not at all interfere with the course which gentlemen might hereafter wish to pursue, either with the officer concerned, or in placing it before the public in any manner.

Mr. Nelson said if he understood rightly the object of the resolution, that it contemplated the introduction of a bill explanatory of a law of the land, he was opposed to it; because he believed that if any gentleman chose to take the trouble to read the present law, he would be with him of opinion that no power of language could make any new law more plain than the old one. The reason why a fixed allowance had been made to the commander in chief was, that he would be always exposed to certain expences to which other officers were not liable, and it was therefore proper that he should have a fixed and adequate compensation. Mr. N. said he had no doubt that the opinions of all the three officers concurring in construction were incorrect; and he presumed that they had fallen into the error in this way; that the law in another part of it said that every officer commanding at a separate post should be entitled to an additional number of rations—Why? For the same reason that the expences of the commander in chief must be greater than other officers; because they have to entertain the officers and visitors at each post. Was it ever heard of before, that a commander in chief should be sent to command a separate post? How separate? From whom separate? From the main army? No; because he must be with the main body. If there was an army of an hundred thousand men, and it should be so dispersed that there should only remain with the commander in chief 500 men, that body was the main army, and could not be a separate command. How our officers have fallen into this error I cannot tell. That the attorney-general, who knows not much of military subjects, that the worthy comptroller, who I am proud to say would do honor to any country as a man of integrity, should have erred on this point, is not so surprising; but that my old friend the Secretary of war could have fallen into such an error as to suppose that the commander in chief could be placed at a separate post, is a little extraordinary. How would it be separate? Wherever he is, is the main army; from thence orders originate. Why we should pass this explanatory law is to me very strange; for if the former law is not distinct enough, we may go on and pass laws ad infinitum without making them intelligible.

Mr. Tallmadge said that no man would more readily than himself adopt a resolution of this sort, if he could deem it at all necessary to obtain the object which the gentleman from Virginia very candidly had explained to the House that he had in view. When he had seen the construction which had been given to the law sanctioned by one of the highest law characters of the U. S. he had been almost led to doubt the evidence of his own senses. You, sir, (said Mr. T.) well remember the circumstances under which that law was passed. For myself, though I should most heartily wish to guard and put checks in such a way that the officers of government could not misconstrue the law, yet I say that I can hardly conceive words in the English language which could be more full and complete than those of the law fixing the military peace establishment. It does not appear to me that the opinions of all the officers of the departments were the same as that of the attorney-general; for, as far as I remember, there was a strong ground of objection to this extraordinary claim, amounting almost to rejection, and that the opinion was called for, more to help out the claim, than as the ground work of proceeding. I utterly reject the idea that the attorney-general is the sole person competent to construe a law. Here is a law, one of the most plain and conclusive, declaring that the brigadier general shall not receive one farthing more than a fixed compensation; and yet the officers of the treasury have allowed the most extraordinary claim on the authority of the opinion of the attorney-general. Could we enact a law in more explicit language? We could not. The resolution, however good its object, and I would accord most sincerely in carrying that object into effect, would certainly be useless. To pass an explanatory law would be trifling with the legislature and with the government. I am averse to sanctioning the construction given, which would be the effect of passing an explanatory bill. In my present opinion of the resolution, therefore, I am averse to its passage.

Mr. Holland said he certainly could not conceive that the passage of the resolution or declaring the meaning of the law would sanction the decision of the War Department in relation to it—

Mr. J.G. Jackson asked his friend's leave to interrupt him, and *withdrew the resolution*, which he said he had proposed under a belief that there would be no objection to it.

SENATE, JUNE 23.

Mr. *Pope*, agreeably to leave, introduced a bill freeing from postage all letters and packets from Thomas Jefferson, which was read twice.

Mr. *Leib* from the committee appointed on the 20th inst. to enquire into the expedience of providing by law for the exclusion of foreign armed vessels from the ports and harbors of the United States, made the following report, which was ordered to lie for consideration.

"That in the opinion of the committee, such an interdiction is within the just and neutral rights of the U. States, and, under other circumstances, would be highly expedient and proper. So long as a neutral nation shall confine itself to strict measures of impartiality, allowing no benefit to one belligerent, not stipulated by treaty, which it shall refuse to another, no cause whatever is afforded for exception or complaint.—The right to admit an armed force into a neutral territory, belongs exclusively to the neutral; and when not guaranteed by treaty, as is oftimes the case, such admission compromits the neutrality of the nation, which permits to one belligerent alone such an indulgence.

As a measure of safety as well as of peace, it is incumbent upon the U. States to carry into effect such a provision. So long as we are without a competent force to protect our jurisdiction from violation, and our citizens from outrage, and our flag from insult, so long ought no asylum to be given, but in distress, to the armed vessels of any nation. The committee will not bring into view the many injuries and insults which the U. States have sustained from the hospitable grant of their ports and harbors to belligerents; nor the facility which has thereby been afforded to them to lay our commerce under contribution.—It is sufficient to remark, that great injuries have been sustained, and that imperious duty requires arrangements at our hands to guard our country in future from similar aggressions.

The U. S. are, at this moment under no obligation to withhold restraints, within their power, upon the admission of foreign armed vessels into their ports; but the committee are too strongly impressed with the propriety of avoiding any legislative interference at this time, which by any possibility, might be construed into a desire to throw difficulties in the way of promised and pending negociations. They are desirous that a fair experiment may be made to adjust our differences with the two belligerent nations, and that no provisions be interwoven in our laws, which shall furnish a pretext for delay, or a refusal to yield to our just and honorable demands.

Calculating that the overtures which have been made by Great Britain will be executed in good faith, the committee are willing to believe, that the stipulated arrangements will be of such a character, as to guard our flag from insult, our jurisdiction from aggression, our citizens from violation & our mercantile propriety from spoliation. Under these impressions, which the committee have stated as briefly as possible, they beg leave to submit to the consideration of the Senate, the following resolution, viz:

Resolved, That the farther consi-