

Congress

OF THE
United States of America.

HOUSE OF REPRESENTATIVES.

THURSDAY, November 27.

Debate on the bill for the more effectual preservation of peace in the ports and harbors of the United States, and in the waters under their jurisdiction.

(CONTINUED.)

Mr. Dana thought the embarrassment might be attributed to an attempt to combine in one section two different species of crimes, but it was exposed to objections which had not yet been made. The clause gives the marshal or sheriff the power to arrest the offender by force of arms, and then if the persons refusing kill your officer it is murder, and shall be punished accordingly. If, however, your officer and his armed force kill any of the offenders refusing, your process for it stands; if death ensues on either side, those who are concerned in support of the civil authority shall be justified—but those engaged in resisting shall be shot, or if not shot, and they are taken alive, then they shall be fined and imprisoned for manslaughter committed upon their party. He did not think the amendments proposed, take which you will of them, likely to remove the difficulty.

Mr. Nicholson said the case they were about to provide for was different from any other that could arise in civil society. It was devising a punishment for persons who were armed with a species of power to resist a legalized force under their command, and though they are bound to submit to our laws yet they have others under their command who are bound to submit to them—An offender seeks protection from the effects of our offended laws on board an armed ship; he is fought by our officer, and the commanding officer regards it as his proper duty orders his sailors to defend themselves by resisting the process; in the struggle death ensues; now let it be asked are those seamen guilty of murder or manslaughter?—The servant of a person invited with authority equal to that of a British officer and directed to do an illegal act, to kill a man for example, though it would be murder in the officer, yet it could be no more than manslaughter in the servant—The case is the same as it relates to the officer and crew; though the latter are not justified to do the act, yet they do not feel themselves justified to disobey their commander. When he was up before he had not clearly expressed himself for want of attending to the bearing of the whole bill. In England every man's house was his castle; no officer was authorized to break a house open except in cases of treason or felony, an officer attempting it might be killed, and it would amount only to manslaughter. The attempt here to break open a house on board an armed ship might be considered as attempting to break open a castle, and if death ensued it would be manslaughter. The bill however authorized the force, and calls might exist, in which the killing would be murder—other cases where the killing would be manslaughter only.

Mr. Nelson objected to Mr. Early's amendment; because it left the denomination of the crime to the judge or jury, how could they determine whether it was murder or manslaughter, but by the common-law, as the United States had never yet defined either—If the case was defined and left to go to a jury upon the matter of fact the objection would be in some degree obviated.

Mr. Nicholson was sorry to see such a discussion had taken place. He would, in order to remove the difficulty, strike out all that relates to the punishment, and leave them to be dealt with according to law, when delivered over to the civil authority.

Mr. R. Griswold had two objections. First, that mentioned by his colleague. Where you authorize your sheriff or marshal to take an armed force, and as you justify these in case death ensues, and punish the others as murderers—The sheriff has only to order his men to fire and shoot some;—then, for these deaths, you hang the rest—This is making short work, and giving no quarter. The other objection was on the ground of the constitution—He did not see that Congress had power to punish crimes committed against a state, or in its ports or harbors. The constitution expressly gave Congress power to define and punish crimes and piracies committed on the high seas; but not within a state's limits.

Mr. Smilie observed a great deal of embarrassment had taken place on wording the section; that however was not to be wondered at, as the bill had only just been distributed; but the last objection, that it was unconstitutional, deserved very serious reflection; he should therefore move the committee to rise, with a view of giving time for consideration.

Mr. Nicholson had no objection to the committee rising; but he would not have it understood that he had any constitu-

onal difficulties to struggle with. Congress had powers sufficient to enforce their revenue laws, and this very bill contemplates that, as one circumstance that may occur, and ought to be corrected.—But whence did the gentleman (Mr. R. Griswold) acquire this timidity, this care for state rights? It is believed they have not stood in his way on former occasions, any more than they did in the way of those

with whom he acted. In the case of the sedition bill, which trenching upon the state courts' jurisdiction, there was no squeamishness, the end justifying the means.

The committee rose, reported progress, and obtained leave to sit again.

Mr. J. Randolph called for the order of the day on the report of the committee of ways and means, respecting the remission of duties on books imported for the use of colleges and seminaries of learning—the resolution declaring it to be inexpedient to allow the same.

The house taking the subject into consideration,

Mr. J. Randolph observed that the constitution of the United States was a grant of limited powers for general objects, which Congress had no right to exceed, although they might think the powers too limited. This position he considered as of primary importance. Its leading feature was an abhorrence of exclusive privileges; it might be called the key to that instrument; every thing which rose up in the shape of privilege was repressed in a peculiar manner, whether it related to orders or class of men. Whenever they have touched the doctrine of privilege the framers of that instrument, and the people of the United States adopting it have been careful that nothing should be got by inference or construction—the privileges of this House even, have been precisely defined, and nothing is left for its extension, whatever may be the wishes or disposition of its members. The principle that this constitution is but a limited grant of power occurs, if not directly, yet frequently and effectually so that it cannot be mistaken. On the privilege asked for, to permit colleges and universities to import their books free of import, we refer to the 8th section of the 1st article, where it is declared that Congress shall have power to levy and collect taxes, duties, imposts and excises; but all duties, imposts and excises, shall be uniform throughout the United States. The impost shall be uniform. It is a lamentable fact, but nevertheless it is a fact, and cannot be too much dwelt and insisted upon, nor too well known, that the ambiguity of language gives our constitution that character which leaves it in the power of civilians to say, it means any thing or nothing. Whatever may have been said on other points; I think in this instance the language is so definite that it cannot possibly be mistaken. They shall be uniform, that is to say, there shall be but one quantum, one mode of collecting, and one manner; there shall not be two measures to mete with. If Congress undertake to exempt one class of people from the payment of the impost they may exempt others also. If they begin with colleges and universities for the advancement of learning, surely they may go on to exempt the clergy and congregation for the advancement of religion; they may exempt their own members; indeed it cannot be seen where they are to stop, having once overleaped the constitutional barrier and entered on the wide field of privilege. The duties must be uniform! nobody can be exempted; the president, if he chuses to import books, must pay the duty as well as any private citizen. In this country we have no privileged class, all must fare alike, every man must bend to the law, and the tax must be uniform whether on land or books.

Perhaps it may be said that the practice under the constitution has decided against any construction; for philosophical apparatus is exempted from duty when imported for the benefit of seminaries of learning. I agree that philosophical apparatus is exempted by law; but I believe that law to be an unconstitutional law, as well as some others passed by former congresses. But I do not wish to cast an odium upon its framers, more than they deserve; it might have passed through inadvertence or want of reflection, nay, it might have been the result of pure motives, the advancement of science and literature. Yet to show how intent the constitution is to guard against powers drawn by construction even on this very subject, which it must have been solicitous to have extended, it has limited the efforts of congress to promote literature and the useful arts by any other means than that of granting to authors and discoverers the exclusive use of their inventions, and publishing their works.—And congress have no power to promote the advancement of science or literature in any other than this particular way. If these observations are not received as reasons for the report of the committee, they will be considered as the justification of one of its members.

Mr. Findley observed, that in addition to the constitutional objections urged, he had others on the ground of expediency. The country colleges and seminaries, whose funds were small, had seldom or never an opportunity of importing books, they were happy to receive them in the country as donations, or by cheap editions; they would therefore receive no corresponding accommodation, and yet they were more useful and their use more universally felt, than those called higher

institutions, which claim to be exempted from paying impost. There are only a few of the well-endowed academies that can afford to procure foreign books, and when they have them, their circulation is extremely confined; to say nothing more, these reasons would engage me to support the resolution.

[To be continued.]

TUESDAY, NOVEMBER 27.

Mr. Richards from the joint committee of intolment made a report that the joint resolution of the two houses in relation to captain Decatur, his officers, and crew, was found upon examination to be correct.

Mr. Hoge a new member from Pennsylvania appeared in the House and having taken the oath to support the constitution, took his seat accordingly.

The engrossed bill declaring the assent of Congress to the act of North Carolina relating to lands in Tennessee, was read the third time, passed and signed by Mr. Speaker.

On motion of Mr. Nicholson the committee of the whole on the bill for preserving peace in the ports and harbors of the United States and the waters within the jurisdiction was discharged, and the bill was re-committed to the committee that reported the same.

The petition of John Devoe who served in the Militia of New Jersey during the war, and who was wounded near Fort Lee in 1776, praying to be put on the pension list was referred to the committee of Claims.

Mr. R. Griswold presented the petition of Daniel Eldridge, who was wounded in the attack at Groton, he is distressed & disabled also, referred to the same committee.

Mr. Crownshield from the committee of Commerce and Manufactures, reported in favor of allowing a drawback on goods exported from the United States to that port, when re-exported to a foreign country, with a bill intended for that purpose. Referred to the committee of the whole on Friday and in the mean time ordered to be printed.

The house proceeded to ballot for a Chaplain in the stead of the Rev. Mr. Bentley resigned. On counting the votes and a majority not being found in favor of any one candidate, the House went into a second ballot and the result was that the Rev. Mr. Parkinson was chosen having 64 votes.

Mr. J. Randolph reported from the committee of ways and means, a bill making an appropriation for the contingent fund of the house, for the current year, and a partial appropriation for the year 1805 which was read twice, went through a committee of the whole, & was ordered to be engrossed for a third reading to-morrow.

Mr. J. Lewis, from the committee, on the Georgetown petition praying to be authorized to erect a dam or causeway from Mason's island to the west side of the Potomac, reported a bill in conformity thereto, which was read a first and second time, and ordered to a committee of the whole to-morrow, & that it be printed.

Mr. J. Lewis also reported a bill to incorporate the Washington Building and Fire Company, which was twice read, and referred to a committee of the whole on Friday next, and ordered to be printed.

Adjourned.

WEDNESDAY, November 28.

The engrossed bill for making further appropriation for the contingent fund was signed by the Speaker.

The petition of Henry McFarland of the first regiment of U. States levies, who was wounded in Gen. S. Clair's affair with the Indians of the 4th November, 1799, praying to be provided for, was referred to the committee of Claims.

Mr. Nelson presented a petition from John Baynton, praying a compensation for sundries supplied to a command under Lieutenant Elliot, in Calvert county, Maryland, to the amount of 55 dollars and 57 cents in the year 1799, referred to the committee of Claims.

A reference was made of the petition of sundry gun-makers, presented at last session to the committee of Commerce and Manufactures.

A message from the President, informing that he had acted upon the joint resolution in favor of Captain Decatur, officers and crew.

The bill authorizing the inhabitants of Georgetown to erect a dam or causeway from Mason's island to the Virginia shore was considered in committee of the whole, and after a lengthy discussion the committee reported to the house that they had not had time to go through the same, but asked leave to sit again, which was indulged by the house.

Adjourned.

THURSDAY, November 29.

Mr. J. Clay presented a representation and memorial signed by 237 American citizens settled in Louisiana, expressing their satisfaction on the arrangement made in that country as to its government. Referred to the committee on that part of the President's message relative to the amelioration of the government of Louisiana.

The petition of — and others respecting the Yazoo lands, was presented by General Varnum, and referred to a committee of five.

The house then resolved itself into a committee of the whole, Gen. Varnum in

the chair, on the bill restraining merchant vessels from arming and forcing a trade to St. Domingo, sundry amendments were made and reported to the house—but finally the bill was re-committed to a committee of the whole for Wednesday next.

Mr. Nelson presented a petition from Mordecai Lane an old revolutionary soldier, praying to be provided for on the pension list. Referred to the committee of Claims.

On motion of Mr. J. Randolph all the papers of last session relating to the Yazoo lands were ordered to be printed. A singular circumstance gave rise to this motion. The papers on this subject, he observed, were cut out of the books of documents which are preserved for the use of the house.

Mr. S. G. Ogden, the owner of the ship Indolfin, had leave to withdraw his petition for a new Register.

In the proceedings of Monday, the presentation of the petition of George BALL was erroneously stated, instead of George VAUGHAN.

NEW-YORK, November 30.

Yesterday as the Swiftsure stage, coming to Powles Hook, was crossing the bridge over Hackensack river, the beams gave way, and the stage, with its passengers, were plunged into the river—there were seven persons in at the time, among whom was a woman and child, all of which however were rescued from the watery grave which threatened to receive them. Both the leading and one of the wheel horses extricated themselves in the struggle, and made the shore; the other with the stage and baggage, went to the bottom. The only material injury sustained by this accident was unfortunately on the part of the female, who it is said, was very much hurt.

The Powles Hook TURNPIKE Bill has passed the House of Assembly of New Jersey.

On the question for a second reading of the Bill to establish a Bank at Powles Hook, in the Legislature of New Jersey, on Monday, the 21st. there was a majority for the postponement.

We understand an insurrection of the Negroes in Charleston and its vicinity, has recently been planned, by which the horrors of St. Domingo would have been experienced in those places, had it not been for a fortunate & seasonable detection. The particulars of this will doubtless be soon received. Connecticut Herald.

[A similar report was in circulation here last Saturday, but could not be traced to any correct source.]

A London paper of the 27th of September, contains the following information relative to the affairs between Great Britain and Spain.

In consequence of a message from Lord Harrowby, his Majesty's secretary of state for Foreign Affairs, a committee, consisting of the following gentlemen engaged in the Spanish trade, waited upon his Lordship yesterday.

Mr. Murphy, from the house of Gordon and Murphy.

Mr. Bell, from the house of Reed and Prinon.

Mr. Macdonald, Blitter square, And

Mr. Turnbull, Chairman, of the committee of Merchants trading to the south of Europe; with some other considerable merchants in the Spanish trade.

Lord Harrowby informed them, that he had desired to see them upon the subject of our relations with Spain, in which they were so materially interested. His Lordship acquainted them "that there were certain negotiations, on important points, now pending between Spain and Great Britain, the issue of which was uncertain. Some explanation had also been required, as to the intention with which the armaments now preparing in the ports of Spain were to be fitted out: to which no satisfactory answer had hitherto been received.

His lordship thought it necessary to make these communications, leaving it to the discretion of the gentlemen who were present to adopt that line of conduct for the regulation of their mercantile concerns, which they should think most advisable."

The committee entered into a long discussion with Lord Harrowby upon the subject of the conduct of Spain to this country, since the signature of the peace of Amiens. They dwelt more particularly upon the infraction of the 14th article of the Definitive Treaty of peace, which provides that "all the sequestrations laid on either side upon funds, revenues and credits, of any nature whatsoever they may be, belonging to any of the contracting powers, or to their citizens or subjects, shall be taken off immediately after the signature of the Definitive Treaty.

"The decision of all claims among the individuals of the respective nations for debts, property, effects or rights, of any nature whatsoever, which should, according to received usage, and the law of nations, be preferred at the epoch of peace, shall be referred to the competent tribunals; in all those cases speedy and complete justice shall be done in the countries wherein the claims shall be respectively preferred."

Of this article, the committee urged that Spain had been guilty of a direct violation.—We are not informed of the answer returned by Lord Harrowby upon this point; but had that been our sole grievance, it might have been inexpedient to have insisted upon the removal of it, during the continuance of the war with France. Undoubtedly, the great grounds

of complaint at present are, the armaments recently ordered in the Spanish ports, upon which no satisfactory explanation has been given—the supplies furnished to France—the treatment of Mr. Priere, and the insulting conduct of the Prince of Peace. That any satisfactory explanation and apology will be afforded upon any of these points, we (Courier) confess we do not entertain the slightest expectation.—They seem to have been intended and adopted with a view to hostilities with this country.—When the Spanish government ordered ships to be armed, they must have been prepared to expect a remonstrance from our court, and to suppose that nothing less would content us than disarming. Now we cannot imagine Spain to be so weak, as to arm, with a determination to disarm, if any dissatisfaction should be expressed on our part.

We have as above stated the result of the interview between Lord Harrowby and the merchants carrying on the trade with Spain. We have now to state further that the merchants have since waited on Chevalier de Anduaga, the Spanish ambassador, to ascertain as far as could be consistent with propriety, his excellency's sentiments on the impending danger; and particularly to request, that he would favor them with an assurance, that ships laden with grain from this country for Spain, would be protected in the same manner as those loaded with wool from Spain were by our cruisers, even in time of war. The conduct of his excellency eventually proved, that he not only wished to avoid an answer at the time to questions of a public nature, but that he was fearful of laying any thing which might commit his authority, or implicate precipitately in any degree the interests of the two countries. His excellency, however, went so far as to say, that to start a doubt on the subject, would be to suppose that the Spanish government were about to act on a system diametrically opposite to that principle which had hitherto governed their intercourse with Great Britain. The merchants then urged the propriety of assurances from Chevalier Anduaga, in his ambassadorial capacity, that no sequestration of property would take place so far as regarded vessels laden with grain for the supply of Spain, and that such vessels would experience the same protection as those now experienced that brought wool from Spain to this country. His excellency still waded any direct answer or assurance; but when the merchants said that such instructions respecting the wool ships had been issued and sanctioned by the British government, and that they could produce such a paper for the satisfaction of his excellency, if he pleased, the Chevalier Anduaga at last observed that if they would favor him with a copy of the document now described, he would take the particular case which they represented into consideration.—If, however, the Spanish ambassador has received no instructions from his court on this point, it is obvious that he cannot take upon himself to give any pledge—nay, more—if the court of Spain itself has not received instructions from St. Cloud, no pledge can be given that may not be forfeited. Even an assurance from the two unjust would be no security. Do not the just claims of our merchants for property sequestered during the late war, still remain unsatisfied, though stipulated for in the treaty of peace? Can we expect they will be more honorable when the countries shall be again in a state of warfare?

On the subject of the armaments, it is reported that upon a question from our Minister at Madrid, requesting an explanation of their object and destination, the Spanish Government insolently answered by asking, in return, "what was the destination of the Russian naval and military arrangements in the Mediterranean?" It is also said, that our Government have received certain information of another treaty concluded between France and Spain, by which the former stipulates for the active assistance of the Spanish navy, in the prosecution of the war against England; and undertakes, in consideration thereof, to acknowledge his Catholic Majesty Emperor of Spain, and to extend his revolutionary empire by the annexation of Portugal. If these reports be founded in fact, we may pity the fate of Spain, but we must take care of ourselves—if true, Spain is completely melted down, and mixed in the revolutionary crucible with France. Their principles and views are one and indivisible, and it is idle, after such proceedings, to talk of the King or Government of Spain Bonaparte and his portable Cabinet, whether at St. Cloud, at Aix-la-Chapelle, or at Mentz, are the King and Council of Madrid, equally the masters of the lives and property of the Spaniards, as of the Dutch and the French.

The sailing of the frigates from Plymouth on Saturday and Monday was, we conjecture, with a view to hostilities with Spain. Orders have been sent to Fal-mouth to countermand till further orders the sailing of the Wallingham packet, which was in course of service with the mail of the 18th. We imagine too that the sailing of the vessels now loading at Hull for Lisbon, Oporto, Cadix, Bilbao, &c. which were expected to sail from thence on the 4th October, to join the general convoy at Plymouth on the 10th, will be deferred.

Policies were done yesterday to a very large amount, on the immediate probability of a Spanish war. Twenty-five guineas were given for the return of one hundred, if hostilities were commenced be-