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 Ranaway on Sunday morning, the
 12th of December, 1813, a tall white
 man, belonging to the subscriber, and
 residing since about fifteen months past

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HOUSE of REPRESENTATIVES,
 MONDAY, JANUARY 10.

Mr. WRIGHT, after some observations, moved the following resolution:

Resolved. That a committee of the whole house be instructed to enquire into the expediency of extending the 23d section of the act, for the establishment of rules and articles for the government of the armies of the United States, relative to spies, to the citizens of the United States.

Mr. STOCKTON hoped that the house would not sanction the resolution so far as to deliberate upon it. The principle contained in it, said Mr. Stockton, is so monstrous that I do hope no reference will be made of it. The amount of it is simply this, whether the citizens of the United States, who are entitled to all the benefits and privileges of the constitution, are to be placed under the jurisdiction of a court martial, and subject to military law. This appears to me a monstrous principle without the least necessity for its exercise. Whence, sir, is the necessity of subjecting our citizens to martial law? If any citizen is found aiding and assisting the enemy, in the language of the constitution adhering to the enemy, giving them aid and comfort, he is guilty of treason, and can be tried for the same in our courts of justice, where he will be entitled to the inestimable privilege of a trial by a jury of his country. This resolution strikes at the fundamental principles of liberty. It strikes at that great bulwark of the citizen, the trial by jury, and I do hope that this house will not even so far sanction such a resolution as to deliberate upon it. I do not come here, sir, to defend spies, and I hope I shall not be charged with being the defender of any violators of the laws of my country. I am the defender of the rights and liberties of the people of these United States, and by the help of God I will defend them while I have a seat on this floor. This resolution goes to subvert every principle of civil liberty, to place the citizens under the ban of martial law, to prostrate courts of justice and the trial by jury, which is guaranteed by the constitution, and I hope the house will not so far sanction it as to refer it to any committee.

Mr. YANCEY moved that the resolution lie on the table. Lost.

Mr. TROUP observed, that he tho't the present subject as worthy of being referred to the committee on military affairs as some others which had been referred. He had understood that there were a number of cases which occurred in which citizens of the United States had given information to the enemy. He mentioned a case where he understood the only good spring used by the American army had been poisoned twice, no doubt, by some person who had been lurking about the camp. Among other cases which he enumerated, he stated that he understood, that while Gen. Wilkinson was descending the St. Lawrence with his army, Judge Ford who resided some where there, hosted a light in his upper story, which gave the British information, and that Wilkinson's army was soon hred on. He had no knowledge of the fact, he had seen it in the newspapers, or had heard it, he had understood that Judge Ford was a very violent partisan, and in other respects a man of good character.

Mr. MACON said that this question appeared to him one that could be better settled by referring the subject to a committee of the whole house, than by a reference to any other committee, because, let the latter make any report, it must finally be settled in a committee of the whole. If it is now refused for a committee of the whole, the question

will be settled at once. The question to be decided was, whether civil or military law should prevail. This was the real question, and it could be better settled by a reference to a committee of the whole house, than by a reference to the committee on military affairs, he therefore would suggest to the mover the propriety of so modifying it.

Mr. WRIGHT agreed to modify the resolution, so as to instruct the committee of the whole house to enquire into the subject.

Mr. STOCKTON said he was more opposed to a reference of the resolution to a committee of the whole, than he was to a reference to the committee on military affairs, because if they referred it to a committee of the whole house, it would be an acknowledgment that the resolution was worthy to be debated.—It has, said Mr. Stockton, been well observed by the honorable gentleman from N. Carolina (Mr. Macon) that there is but one question to decide on in this resolution, that is, whether civil or military law is to be the law of the land. Upon such a question I hope, that as the representatives of freemen, we shall decide without hesitation, that we will not debate or deliberate on the subject. I again repeat, there is no necessity for this resolution. The constitution of the United States, that ark of our safety, has defined treason, and whoever is guilty can be tried by a jury, and be punished according to the laws of the land. Every case mentioned by the gentleman from Georgia (Mr. Troup) amounts to treason if the facts be as stated, because they came within the provision of the constitution which declares treason to consist in adhering to our enemies, giving them aid and comfort. The law of treason has been settled in this country by various decisions, and there is no doubt that giving intelligence to the enemy is treason. If any of the circumstances mentioned by the gentleman from Georgia are correct, why have not the persons been tried for their offences?—There is then no necessity to deliberate on this resolution, and I hope it will not be referred. I am glad the gentleman from Georgia (Mr. Troup) when he mentioned the circumstance concerning Judge Ford, explained, by saying he had no knowledge of the circumstance which he stated. I have known Judge Ford for a number of years. He formerly lived in New-Jersey, and is a man of the highest honor and integrity. It is true he is decidedly opposed to the present war, and speaks his opinion freely concerning it. "This is the head and front of his offending." But, sir, if this be a crime, there are many, very many, in the United States, who are equally guilty, and I believe that if the war continues, there soon will be many more opposed to it than now are. I do not believe that Judge Ford hosted a light for the purpose of giving information to the enemy. I have no hesitation in declaring, upon my responsibility, that I believe the charge to be an infamous slander.

Mr. FISK, of Vermont, said that he was of opinion, there ought to be some alteration of the law, as he believed some offences were committed, which could not be punished by our existing laws. He would ask the gentleman from New-Jersey, (Mr. Stockton,) whether a man who was found in Canada, while our army was there, lurking about our camp, or giving intelligence to the enemy, if he could be tried for treason, he believed not, as the act would be done out of the United States, he thought there ought to be a remedy for such cases, he should however vote against the present resolution, as it was too limited, being confined to an enquiry concerning amending the rules and articles of war.

Mr. GROSVENOR did suppose that congress never would seriously take into consideration any subject, the passage of which would be a violation of the Constitution. If said Mr. G. we advert to the Constitution we there find treason defined, to consist in levying war against the United States, or in adhering to their enemies, giving them aid and comfort, and by an amendment to the constitution, it is declared that no person

shall be held to answer for a capital or other infamous crime, except by a presentment by a grand jury, except the military or militia, in the actual service of the United States. If Congress can provide for the punishment of the cases mentioned, by military law, they can do so by the civil law. And sir, without the least necessity, will we put our citizens under martial law? Shall we expose our citizens to military punishment, and deprive them of the right of trial by jury, when congress possesses sufficient power to enact any law for their punishment, if guilty, in a court of law. But will gentlemen reflect, that this resolution is in direct opposition to the constitution. What sir, are we told by the mover? That the constitution require in the case of treason two witnesses to the overt act, in order to convict the accused; but that a Spy might be tried by martial law & convicted on the testimony of one witness. What, Sir, is this but evading the provisions of the constitution. Treason is defined by the constitution to be adhering to our enemies, giving them aid and comfort, and two witnesses are required. But called by another name, although the crime is treason, and try the accused by martial law and but one witness is required. What is this sir, but a violation of the letter and spirit of the Constitution. Again sir, no citizen can be tried by martial law except those belonging to the military or militia in actual service, every other citizen is entitled by the constitution to the inestimable privilege of a trial by jury. Congress possesses no power to pass a law in conformity to the resolution, and I wish gentlemen if they can, to explain the provisions of the constitution, which I have read, and shew where exists the power. If they have no power, why refer the subject to a committee, or why deliberate on it. There can be no doubt but that a Spy found in our camps, is guilty of treason, for he is thereby adhering to the enemy, and you cannot by calling the offence by any other name, prevent him from having the benefit of a jury trial, or convict him on the testimony of one witness. Sir, if gentlemen will look at our declaration of Independence, they will find that one of the complaints urged there was, that the inhabitants were dragged before military tribunals. This was one of the reasons which caused the separation from the mother country, and we are now called upon to deliberate on a resolution which goes to subject every man in the U. States, to be dragged before the military tribunals and tried by Martial Law.—With the gentleman from New Jersey, I do not believe the report concerning Judge Ford, I have known him for a long time. He is the first Judge of the county in which he resides, and is esteemed as a man of the highest integrity. I believe he would be as far from giving intelligence to the enemy as the President, or any man in the U. States. True he has talked much and written against the present war, in doing this he exercised a constitutional privilege, and if he has violated the laws let him be constitutionally tried and punished. Sir, he never will be tried, nothing but those idle rumors will ever be against him. If any persons, have given intelligence to the enemy, I would join in punishing them constitutionally, but I entreat gentlemen not to travel out of the broad and safe road of liberty into the narrow winding paths of military tyranny.

Mr. TROUP said, that in answer to the gentleman from New-York, who asked the reason why those persons who were Spies, could not be tried by the civil authority as well as the military, he would observe, that often when a person was found in a camp or the vicinity, engaged in his treasonous projects, and was apprehended, he applied to a Judge for the writ of Habeas Corpus, & was by that writ, rescued from the hands of the military and carried before the Judge, who not having proof discharged him, and he again returned to his infamous business. The reason why martial law was established at all, was because cases might happen which would require speedy justice.

Mr. MACON said, he was in favor of the reference, because he thought it an important question, and was willing to have it discussed, he was at present against the resolution; but he thought it a matter of courtesy to give gentlemen an opportunity when they wished it to discuss any question. He was for granting that indulgence to others, which he should wish granted to himself. The gentleman from New-York, had spoken of this resolution as a violation of the constitution, but it would be recollected, that it was not the reference which violated the constitution, but the passage of the law.—And even if an unconstitutional law were passed, we had judges who no doubt would declare it null and void. The judges had once declared a law unconstitutional and void, and he trusted they would do so again, whenever unconstitutional laws were passed.

Mr. WEBSTER said, that if the proposition were, to consider whether it was necessary to provide additional legal punishments for any description of offences, he should see no objection to the reference of the subject to a committee.—If illegal intercourse existed with the enemy, he should go as far as any one in applying constitutional remedies to that evil. But this resolution proposes, in effect, to consider whether it is not expedient to try accusations for treason before military, instead of civil tribunals. However glaring may be the idea, yet such is in truth the real nature of the proposition. It is to change the forum for the trial of treason. The mover of the resolution, and the gentleman from Georgia (Mr. Troup) have not left any doubt on this subject. They have alluded to cases, which they suppose the resolutions to embrace, and for which they deem it necessary to provide military punishment; but what is the nature of those cases? Are they not cases of treason? It is said information has been communicated to the enemy, very material to him, respecting the operations of our own forces, by citizens of the U. S. Signals are said to have been made for this purpose, on the St. Lawrence and elsewhere. Do gentlemen suppose that the act of communicating to the enemy important intelligence, whether by signals or otherwise, whereby he is the better able to defend himself, or attack his adversary, is not treason? Is this not giving to the enemy aid & comfort? May it not be, in many cases, the most important service which can be rendered him? Certainly, sir, all such offences as gentlemen have mentioned, are provided for by law, and adequate penalties annexed to the commission.

The simple question before us, is, whether we will consider the propriety of taking the power of trying for these offences from the courts of law, where the constitution has placed it, and confer it on the military. Sir, the proposition strikes me as monstrous. I cannot consent to entertain the consideration of it, even for a moment. It goes to destroy the plainest constitutional provisions. If it should prevail, I should not hesitate to pronounce it a most enormous stride of usurpation. Nothing, in any government, called a free one, even in the worst of times, has exceeded it. I am utterly shocked at the arguments offered in favour of it. When the mover was asked why, in the cases he mentioned, the offenders could not be punished for treasonable practices, I understood him to answer, that on trials for treason in the courts of law, the testimony of two witnesses is required; but if the trial could be transferred to a military tribunal the two witnesses could be dispensed with. Are we now gravely to consider upon a proposition, of which this is among the professed objects? The gentleman from Georgia (Mr. Troup) observed that when persons had been apprehended for offences, they had been rescued by habeas corpus issued by the civil magistrate. And are we to deliberate, whether it be not proper for us to prevent the delivery of the citizens of this country from illegal arrests and imprisonment, by the interposition of their great con-

stitutional remedy, their writ of habeas corpus? The constitution contains a provision more valuable—it makes no injunction more direct and imperative, than those respecting trials for treason, and the benefit of the habeas corpus. Treason is not left to be defined even by the highest courts of law. It was foreseen, that in times of commotion, victims might be sacrificed to constructive treason; that doctrine, which in other places and other times has shed so much innocent blood, and which brought Algernon Sidney to the scaffold. The constitution therefore defines treason, and prescribes the mode of proof. But what is there, in the worst cases of construction of treason, that can be compared, in point of enormity, to the proposition now before us? This is not to give a latitude of construction to the judge. It is to take the cause away from the judge, and carry it to the camp. Instead of indictment, arraignment and trial, it proposes the summary process of martial law. If the proposition should pass into a law, it takes away the constitutional definition of the offence; it takes away the prescribed mode of proof; it takes away the remedy for false imprisonment; it takes away the trial by jury; it takes away the civil tribunal, and establishes the military. On a resolution of this sort, I cannot believe the house will consent to deliberate.

Mr. HANSON said, he should not attempt to add any thing by way of argument to what had fallen from his hon. friends from New-York, New-Jersey, and New Hampshire, (Grosvenor, Stockton and Webster) but he could not remain wholly silent when such a subject was under discussion. He said the object of the gentlemen over the way was as obvious and apparent, as if it were written on the Speaker's forehead in the largest characters. The war being pretty well over with England, and their fury against the enemy almost spent, a war was now to be commenced against our own citizens, against a party in this country. He had noticed and perfectly understood the preparations in the course of the day in getting up the new apparatus and machinery of war as preparatory to its final termination. He considered all this bustle, taken together with the resolution submitted, as the last dying convulsive struggle of the war party.

The object of the resolution obtained, the fundamental principles of the constitution would be sapped—that sacred instrument was violated and destroyed—the charter of our freedom was torn in tatters and given to the winds.

Mr. H. said the majority had already proceeded further in their libercidal projects than could have been imagined possible a few years ago. But the other day, at a single incubation, a hideous brood of spies and informers had been brought forth—a swarm of petty tyrants, executive minions and creatures had been spread through the country. Gentlemen were not satisfied with what they had done, but seemed resolved to take another stride which would carry them completely beyond all constitutional limits. The barriers of liberty were to be effectually broken down; the civil authorities crushed, and martial law proclaimed through the land, while the minions of power were raised above the constitution and laws.

Mr. H. said, the axe was laid to the root of the tree of liberty—the tree of tyranny might be planted—its fibres might shoot, and for a time hug the soil; but ere they took deep root, it would be levelled by the blasts of liberty, while the old trunk still retaining the vital power would shoot forth new and vigorous branches to shelter our liberties. His feelings would not permit him to enter into an argument against the monstrous proposition before the house. The pretext for it was, that offences had been alleged to be committed by certain disaffected individuals who had been brought before the courts of justice, where they were acquitted and discharged.—Why? Because they were not guilty—they had committed no crime

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