

Although the congress may make uniform laws on the subject of bankruptcies throughout the United States, it is alleged that the individual states retain the power to make bankrupt laws until that power shall be exercised by congress; the allegation is attempted to be supported by the 10th section of the form of government, laying restrictions on the respective states, and enumerating what powers they shall not exercise.

The inference drawn, that the several states have a right to exercise all the powers from the exercise of which they are not expressly restrained by the 10th section, proves too much; and would subvert, if admitted in practice, the very ends for which the general government was framed. Among many powers given to congress, which the particular states are not expressly restricted from exercising, are these, to regulate the value of foreign coin; and fix the standard of weights and measures; to establish post-offices and post-roads; to define and punish piracies and felonies committed on the high seas, and offences against the law of nations. If, in all these instances, the individual states may exert similar powers, because not restricted by the 10th section, they may make similar laws with those of congress, or different, on the same subjects; if similar, they are unnecessary, if dissimilar, and obligatory, dissonance and confusion would ensue. The inference then, that the several states may exercise, concurrently with congress, all the powers delegated to that body, from the exercise of which they are not expressly excluded by the 10th section, is inadmissible in the extent contended for, since the practice, in conformity with such theory, would inevitably introduce dissensions between the general and particular governments of the states, and would as certainly terminate in the most fatal consequences to the American nations.

Should it be argued, that although the power is given to congress to establish uniform laws on the subject of bankruptcies, the power may never be exercised, or exercised in a limited degree, the answer is obvious, if much inconvenience should be felt from the suspension of the power, its exercise might be pressed upon congress by petition and remonstrance, and there is no reason to suppose that either mode would fail of success. If congress should deem it expedient to confine the operation of the general law to bankrupts whose debts amount to a sum specified in the law, leaving the states to provide for cases under that sum, it is precipitate (to say the least) to usurp a power before we know whether it will be relinquished by congress, and, if relinquished, what part of it will be entrusted to the respective states.

Of some of the powers imparted to congress, it is true, each state retains the exercise; but, in all cases where the states and congress may exercise the same powers, they must be exercised on different objects, or if on the same, for different purposes. Thus, for instance, congress may establish post-offices and post-roads, so may the states, but not in the same places; congress may fix the standard of weights and measures; this power has not yet been exercised, but the laws respecting this matter, or the usage equivalent to law, of the several states, remain in force; wherefore, it is concluded, that the states may pass laws, if none exist at present, particular or general, on the subject of bankruptcies. The conclusion is not warranted by the premises; the logical inference is this, therefore, where the states had subsisting bankrupt laws previous to the ratification of the general government, these remain in force; yet, whether such laws are now in force, is very questionable; the difference between the objects of them, not only as to their importance, but tendency, must be obvious. Without some regulation of coin, of weights and measures, and of roads, the whole business of society would be at a stand; that the existing regulations of these matters should continue until new regulations are made by congress, seems rather to arise from an indispensable necessity, than from expediency, from choice, or from right; nor can the continuance of such regulations endanger the tranquillity of the United States, or involve them in contests with foreign nations. Are the subsisting bankrupt laws, if any do exist in force, equally necessary? Cannot the business of society go on (for a time at least) without such laws? If those heretofore passed, or which may hereafter be passed, in the several states, are injurious and partial, if they encourage frauds, may not the public harmony be interrupted? May not the confederacy be embroiled with foreign powers, or the credit of the country deeply affected?

To prevent these mischiefs, the power of making such laws (in future at least) was parted with by the several states, without any express reservation, or admissible implication, that the powers should remain with each until exercised by the whole in congress assembled.

Admitting the power of the legislature, to give relief to the petitioner, to be only doubtful, the commitment of the bill for amendments, in order to take the chance of its passage through this house, is improper; for the expeditious relief of one person is not of sufficient importance to warrant the assumption of a questionable power, to arrest the process of the federal court, and precipitately exempt his case from the operation of a general law, which all admit congress have the power to make, and which there is cause to presume will be made during its present session.

CH. CARROLL, of CARROLLTON.
26 November, 1791.

The additional supplement to the act, entitled, An act to provide for the appointment of commissioners for the regulation and improvement of Easton, in Talbot county, and to establish and regulate a market at the said town, and the bill to empower the justices of Charles county to assess and levy a sum of money on said county to repair their court-house and build a record-office, were sent to the house of delegates by the clerk of the senate.

The supplement to the act, entitled, An act to prohibit the bringing slaves into this state, and to alter and amend parts of the said act, was read the second time by especial order and passed.

Agreeably to the order of the day, the bill, entitled, An act for the relief of John Love, of Harford county, was read the second time and passed.