

It is well known to one of us, (Mr. Burch,) that the receipts were from the first of January last, and embraced nearly the whole amount of the appropriation for the contingent expenses of the House.

A number of the printed books were also consumed, but they were all duplicates of those which have been preserved.

We have thus given you a full account of our proceedings during the troublesome scene, and we flatter ourselves you will not see in them any thing to disapprove, as we were guided solely by a zealous endeavor to discharge our duty to you, and to the public.

S. BURCH,
J. T. FROST.

To PATRICK MAGRUDER, Esq.,
Clerk to the House of Representatives.

[13th CONGRESS.]

No. 372.

[3d SESSION.]

PURCHASE OF THE LIBRARY OF THOMAS JEFFERSON.

COMMUNICATED TO THE SENATE, OCTOBER 7, 1814.

IN SENATE OF THE UNITED STATES, *October 7, 1814.*

Mr. GOLDSBOROUGH, from the joint committee on the library of Congress, reported:

That they have received, through Mr. Samuel H. Smith, an offer from Mr. Jefferson, late President of the United States, of the whole of his library for Congress, in such a mode, and upon such terms, as they consider highly advantageous to the nation, and worthy the distinguished gentleman who tenders it. But the means placed at the disposal of the committee being very limited and totally inadequate to the purchase of such a library as that now offered, the committee must have recourse to Congress, either to extend their powers, or to adopt such other plan as they may think most proper.

Should it be the sense of Congress to confide this matter to the committee, they respectfully submit the following resolution:

Resolved, by the Senate and House of Representatives of the United States of America in Congress Assembled, That the joint Library Committee of the two Houses of Congress be, and they are hereby, authorized and empowered to contract, on their part, for the purchase of the library of Mr. Jefferson, late President of the United States, for the use of both Houses of Congress.

SIR:

OCTOBER 3, 1814.

I have the honor, in furtherance of the proposition contained in a letter from Mr. Jefferson to me, tendering the disposition of his library to Congress, to enclose his letters for submission to the honorable committee over which you preside, with the expression of my readiness at any time to proceed in the discharge of the agency confided to me.

I am, very respectfully, your obedient servant,

SAMUEL H. SMITH.

HON. ROBERT H. GOLDSBOROUGH,
Chairman of the Library Committee of Congress.

DEAR SIR:

MONTICELLO, *September 21, 1814.*

I learn from the newspapers that the vandalism of our enemy has triumphed at Washington over science as well as the arts, by the destruction of the public library, with the noble edifice in which it was deposited. Of this transaction, as that of Copenhagen, the world will entertain but one sentiment. They will see a nation suddenly withdrawn from a great war, full-armed and full-handed, taking advantage of another whom they had recently forced into it, unarmed, and unprepared, to indulge themselves in acts of barbarism which do not belong to a civilized age. When Van Ghent destroyed their shipping at Chatham, and De Ruyter rode triumphantly up the Thames, he might, in like manner, by the acknowledgment of their own historians, have forced all their ships up to London bridge, and there have burnt them, the tower, and city, had these examples been then set. London, when thus menaced, was near a thousand years old; Washington is but in its teens.

I presume it will be among the early objects of Congress to recommence their collection; this will be difficult while the war continues, and intercourse with Europe is attended with so much risk. You know my collection, its condition, and extent. I have been fifty years making it, and have spared no pains, opportunity, or expense, to make it what it is. While residing in Paris I devoted every afternoon I was disengaged, for a summer or two, in examining all the principal bookstores, turning over every book with my own hands, and putting by every thing which related to America, and, indeed, whatever was rare and valuable in every science; besides this, I had standing orders, during the whole time I was in Europe, in its principal book-marts, particularly Amsterdam, Frankfurt, Madrid, and London, for such works relating to America, as could not be found in Paris. So that, in that Department particularly, such a collection was made as probably can never again be effected; because it is hardly probable that the same opportunities, the same time, industry, perseverance, and expense, with some knowledge of the biography of the subject, would again happen to be in concurrence. During the same period, and after my return to America, I was led to procure also whatever related to the duties of those in the high concerns of the nation. So that the collection, which I suppose is of between nine and ten thousand volumes, while it includes what is chiefly valuable in science and literature generally, extends more particularly to whatever belongs to the American statesman. In the diplomatic and parliamentary branches, it is particularly full. It is long since I have been sensible it ought not to continue private property, and had provided that, at my death, Congress should have the refusal of it at their own price; but the loss they have now incurred makes the present the proper moment for their accommodation, without regard to the small remnant of time, and the barren use of my enjoying it. I ask of your friendship, therefore, to make for me the tender of it to the Library Committee of Congress, not knowing, myself, of whom the committee consist. I enclose you the catalogue, which will enable them to judge of its contents;

nearly the whole are well bound, abundance of them elegantly, and of the choicest editions existing; they may be valued by persons named by themselves, and the payment made convenient to the public; it may be, for instance, in such annual instalments as the law of Congress has left at their disposal, or in stock of any of their late loans, or of any loan they may institute at this session, so as to spare the present calls of our country, and await its days of peace and prosperity; and they may enter, nevertheless, into immediate use of it, as eighteen or twenty wagons would place it in Washington in a single trip of a fortnight. I should be willing, indeed, to retain a few of the books to amuse the time I have yet to pass, which might be valued with the rest; but not included in the sum of valuation until they should be restored at my death, which I would carefully provide for, so that the whole library, as it stands in the catalogue at this moment, should be theirs, without any garbling. Those I should like to retain would be chiefly classical and mathematical, some few in other branches, and particularly one of the five encyclopedias in the catalogue; but this, if not acceptable, would not be urged. I must add that I have not revised the library since I came home to live, so that it is probable some of the books may be missing, except in the chapters of law and divinity, which have been revised, and stand exactly as in the catalogue. The return of the catalogue will, of course, be needed, whether the tender be accepted or not. I do not know that it contains any branch of science which Congress would wish to exclude from their collection; there is, in fact, no subject to which a member of Congress may not have occasion to refer; but such a wish would not correspond with my views of preventing its dismemberment; my desire is either to place it into their hands entire, or to preserve it so here. I am engaged in making an alphabetical index of the authors' names, to be annexed to the catalogue, in order to facilitate the finding their works in the catalogue, which I will forward to you as soon as completed. Any agreement you shall be so good as to take the trouble of entering into with the committee, I hereby confirm.

Accepted the assurance of my great esteem and respect,

TH: JEFFERSON.

SAMUEL H. SMITH, Esq.

13th CONGRESS.]

No. 373.

[3d Session.]

APPLICATION OF THE LEGISLATURE OF THE INDIANA TERRITORY FOR ALTERATIONS IN THE JUDICIARY SYSTEM OF THE TERRITORY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, OCTOBER 18, 1814.

To the Senate and House of Representatives of the United States in Congress assembled, the memorial of the Legislature of the Indiana Territory humbly sheweth:

That, by a law of Congress, one of the judges, appointed by virtue of the ordinance for the Government of this Territory, are authorized to hold a court. Thus, one of the judges being competent to hold a court, may decide a principle, or a point of law, at one term, and, at the next term, if the other two judges are present, they may decide the same principle, or point of law different. Thus the decisions of the superior court, organized, we presume, by the General Government, finally to settle in uniformity the principles of law and fact, which may be brought before them by the suitor, may be, and frequently are, in a state of fluctuation; hence the rights of persons and property become insecure. There is another evil, growing out of the system, of one judge being competent to hold the superior court, or that court which forms the last resort of the suitor in any Government, and particularly in the Territory; for appeals are taken from all the courts of inferior jurisdiction in the Territory, to the court organized by the ordinance, which inferior courts are never constituted of less than two judges. Thus the suitor in the Territory is frequently driven to the necessity of appealing from the judgment of two men to that of one; but this dilemma only constitutes part of the solecism for the next superior court, as the other two judges may overturn the principles of the decision of their brother judge at the preceding term. Hence the want of uniformity in the decisions of the court of the last resort. Anger and warmth in the suitors, and a confusion in our system of jurisprudence, is the result.

Your memorialists beg leave further to suggest the propriety and necessity of defining, with more precision, the duties of the judges appointed by virtue of the ordinance for the government of the Territory. The ordinance says there shall be a court to consist of three judges, who shall have a common law jurisdiction. The same instrument points out the way a Legislature may be organized; but in no part does the ordinance expressly delegate to the Legislature the power of regulating when and where the superior courts are to be held, or the manner how they are to do business. This power, by a kind of common consent of the judges, the Legislature have assumed from the necessity of the case, as the ordinance creating the courts leaves it afloat, without identifying either the time when, the place where, or the manner how, this court is to exercise their jurisdiction. Again: it would be desirable that Congress would define the jurisdiction of the superior court. We presume that it is a sound rule for the construction of a constitution or a law, that it must be construed from the face of it, and not travel to the history of other times and other Governments in search of the meaning of our ordinance, or any act of Congress. We beg leave to suggest the propriety of pointing out, by law, what common law the ordinance refers to, whether the common law of England, or France, or of the Territory over which the ordinance is the constitution. If it should be determined that, by the expression of the ordinance, a common law jurisdiction should be located on the common law of England, it is essential to define to what extent of that common law the judges shall take cognizance; whether the whole extent of feudal and gothic customs of England; whether the customs, or unwritten law shall be taken with the statute law, and that to form the common law to govern the judges; or whether the unwritten and statute law is to be taken in contradistinction to the laws, customs, and rules of chancery; or whether it includes that *law which is common to all*. By Congress defining the powers of the court, and not leaving them at sea without compass or chart to exercise their power of judicial legislation, as circumstances may arise, or passion or interest dictate, by defining the powers of the Legislature and jurisdiction of the court, that collision and jarring which might arise between those two bodies would be harmonized.

Your memorialists, therefore, pray that you would repeal the law first herein alluded to, and make two of the judges hold the court, and define more specifically the duties of that court.

WILLIAM HENDRICKS,

Speaker of the House of Representatives.

JESSE L. HOLMAN,

President of the Council.