

H. OF R.]

Proceedings.

[FEBRUARY, 1793.]

On a motion made and seconded, that the House do now resolve itself into a Committee of the Whole House, to take into consideration the reports of the committee appointed to inquire into the causes of the failure of the expedition under Major General St. Clair, it passed in the negative.

Ordered, That the Committee of the Whole House be discharged from the consideration of the said reports.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to regulate trade and intercourse with the Indian tribes," with several amendments; to which they desire the concurrence of this House. The Senate have also passed the bill, entitled "An act fixing the time for the next annual meeting of Congress," with several amendments; to which they desire the concurrence of this House.

WEDNESDAY, February 27.

An engrossed bill to authorize a grant of land to the French inhabitants of Gallipolis, was read the third time and passed.

An engrossed bill, making an appropriation to defray the expense of a treaty with the Indians Northwest of the Ohio, was read the third time and passed.

Mr. GOODHUE, from the committee appointed, presented a bill for extending the time for receiving on Loan that part of the Domestic Debt of the United States which may not be subscribed prior to the first day of March, one thousand seven hundred and ninety-three; which was received, read twice, and committed.

Mr. FITZSIMONS, from the committee appointed, presented a bill supplementary to the act for the establishment and support of light-houses, beacons, buoys, and public piers; which was received, read twice, and committed.

The SPEAKER laid before the House a Letter from the Secretary of the Treasury, stating certain inaccuracies in printing the statements communicated by his first and second Letters, lately presented, on the subject of Foreign Loans, and expressing a wish that some regulation may be adopted to enable the Head of the Treasury Department to secure the fidelity and correctness of the printed copies of the reports which shall hereafter be made to the House, and shall be committed to the press by their order.

Ordered, That the said Letter be referred to Mr. FITZSIMONS, Mr. SEDGWICK, and Mr. DAYTON; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

Mr. GILES, after some pointed animadversions on the Reports of the Secretary of the Treasury, made to the House pursuant to the resolutions which have been passed, read several resolutions relative thereto; which were handed to the Clerk, again read, and laid on the table.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act to regulate trade and intercourse with the Indian tribes;" the same was agreed to.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act providing an annual allowance for the education of Hugh Mercer;" to which they desire the concurrence of this House.

The House proceeded to consider the amendments proposed by the Senate to the amendments of this House to the bill, entitled "An act in addition to the act, entitled 'An act to establish the Judicial Courts of the United States.'" Whereupon,

Resolved, That this House doth agree to the said amendments proposed by the Senate to the amendments of this House to the said bill, with the following amendment, to wit: In the amendment of the Senate to the first amendment of this House, after the word "*absent*," insert these words, "or shall have been of counsel, or be concerned in interest in any cause then pending."

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act fixing the time for the next annual meeting of Congress." Whereupon,

Resolved, That this House doth disagree to the said amendments.

The House resolved itself into a Committee of the Whole House on the bill sent from the Senate, entitled "An act for altering the places of holding the Circuit Courts in the districts of Vermont and North Carolina, and for other purposes;" and, after some time spent therein, the Chairman reported that the Committee had had the said bill under consideration, and made several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be recommitted to Mr. LIVERMORE, Mr. SEDGWICK, and Mr. BENJAMIN BOURNE.

Ordered, That a committee be appointed to bring in a bill to make further provision for securing and collecting the duties on foreign and domestic distilled spirits, stills, wines, and teas, and that Mr. FITZSIMONS, Mr. THATCHER, and Mr. TUCKER, do prepare and bring in the same.

The bill sent from the Senate, entitled "An act providing an annual allowance for the education of Hugh Mercer," was read the first time; and, opposition being made thereto, the question was put, "Shall the said bill be rejected?" and passed in the negative. Whereupon, the said bill was read the second time, and ordered to be committed to a Committee of the Whole House to-morrow.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to ascertain the fees in Admiralty proceedings in the District Courts of the United States, and for other purposes," with several amendments; to which they desire the concurrence of this House.

The SPEAKER laid before the House a Letter from the Secretary of the Treasury, accompanying a supplementary estimate of certain sums for which appropriations are necessary; which were read, and ordered to be referred to Mr. FITZSIMONS, Mr. MADISON, and Mr. WILLIAM SMITH, with instruction to prepare and bring in a bill or bills pursuant thereto.

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Reimbursement of Loan.

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A Message was received from the PRESIDENT OF THE UNITED STATES, with a copy of an exemplification of an Act of the Legislature of New York, ceding to the United States the jurisdiction of certain lands on Montauk Point, for the purposes mentioned in the said act: And a copy of a Letter from the Governor of New York to the Secretary of State, which accompanied the exemplification.

The papers referred to in the said Message were read, and ordered to lie on the table.

The SPEAKER laid before the House a Letter from the Treasurer of the United States, accompanying a copy of the official report made by the officers of the Treasury Department, upon his account of the receipts and expenditures of the public moneys, from the 1st of October to the 31st of December, 1792, inclusive; which were read, and ordered to lie on the table.

The SPEAKER laid before the House a Letter from the Secretary of the Treasury, accompanying an abstract of goods, wares, and merchandise, exported from the United States, from the 1st of October, 1791, to the 30th of September, 1792; also, two returns of impost and tonnage, to the end of the year 1791; which were read, and ordered to be referred to Mr. WILLIAMSON, Mr. BENJAMIN BOURNE, and Mr. STERRETT; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

The House adjourned until 6 o'clock p. m.

EVENING SESSION—6 P. M.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act to ascertain the fees in Admiralty proceedings in the District Courts of the United States, and for other purposes;" and the same being read, were agreed to.

REIMBURSEMENT OF LOAN.

The House proceeded to consider the bill providing for a reimbursement of a Loan made of the Bank of the United States, which lay on the table. Whereupon,

Ordered, That the said bill be recommitted to a Committee of the Whole House immediately.

The House accordingly resolved itself into the said Committee; and the bill being read, a motion was made to strike out the first section, which authorizes a loan.

Mr. BARNWELL said, as he had been in favor of making the loan of two millions, as contemplated in the section, he thought it due to himself and to the Committee to state the reason which will induce him to agree to the motion for striking out the section. It is, said he, because there is not time during the session to go into such an investigation of the subject as it merited; such an investigation, he was persuaded, would convince every unprejudiced mind that it would be for the interest of the United States to effect the loan.

Mr. MADISON was in favor of striking out the section, setting aside the consideration that the United States are not under obligation to discharge the whole sum of two millions at the pre-

sent time; he very much doubted the policy of making loans at that amount, when the question Whether any saving could be made thereby? is problematical, considering the rate of interest in Europe. He thought it probable, that, before the time came round when the United States might be obliged to discharge the whole of this debt, money may be obtained on more advantageous terms than at present, if it should be found necessary to borrow.

The section was struck out, *nem. con.*

Several amendments were made to the next section. The Committee then rose and reported the same. The House adopted the amendments, and

Ordered, That the said bill, with the amendments, be engrossed, and read the third time tomorrow.

The House resolved itself into a Committee of the Whole House, on the bill directing the officers of the Treasury to pass to the credit of John Banks the sum of nine thousand seven hundred and sixty-eight dollars and ninety cents; and, after some time spent therein, the Chairman reported that the Committee had had the said bill under consideration, and made an amendment thereto; which was twice read, and agreed to by the House.

Ordered, That the said bill, with the amendment, be engrossed, and read the third time tomorrow.

The House resolved itself into a Committee of the Whole House, on the bill supplementary to the act for the establishment and support of light-houses, beacons, buoys, and public piers; and, after some time spent therein, the Chairman reported that the Committee had had the said bill under consideration, and made several amendments thereto; which were severally twice read, and agreed to by the House.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time tomorrow.

Mr. WILLIAMSON, from the committee to whom were referred the Letter from the Secretary of the Treasury, accompanying an abstract of the goods, wares, and merchandise, exported from the United States, from the 1st of October, 1791, to the 30th of September, 1792; also, two returns of impost and tonnage, to the end of the year 1791, made a report. Whereupon,

Ordered, That one hundred copies of the said abstract and returns be printed for the use of the members of the two Houses.

THURSDAY, February 28.

An engrossed bill directing the officers of the Treasury to pass to the credit of John Banks the sum of nine thousand seven hundred and sixty-eight dollars and ninety cents, was read the third time, and passed.

An engrossed bill providing for the reimbursement of a Loan made of the Bank of the United States, was read the third time, and passed.

An engrossed bill supplementary to the act for the establishment and support of light-houses, bea-

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cons, buoys, and public piers, was read the third time, and passed.

Mr. FITZSIMONS, from the committee appointed, presented a bill making further provision for securing and collecting the duties on foreign and domestic distilled spirits, stills, wines, and teas; which was received, twice read, and committed.

Ordered, That a committee be appointed to prepare and bring in a bill or bills to increase the salaries of the Commissioner of the Revenue, and the Auditor of Accounts, and that Mr. FITZSIMONS, Mr. BENJAMIN BOURNE, and Mr. MURRAY, be the said committee.

Mr. FITZSIMONS, from the committee appointed, presented a bill making certain appropriations therein mentioned; which was received, twice read, and committed.

Mr. LIVERMORE, from the committee to whom was recommitted the bill sent from the Senate, entitled "An act for altering the places of holding the Circuit Courts in the districts of Vermont and North Carolina, and for other purposes," reported several amendments thereto; which were severally twice read, and agreed to by the House, and said bill was read the third time, and passed.

A message from the Senate informed the House, that the Senate have agreed to the amendment proposed by this House to the amendment of the Senate to the first amendment of this House, to the bill, entitled "An act in addition to the act, entitled 'An act to establish the Judicial Courts of the United States:'" The Senate also adhere to their amendments, disagreed to by this House, to the bill, entitled "An act fixing the time for the next annual meeting of Congress."

The House proceeded to reconsider the amendments proposed by the Senate to the bill last mentioned. Whereupon,

Resolved, That this House doth insist on their disagreement to the said amendments; that a conference be desired with the Senate, on the subject-matter of the same, and that Mr. LIVERMORE, Mr. MÜHLENBERG, and Mr. WILLIAM SMITH, be appointed managers at the said conference, on the part of this House.

Mr. HILLHOUSE, from the committee appointed, presented a bill to authorize Ephraim Kimberly to locate the land warrant issued to him for services in the late American Army; which was read twice, and committed.

A message from the Senate informed the House, that the Senate have passed the bill, entitled "An act making an appropriation to defray the expense of a Treaty with the Indians Northwest of the Ohio."

OFFICIAL CONDUCT OF THE SECRETARY OF THE TREASURY.

The resolutions brought forward yesterday by Mr. GILES, were called for by that gentleman. The reading being finished, Mr. AMES moved that the resolutions should be taken up.

Mr. MURRAY suggested the necessity of giving a preference to the Judiciary Bill reported by him some days since. He was seconded by Mr. KEY.

The motion for taking up the resolutions was

carried, forty members rising in favor of it. The resolutions were accordingly read by the Clerk, and are as follow, viz:

1. *Resolved,* That it is essential to the due administration of the Government of the United States, that laws making specific appropriations of money should be strictly observed by the administrator of the finances thereof.

2. *Resolved,* That a violation of a law making appropriations of money, is a violation of that section of the Constitution of the United States which requires that no money shall be drawn from the Treasury but in consequence of appropriations made by law.

3. *Resolved,* That the Secretary of the Treasury has violated the law passed the 4th of August, 1790, making appropriations of certain moneys authorized to be borrowed by the same law, in the following particulars, viz: *First,* By applying a certain portion of the principal borrowed to the payment of interest falling due upon that principal, which was not authorized by that or any other law. *Secondly,* By drawing part of the same moneys into the United States, without the instructions of the President of the United States.

4. *Resolved,* That the Secretary of the Treasury has deviated from the instructions given by the President of the United States, in exceeding the authorities for making loans under the acts of the 4th and 12th of August, 1790.

5. *Resolved,* That the Secretary of the Treasury has omitted to discharge an essential duty of his office, in failing to give Congress official information in due time, of the moneys drawn by him from Europe into the United States; which drawing commenced December, 1790, and continued till January, 1793; and of the causes of making such drafts.

6. *Resolved,* That the Secretary of the Treasury has, without the instructions of the President of the United States, drawn more moneys borrowed in Holland into the United States than the President of the United States was authorized to draw, under the act of the 12th of August, 1790: which act appropriated two millions of dollars only, when borrowed, to the purchase of the Public Debt: And that he has omitted to discharge an essential duty of his office, in failing to give official information to the Commissioners for purchasing the Public Debt, of the various sums drawn from time to time, suggested by him to have been intended for the purchase of the Public Debt.

7. *Resolved,* That the Secretary of the Treasury did not consult the public interest in negotiating a Loan with the Bank of the United States, and drawing therefrom four hundred thousand dollars, at five per cent. per annum, when a greater sum of public money was deposited in various banks at the respective periods of making the respective drafts.

8. *Resolved,* That the Secretary of the Treasury has been guilty of an indecorum in this House, in undertaking to judge of its motives in calling for information which was demandable of him, from the constitution of his office; and in failing to give all the necessary information within his knowledge, relatively to the subjects of the reference made to him of the 19th January, 1792, and of the 22d November, 1792, during the present session.

9. *Resolved,* That a copy of the foregoing resolutions be transmitted to the President of the United States.

Mr. GILES then moved that they should be referred to a Committee of the Whole House.

Mr. W. SMITH was decidedly opposed to refer

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ring those resolutions to the consideration of the Committee of the Whole House, because he neither viewed a discussion of them as necessary on the present occasion nor warranted by the nature of the inquiry into the Secretary's conduct. It was trifling with the precious time of the House to lavish it on abstract propositions, when the object of the inquiry ought to be into the facts. He was satisfied that should the House once involve itself in an investigation of theoretic principles of Government the short residue of the session would be exhausted, and no opportunity remain for examining the charges themselves. Those charges being made, it became the House from a sense of duty to the public and justice to the accused to proceed immediately to consider them. If the mover intended to apply the principles of the two first resolutions to the facts contained in the subsequent ones, it was unquestionably proper first to substantiate the facts, and then establish the principles which were applicable to them; but it was surely a reversal of order to spend much time in establishing principles, when it might happen that the charges themselves would be totally unsupported. He did not like this mode of proceeding, because it might tend to mislead the House; it was sometimes a parliamentary practice to endeavor to lead the mind to vague and uncertain results, by first laying down theorems from which no one could dissent, and then proceeding by imperceptible shades to move unsettled positions, in order ultimately to entrap the House in a vote which in the first instance it would have rejected. This mode of conducting public business, he considered as inconsistent with fair inquiry. The question was, had the Secretary violated a law? If so, let it be shown; every member was competent to decide so plain a question. He could examine the proofs, read the law, and pronounce him guilty or innocent without the aid of these preliminary metaphysical discussions.

If it were urged that the propositions are so plain and obvious that no time would be lost in considering them, he then begged leave to observe that all antecedent discussions of constitutional questions had never failed to occupy a large portion of their time, and that however self-evident the resolutions might at the first glance appear, a more critical attention would satisfy a mind not much given to doubt that they were by no means so conclusive as to be free from objections.

Though the position contained in the first resolution, as a general rule, was not to be denied; yet it must be admitted, that there may be cases of a sufficient urgency to justify a departure from it, and to make it the duty of the Legislature to indemnify an officer; as if an adherence would in particular cases, and under particular circumstances, prove ruinous to the public credit, or prevent the taking measures essential to the public safety, against invasion or insurrection. In cases of that nature, and which cannot be foreseen by the Legislature nor guarded against, a discretionary authority must be deemed to reside in the PRESIDENT, or some other Executive officer, to be exercised for the public good; such exercise instead of

being construed into a crime, would always meet the approbation of the National Legislature. If there be any weight in these remarks, it does not then follow as a general rule, that it is essential to the due administration of the Government, that laws making specific appropriations should in all cases whatsoever, and under every public circumstance, be strictly observed. Before the Committee could come to a vote on such a proposition, it would be proper to examine into the exceptions out of the rule, to state all the circumstances which would warrant any departure from it, to whom the exercise of the discretion should be entrusted, and to what extent. Did any member wish at this period to attempt this inquiry? He supposed not. Let every deviation from law be tested by its own merits or demerits.

The second resolution was liable to stronger objections. It might with propriety be questioned whether, as a general rule, the position was well founded. A law making appropriations may be violated in various particulars without infringing the Constitution, which only enjoins that no moneys shall be drawn from the Treasury but in consequence of the appropriations made by law. This is only to say, that every disbursement must be authorized by some appropriation. Where a sum of money is paid out of the Treasury, the payment of which is authorized by law, the Constitution is not violated, yet there may have been a violation of the law in some collateral particulars. There may even have been a shifting of funds, and however exceptionable this may be on other accounts, it would not amount to that species of offence which is created by the Constitution. The Comptroller of the Treasurer must countersign every warrant, and is responsible that it be authorized by a legal appropriation; yet it cannot be supposed that he is to investigate the source of the fund.

One of the alleged infractions stated in the subsequent resolution, namely, the drawing part of the loans into the United States without the instructions of the PRESIDENT, evinces that the opposite construction is not a sound one. For, suppose the fact proved, and suppose it a violation of the law, it certainly would be a very different thing from drawing money out of the Treasury without an appropriation by law, for, in this case, there would be no drawing money from the Treasury at all, the money never having been in the Treasury.

Mr. S. then said, he should also object to referring the last resolution, which is in these words,

Resolved, That a copy of the foregoing resolutions be transmitted to the PRESIDENT."

The object of this resolution went clearly to direct the PRESIDENT to remove the Secretary from office; the foregoing were to determine the guilt, the last to inflict the punishment, and both the one and other without the accused being heard in his defence. When the violation of the Constitution was so uppermost in our minds, it would be indeed astonishing that we should be so hoodwinked as to commit such a palpable violation of it in this instance. The principles of that Constitution, careful of the lives and liberties of the citi-

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zens, and what is dearer to every man of honor, his reputation, secure to every individual in every class of society, the precious advantage of being heard before he is condemned.

That Constitution, peculiarly careful of the reputation of great public functionaries, directs that when accused of a breach of duty, the impeachment must be voted by a majority of the House of Representatives, and tried by the Senate, who are to be on oath, and two thirds of whom must concur before a sentence can pass, by which the officer is to be deemed guilty. The officer is to be furnished with a copy of the charge, and is heard by himself or his counsel in vindication of his conduct. Such are the solemnities and guards by which they are protected, and which precede a sentence, the only effect of which is a removal from office. But if the House proceed in the manner contemplated by this resolution; if they first vote the charges, and send a copy of them to the PRESIDENT, as an instruction to him to remove the officer, they will violate the sacred and fundamental principles of this, and every free Government. They will condemn a man unheard, nay, without his having even been furnished with the charges against him; they will condemn to infamy a high and responsible officer convicted by the Representatives of the people, of a violation of the important trusts committed to him, without affording him one opportunity of vindicating his character and justifying his conduct.

Mr. MURRAY said he was opposed to the reference of the resolutions to the Committee of the Whole. He had, as far as the time permitted, examined the several reports on which the examination depended, and was then ready to vote on them, though he confessed, from the intricacy which was inherent in such a subject, as well as from the vast variety of the detail involved, he had not had sufficient time for a complete investigation. Nor did he imagine that any man who had not previously meditated on the subject for a length of time, and made choice of his ground of attack, could say he was completely master of the subject. Some vote, however, was now rendered essential to the character, not only of Government, but of the gentleman who presided over the finances of the country. But three days were left for this inquiry, and to finish a great deal of other business; and he thought that despatch which was usual in the House ought to be used in preference to the indulgence which a Committee afforded. As to the abstract propositions, if it were necessary now to go into them, he thought it would be proper to decide on them first. He thought it most logical to lay down principles of reasoning before facts were developed. Were they agreed to by the House, it would be under provisions and restrictions. They could not have the implicit force of axioms, but at most must be yielded to as wholesome maxims, the application of which must be frequently modified by a certain degree of discretion. With respect to all the other resolutions, he imagined they would, on examination, be found to be unwarranted by facts. He hoped the movers and supporters of the resolutions would

not be gratified at so late a season by the House in resolving itself into a Committee of the Whole. The mode in which they were brought forward did not entitle them to much confidence. He said a more unhandsome proceeding he had never seen in Congress. It had been a practice, derived from the lights of common liberty, common right, and the first principles of justice, that whoever was charged with a violation of law on which a punishment ensued, should have some mode of answering to the charge. It had, in a recent instance, been the practice of Congress, when an officer's conduct was even in the first instance inquired into, to afford the officer an opportunity of attending upon the examination on which his offence or his freedom from blame was to appear. He alluded to the conduct of the House when an examination took place relatively to the failure of General St. Clair's expedition. Suspicions were entertained that blame lay somewhere. A committee was appointed to examine. The three officers particularly concerned were, he understood, invited, as it were, to come before the committee, to explain, to interrogate, and to give information. Though the Secretary of War was not permitted to explain on this floor, justice and delicacy, and the most common principles of jurisprudence, to which we attempted to hold some analogy, demanded that he should be heard somewhere, and the committee was renewed for this purpose. The Quartermaster General asked to be heard on this floor. Though refused, he was permitted to attend that committee, on whose examination his character as a Quartermaster depended. Were any man responsible as an officer to this House to fall under the suspicion of its members, a regard to decency and to the established rights of citizenship, would teach gentlemen to inquire formally before they hastily laid a charge on the table, to which they might move the assent of the House. But in this proceeding a Legislative charge was gone into before inquiry had been instituted. Every rule of justice, and all that delicacy which ought ever to attend her progress, had been disregarded, and in the very first instance, a number of charges are brought forward, not for inquiry, but conviction, which, if sanctioned by a majority of the House, are to be followed by the dismissal of one of the highest officers in the Government. This mode was as tyrannical as it was new, and, if any thing could throw a bias against the resolutions, independent of inquiry, it was the partial and unjust form in which the proceeding had commenced. Resolutions of conviction might rise out of the report of a committee of inquiry, who would act as a Grand Jury to the House, but could never precede it. He hoped the House would not refer to a Committee of the Whole what might be decided in the House with more despatch.

Mr. PAGE in reply to Mr. SMITH, spoke, in substance, as follows:

Mr. Chairman: The more precious our time, the more readily shall I vote for a consideration of the first resolution; for I think it of more consequence that we should decide on it, than on any

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other before us. We find, from the inquiry which has been set on foot, into the conduct of the Secretary of the Treasury, that he differs from the mover of the resolution in opinion respecting his powers, and the constitutional obligation he may be under of regarding acts of appropriation; it, therefore, must be the wish of the Secretary himself, whether we agree with him or not; and it is our duty, as soon as possible, I conceive, to let our constituents know whether we approve, or not, of his opinion. The Secretary himself, I think, confesses "that a strict adherence to appropriations, in certain cases, would be pusillanimity." He preferred, no doubt, the public good, which he thought he had in view, to a strict compliance with an act of appropriation. It becomes us, then, to determine whether we wish that the Secretary shall hereafter be bound by our acts of appropriation or not.

I cannot conceive that the rejection of the first resolution can alter the nature of the case before us, or in any manner confirm or invalidate the truth of facts which some gentlemen seem so apprehensive may lead to an impeachment. For my part, I keep in view the first resolution, without thinking a moment of the last, or the intermediate propositions. When they shall come under consideration, I shall be ready to show a proper attention to them. How the first resolution can be called an abstract proposition, I know not—when the nature of the last before us requires a decision on it. The Secretary himself should desire it, and our constituents must expect it. If the Committee of the Whole shall be of opinion that appropriations ought to be sacredly regarded, they will agree to the resolution; if they think they may be dispensed with "in certain cases," they may amend the resolution, and qualify it so as to justify the conduct of the Secretary. To call the resolution a preamble, and to object to it as such, appears to me as extraordinary as to call it an abstract proposition; for I have always thought it inconsistent with Republican principles to object to preambles. I have remarked, sir, when they have been objected to, it became the Representatives of a free people to show on what principles and with what views their laws are enacted, and, not in a dictatorial manner enact that it shall be so and so. The framers of our Constitution have set us an example of an excellent preamble; and, as it has been remarked by several members, this House has occasionally used them; I think, therefore, that none of the objections to the commitment of the first resolution are of sufficient weight to induce the House to agree to the motion for striking out the two first resolutions.

The question was now taken on committing the two first resolutions, and negatived—25 to 32. On the question of referring the last, only fourteen members voted in the affirmative.

Ordered, That the third, fourth, fifth, sixth, seventh, and eighth resolutions contained in the said motion be committed to a Committee of the Whole House immediately.

The House accordingly resolved itself into the said Committee; and, after some time spent therein, the Committee rose, and had leave to sit again.

2d CON.—30

The House then adjourned until six o'clock post meridian.

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A message from the Senate informed the House that the Senate agree to the conference desired by this House on the subject-matter of the amendments depending between the two Houses to the bill entitled "An act fixing the time for the next annual meeting of Congress," and have appointed managers at the said conference on their part.

The House resolved itself into a Committee of the Whole House on the bill for extending the time for receiving on loan that part of the Domestic Debt of the United States which may not be subscribed prior to the first day of March, 1793; and, after some time spent therein, the Committee rose and reported the bill without amendment.

Ordered, That the said bill be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole House on the bill making certain appropriations therein mentioned; and, after some time spent therein, the Chairman reported that the Committee had had the said bill under consideration, and made several amendments thereto.

Ordered, That the said bill, with the amendments, do lie on the table.

FRIDAY, March 1.

An engrossed bill for extending the time for receiving on loan that part of the Domestic Debt of the United States which may not be subscribed prior to the first day of March, 1793, was read the third time, and passed.

Mr. FRIZSIMONS, from the committee appointed, presented a bill making addition to the compensation of the Auditor of the Treasury and the Commissioner of the Revenue; which was twice read, and committed.

A message from the Senate informed the House that the Senate have agreed to the amendments proposed by this House to the bill entitled "An act supplementary to the act entitled 'An act to provide more effectually for the collection of the duties imposed by law on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels,'" with an amendment to the second amendment; to which they desire the concurrence of this House.

The House proceeded to consider the said amendment to the amendment, and the same being read, was agreed to.

The House resolved itself into a Committee of the Whole House on the bill sent from the Senate entitled "An act providing an annual allowance for the education of Hugh Mercer;" and, after some time spent therein, the bill was reported to the House, read the third time, and passed.

A message from the Senate informed the House that the VICE PRESIDENT having obtained leave of absence, the Senate have proceeded to the choice of a PRESIDENT *pro tempore*, and JOHN LANGDON has been duly elected.

A message from the Senate informed the House

that the Senate have passed a bill entitled "An act providing for the compensation of Ebenezer Storer;" to which they desire the concurrence of this House.

Mr. FITZSIMONS, from the committee to whom was referred the memorial of Arthur St. Clair, made a report; which was read, and ordered to lie on the table.

The House proceeded to consider the amendments reported yesterday by the Committee of the Whole House to the bill making certain appropriations therein mentioned; and the same being read, were agreed to.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-day.

OFFICIAL CONDUCT OF THE SECRETARY OF THE TREASURY.

The House again resolved itself into a Committee of the Whole House on the third, fourth, fifth, sixth, seventh, and eighth resolutions contained in the motion of yesterday, respecting the official conduct of the Secretary of the Treasury.

The third resolution being under consideration, in the words following, viz:

Resolved, That the Secretary of the Treasury has violated the Law, passed the fourth of August, one thousand seven hundred and ninety, making appropriations of certain moneys authorized to be borrowed by the same law, in the following particulars, to wit:

"1. By applying a certain portion of the principal borrowed to the payment of the interest falling due upon that principal, which was not authorized by that or any other law.

"2. By drawing part of the same moneys into the United States without the instructions of the President of the United States."

Mr. SEDGWICK opened the debate, by calling for the reading of a Letter from the Secretary of the Treasury to Mr. Short, of the 1st of September, 1790, showing the objects and general views of the Secretary, relative to the negotiation of the loans under the two acts authorizing them.

Mr. BARNWELL.—Mr. Chairman, before I proceed to discuss the observations which yesterday fell from the gentleman who introduced the resolutions now before us, I cannot refrain from saying that I am extremely happy that, in passing through the medium of that gentleman's examination, this subject has changed its hue from the foul stain of pecculation to the milder coloring of an illegal exercise of discretion and a want of politeness in the Secretary of the Treasury. I feel happy, because I always am so when any man charged with guilt can acquit himself; and the more so now, when a man in a high responsible office, and high in the estimation of his countrymen, can reduce a charge from a quality calculated to have excited an alarm, even in Pandemonium, to such a shape as I fancy will scarce serve to satisfy the uncommon curiosity which it appears to have excited. As I have never been in the habit of taking notes, I shall depend upon memory in answering the gentleman from Virginia; although I imagine, as that gentleman usually sticks very close to his point, whatever it

may be, that, in pursuing his charges, I shall substantially answer his arguments. In commenting upon the two first resolutions, to which I am by order confined, I shall consider, in the first instance, what regards the right of drawing money into this country. The gentleman appears not to have considered the law properly, for there cannot be a doubt that the PRESIDENT had a right to make what arrangements he pleased, in order to attain what he might consider a proper modification of the Debt due by the United States abroad. He might have borrowed the money here, or have paid it here; he might have borrowed the money in England, or wherever he thought fit. I will ask the gentleman by what precise authority he borrowed the money in Amsterdam and Antwerp, and paid it in Paris? Certainly by none but that discretion which has been depended upon to modify the Debt in the manner most conducive to the interest of the United States. I take it, then, for granted, Mr. Chairman, that the right of the PRESIDENT to draw the money borrowed here, or to send it anywhere, must be conceded. The question will then arise, whether the Secretary of the Treasury had a right to do this or not, and whether this has not been done without, nay, against the instructions of the PRESIDENT? I really consider this as one of the most extraordinary cases that I have ever known exhibited. Let us consider its form. A highly important trust, of no less import than the discretionary use of fourteen millions of dollars, is placed in the PRESIDENT OF THE UNITED STATES; he, by a general commission, and by special instruction, deposes this power to the Secretary of the Treasury, stating that he is to conform to these, and whatever instructions he might from time to time give him. Let any man seriously examine these powers, and I am of opinion that the Secretary, under these, had a right to draw, if he thought proper, unless instructed to the contrary; for the PRESIDENT conveys a complete power to modify the Debt, provided that it should be, with all convenient despatch, applied to pay the principal and interest due to France; for where the payments are to be made are certainly left to the Secretary. If this has not been exercised advantageously, this is another circumstance which the gentleman himself has not questioned. But, says the gentleman, the Secretary, under these instructions, had no special authority to draw; notwithstanding which, he began to draw in 1790, and has continued to draw, at different times, into this country the enormous sum of three millions of dollars, and therefore he must have done this without, nay, against the instructions of the PRESIDENT, who, it is presumed, having delegated this great trust, has never, for three years, inquired into the performance of it. Can this be the inference of common sense? Can this be the inference of the experience which we have had of the PRESIDENT, one of the prominent features of whose character always has been an industry to investigate particulars, as remarkable as his sagacity to frame Generals? If, then, instructions have not been given, or have been exceeded, was it necessary

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for us to come in aid of the PRESIDENT, he who by our law has the power, which we ourselves cannot exercise, of removing any of the Executive officers at pleasure? It certainly cannot be necessary; for, as this officer continues to act, we must conclude that he has either acted by instructions, or in such manner as to have given satisfaction to his principal without them. Really, Mr. Chairman, I cannot but believe that if suspicion had not led the gentleman from Virginia astray, the usual correctness of his understanding would have prevented him from pursuing such an *ignis fatuus* as this. Thus, sir, I think I have shown that the PRESIDENT OF THE UNITED STATES certainly had the authority to draw the sums borrowed here, and that, both under his commission and his instructions given, and inevitably implied, the Secretary had also the power to do this. I shall therefore now proceed to a more special consideration of the first charge, that the Secretary has violated the law in applying a portion of the principal borrowed to the payment of the interest falling due upon that principal, which was not authorized by law. Before I proceed, Mr. Chairman, I would wish to remark that, whilst I consider no principle in legislation more correct than that money shall be drawn from the Treasury only under appropriations by law, yet I consider both as impracticable and mischievous the doctrine that the money arising from a special tax shall, in no instance, be used for any other than that special purpose for which the tax was imposed, but am of opinion that the sums raised ought rather to be considered as an aggregate fund, applicable to aggregate purposes; and, indeed, if a rigid adherence to the precise letter of the law is necessary, there has been no occasion to go abroad to search for violations; for our Government at home has been able to act only by this violation. It is well known that the duties of impost and tonnage are appropriated, first, to produce the sum of six hundred thousand dollars for the civil list, then to pay the interest of the Foreign Debt, and so on; so that, by a rigid observance of this law, the Secretary must have first collected the six hundred thousand dollars into the public coffers, and then a sum sufficient to pay the interest of the Foreign Debt—a process which only requires stating to show its absurdity, and which must nevertheless have been connected with a minute construction of the law. Indeed, Mr. Chairman, if the acts of common life bear any analogy with public management, which I believe, what could be considered as being more extraordinary than that an individual should appropriate the proceeds of one farm to purchase bread, of another drink, and to declare, in the face of contingencies, that, happen what may, he would starve, should the bread crop fail, rather than use the surplus of that appropriated to purchase drink for its purchase. But to return. What is this charge? A sum of money was due abroad for the interest of 1791 and 1792, to be paid out of the domestic revenues of 1791 and 1792; the United States had an offer to make a payment in part of what was due to France, for which money had

been borrowed, and was already on hand abroad, in a supply of provisions from here to the Island of St. Domingo. The Secretary, therefore, and doubtless with the consent of the PRESIDENT, instead of transmitting either bills or money from this country to France, in order to pay the interest due there, and bringing the money borrowed to pay the French Debt into this country, in order to furnish supplies for St. Domingo, has committed the great crime of directing the money borrowed, and already upon the spot, to be applied to the payment of the interest due, and has taken the sums applicable to the payments of that interest, which was already here, and made use of it to pay the Debt due to France in the produce of the United States; so that, although, apparently, a portion of the principal borrowed has been applied to pay an interest due, yet in reality its capacity to be thus used arose from its constituting in this country an equivalent sum applicable, and which has been applied to pay off the principal of the French Debt, the object for which the money was borrowed. Let candor investigate this transaction, and sure I am its deductions will be directly the contrary of a charge of crimination. I shall conclude with observing that I should have proceeded to examine the other resolutions, which I consider as weak as those I have made short comments upon, were I not restrained by the Rules of the House. But this I will venture to say, that they will be proved unfounded in their investigation, and will merit the witty observation of a celebrated writer, that “though they rose like a rocket, they will fall like the stick.”

Mr. W. SMITH regretted that so important an inquiry had been instituted at the very close of the session, when the members were thronged with business of an indispensable nature, and it was scarcely possible for them to bestow that attention and deliberation which the nature of the subject called for. But, while he expressed this regret, he assured the Committee that it was mingled with much satisfaction, in finding that the vague charges of mismanagement, with which the public had long been alarmed, were at length cast into a shape susceptible of investigation and decision. Previous to an examination of the specific charge then under consideration, he claimed the indulgence of the Committee in offering a few preliminary remarks, which, though they did not bear precisely upon the charge itself, yet were intimately connected with the subject-matter of the inquiry, and were justified by the general remarks of gentlemen who had preceded him.

In recurring back to the origin and progress of this examination, it must appear somewhat surprising that that which, in the commencement of the session, was sounded forth as gross speculation, now turned out to be nothing more than a mere substitution of funds, and that that which was announced as abominable corruption, was dwindled away into a mere drawing of money from Europe into this country, to be applied here according to law.

Whatever credit might be due to the motives which had originated this inquiry, every member

would concur in the sentiment, that in a Government constituted like that of the United States, which had nothing but the public confidence for its basis, premature alarms and groundless suspicions respecting the conduct of public officers were pregnant with the most injurious consequences. This opinion was more peculiarly applicable to the important station of Secretary of the Treasury. Intrusted with the management of a large revenue, and necessarily clothed with some latitude of discretion, it was to be expected that he would excite the jealousy of the public vigilance; but as long as he kept in view the injunctions of law, and the public good, his reputation was entitled to that security which is due to every citizen.

An officer, intrusted with the care and distribution of public moneys, is generally looked at with a watchful eye; mankind are too prone to suspect the purity of his conduct; slight insinuations are but too often sufficient to injure him in the public estimation. Such being the natural propensity of things, it doubtless behoved those who wished for tranquility in the country to withhold charges not clearly warranted by proof—to suspend animadversions which were not likely to terminate in conviction. A contrary proceeding had an inevitable tendency unnecessarily to alarm the public mind, to instil into it suspicions against the integrity of men in high stations, to weaken their public confidence in the Government, and to enervate its operations.

There was something remarkable in the nature of the present allegations against the Secretary. Taking them all into view, they presented nothing which involved self-interested, pecuniary considerations; and in this, they essentially differed from accusations against financiers in other countries, to whom motives of interest were generally ascribed as the source of their speculations. To the Secretary, no such motive was imputed; notwithstanding former insinuations against his integrity, the sum of all the charges now amounted to nothing more than arrogance, or an assumption of power, or an exercise of unauthorized discretion.

With respect to discretion, Mr. S. observed that, though in the present inquiry it was not necessary to say much on that topic, being firmly persuaded the Secretary had strictly pursued the injunctions of law, yet, while on the subject, he took occasion to insist that in all Governments a discretionary latitude was implied in Executive officers, where that discretion resulted from the nature of the office, or was in pursuance of general authority delegated by law. This principle was so obvious that it required no illustration; were it contradicted, he would appeal to the conduct of the Secretary of State, who, though directed to report to the House on the commercial intercourse with foreign nations, had, in the exercise of a warrantable discretion, judiciously withheld his Report. He would appeal to the Report of the Committee on the failure of St. Clair's expedition, wherein that failure was in part attributed to the Commanding General's not being invested with a discretion to act according to circumstances.

There was one more observation which he thought proper to premise, before he entered into a discussion of the charges; and that was the disadvantageous situation in which the financier of this country was placed, when compared with that of similar officers in other nations. The Minister of Finance in Great Britain being always a member of the Legislature, and on a footing with other members, was prepared to defend himself when attacked. No charge could be made against his administration which he had not an immediate opportunity of repelling; and the charge and the refutation went out to the world together. The Secretary of the Treasury was, on the contrary, not even permitted to come to the bar and to vindicate himself. Through the imperfect medium of written reports he was compelled, when called upon for information, to answer, as it were by anticipation, charges which were not specific, without knowing precisely against what part of his administration subsequent specific charges would be brought to bear.

If in his reports he was concise, he was censured for suppressing information; if he entered into a vindication of the motives which influenced his conduct, he was then criminated for stuffing his reports with metaphysical reasonings. A gentleman from Pennsylvania [Mr. FINDLEY] had said that the Secretary's reports were so voluminous that he was quite bewildered by them, and that instead of their throwing any light on the subject, he was more in the dark than ever. It was true, the reports were voluminous, but not more so than the imputations on the Secretary's conduct and the orders of the House justified. He did not think that any member, who had attentively perused them, could justly complain of want of information, or of being more in the dark than before; he, on the contrary, believed that so much light had been thrown on the whole of the Secretary's fiscal operations, that if any member could not see, it must be owing to the glare of light being too strong for his eyes. Having made these observations, Mr. S. said he should proceed to examine the first charge, which, after much reflection bestowed on it, appeared to him to contain nothing that was not perfectly authorized by the strict letter of the law.

Mr. S. proceeded next to examine the charge under consideration. It consisted of two items: the first, the application of a certain portion of the principal sum borrowed in Europe to the payment of interest falling due upon that principal, which it was contended was not authorized by any law; the second, the drawing part of the same moneys into the United States, without the instructions of the PRESIDENT.

The first item of this supposed violation of law appeared of so frivolous a nature that it did not merit much discussion; at any rate, it was more an objection of form than of substance. If he comprehended well the purport of the charge, it was nothing more than this—that the Secretary having moneys at his disposal in Europe applicable to the purchase of stock in this country, and having at the same time moneys in this country

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applicable to the payment of the interest abroad, had substituted the one for the other. He had paid the foreign interest out of the foreign funds and he had purchased stock with the domestic funds. This was the heinous offence with which he was charged, and which was thought sufficient to remove him from office. If the moneys in Europe might have been drawn to this country by bills, for the purchase of the Debt, it might have equally been drawn here, by ordering the application of a sum in Europe, for a purpose which would be represented by an equal sum here, to be applied to the purchase. The substance, not the form, is to decide whether this mode of negotiating the matter was proper. Suppose bills had been ordered to be drawn on the Commissioners, and remitted to them, on account of the foreign interest, would not this have been as regular as to draw them for sale? Did the execution of the law require that the Secretary, having funds in Europe with which the foreign interest might be discharged, should nevertheless remit moneys abroad for that purpose, and then, having funds in this country with which the purchases of the Debt might be made, should draw bills to bring the foreign funds here? Was there any necessity for this complex operation, for the expense of remittance, the probable loss on the sale of bills, the loss of interest while the money was *in transitu* when the whole matter could be negotiated by the simple and economical mode pursued? So far from this arrangement being a ground of censure, Mr. S. asserted that, had the Secretary pursued the other mode, he would have been animadverted upon with great severity for such an extraordinary course. He would have been accused of ignorance of his duty, and every loss incidental to the transaction would have been charged to his account.

The second division of the charge, being of more magnitude, required a more lengthy discussion. This instance of violation consisted in a supposed deviation from the instructions of the PRESIDENT, or a supposed acting without any instruction whatever. It was, however, begging the question; it was taking for granted that which did not appear, and which ought not to be presumed. And here, Mr. S. observed, the gentlemen on the other side had entirely reversed one of the fundamental maxims of criminal jurisprudence, which declared that innocence should be presumed and guilt proved; whereas they had presumed guilt, and called upon the accused to prove his innocence.

And what was the slender basis on which the presumption was built? Why, say the gentlemen, the instructions from the PRESIDENT to the Secretary, which have been laid before the House, relate only to the payment of the French debt, and convey no authority to draw any of the foreign loan into this country for the purchase of stock; and hence they infer, he had no authority for this latter purpose.

To comprehend the fallacy of the inference, it was only necessary to recur to the laws, and to the PRESIDENT's commission to the Secretary to

negotiate the loans. Two acts of Congress had passed; one on the 4th of August, the other on the 12th of August, 1790. The first authorized a loan of twelve millions of dollars, applicable to the payment of the French debt; the other a loan of two millions, applicable to the purchase of the Domestic debt. The PRESIDENT's commission to the Secretary embraced both acts and both objects, and under that commission one loan was negotiated applicable to both objects. True it is, that the PRESIDENT's first instructions were confined to one object, namely, the French debt; but the inference is not that no other instructions were given, and that the Secretary acted without authority; but the very reverse, that the PRESIDENT either left the other object to the general discretion of the Secretary, who was, *ex officio*, the proper agent and his representative; or that he reserved it for subsequent and occasional instructions.

This inference must be the true one; first, because a contrary supposition would impute to the PRESIDENT an illegal intention, that of applying all the moneys borrowed under both acts to the object of one only; secondly, because the commission extending to the borrowing fourteen millions of dollars, and embracing both objects, and the instructions being confined to twelve millions of dollars, and to only one object, it followed that the other either was left to discretionary management, or to after regulation, for the law enjoined the execution of both.

If presumption, then, was to govern, the more natural presumption was, that the officer acted according to some general discretion reposed in him, or according to instructions from time to time given. These instructions may have been verbal, as well as written. The written instructions given in the first instance were evidently confined to the object of the first act. The necessary conclusion is, that the application of the moneys borrowed under the second act was not meant to be included in that instruction, but was left to be regulated by a general discretion, or by occasional directions, verbal or otherwise.

To presume that the Secretary acted without the sanction of the PRESIDENT was to suppose that the PRESIDENT was totally ignorant of the application of any part of the loan to the purchase of the debt. But there is in the possession of the House abundant testimony of the PRESIDENT's privity and co-operation—

1st. In his Speech to both Houses, in December, 1790, in announcing the loan, he expressly refers to its being made by virtue of both acts, thereby implying clearly that it had reference to the objects of both. He therein likewise refers the House to a further communication from the Secretary on that subject.

2dly. The Secretary, pursuant to that reference, informed the House, in the name and by order of the PRESIDENT, that a part of the loan, to wit: 150,000 florins, was applied in payment to France; another part, to wit: 160,000 florins, to the Dutch debt; and that it was deemed highly advisable to apply the residue to the purchase of the debt, if

Congress would remove a doubt as to the terms on which the loan had been negotiated. Congress did remove that doubt by their act of March, 1791. It followed, then, of course, that the residue would be applied according to the intimation given. It was so understood on all hands, and the money being to be invested in this country, it likewise followed of course that it must be drawn here. A contrary conduct would have been censurable. And yet, notwithstanding these facts, though the PRESIDENT had informed the House, as far back as December, 1790, that the loan had been a conjunct loan, under the authority of both acts, and consequently for both objects, though, at the same time, he had referred the House to the Secretary for further information in relation to that loan and its applicability, though the Secretary had, in the name and by order of the PRESIDENT, informed the House, by his Report in February, 1791, that only a part of the money borrowed had been applied to the French and Dutch debt, and that the residue would be applied to the purchase of stock, as soon as Congress removed the doubt; though Congress passed a law expressly to remove that doubt, yet it had been gravely and earnestly contended that the Secretary was not authorized to apply any part of that money to the purchase of stock; that it was done without the sanction of the PRESIDENT; and that Congress, until the late call for information, were totally ignorant of the application of any part of it to that object.

There was, then, the fullest and most satisfactory evidence of the privity and concurrence of the PRESIDENT in confirmation of the evidence resulting from official relation. Between the Chief Magistrate and his immediate agents either a general discretion or instruction must be presumed, because it is presumable he will do his duty, and punish where either a discretion has not been allowed, or instructions have not been given, or where those instructions have been contravened.

The argument on the other side implies in the Chief Magistrate either ignorance or neglect of duty. On the one hand, that he was unacquainted with the transaction; or, on the other, that, being acquainted, he acquiesced in a violation of law, without removing the transgressor. Could it be seriously said—would it not be absurdity to suppose—that an operation of such extent, provided for by law, communicated to both Houses, notorious to all the merchants of Philadelphia and New York, as that of drawing and selling the bills on Europe, was unknown to the PRESIDENT? Must he not have been well acquainted with these transactions, and that without daily frequenting the coffee-house, as some of his friends lately advised him? If the instructions or the intentions of the PRESIDENT had been contravened, would he not have vindicated his own authority by removing the officer? But it had been objected that the bills were drawn previous to the sanction of the Legislature by the confirmatory act of March, 1791. Admit the fact, and there was nothing reprehensible in it. It appears, from the first general instructions to Mr. Short, in August

1790, that the Secretary considered ordinary charges and five per cent. interest as within the meaning of the law. Pursuing this construction, and believing it to be very important to the general operations of the Treasury, he drew for the money, reserving himself as to the final application for an act of the House removing the doubt. The drawing for the money was a mere intermediate step, which amounted neither to a breach, nor to a fulfilment of the law, which was wholly silent on that point. The application was the criterion whether the law had been fulfilled or not. If the Legislature had not removed the doubt, the money would have been remitted back for the foreign object, and, from the relative price of public and private bills, without loss, probably with advantage. It was prudent, in the mean time, to place it where it was likely to be most useful. This was done. It was indeed remarkable that all the points now raised as objections were made known in the report, before alluded to, of February, 1791, as things done or intended. No objection was then made or dreamed of.

It has been asked, Why have the instructions not been produced, if any existed? The call had been only for copies of authorities; the instructions may have been verbal. The Secretary, in his Report on Loans, informed the House "that, besides the first general instructions, the trust reposed in him was to be regulated by subsequent and occasional directions." A motive very honorable to him might be assigned for his not bringing forward the PRESIDENT's instructions as a cover. Relying that the province of the House was to examine into the effects of measures, their conformity to law and the public good, and that the necessary Executive instructions were to be presumed, the Secretary had evidently chosen to implicate the PRESIDENT as little as possible.

The order requested the PRESIDENT to lay before the House copies of the authorities directing the application of the moneys borrowed. It was evident that the PRESIDENT construed this order into a call, not for the instructions from him to the Secretary, but for the instructions from the Secretary to his agents; because, in the report made in pursuance of that order, the Secretary presents, by order of the PRESIDENT, his own letters to Messrs. Short, Willink, and Van Staphorst, as the authorities to apply the proceeds of the loans. It followed, therefore, that the paper relied on was not intended to be given as the only instruction respecting the application of the loan. The inference from it was consequently erroneous. The PRESIDENT could never conceive that the House meant to call for his private instructions from time to time imparted to his immediate agent under the words of the resolution. That link must have been presumed. He therefore directed a transmission of the authorities from the Secretary to his agents.

But what has the want or breach of instructions to do with the breach of the law? Suppose no instructions given, or the instructions not pursued, and yet suppose the law to have been completely

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pursued, could it be said there was any breach of law? Or suppose instructions given and strictly pursued, and the law to have been departed from, would the adherence to instructions have justified that departure? Either what was done was nugatory, or it would have been agreeable to law. To affirm the contrary, would be to confound two things perfectly distinct—instructions and laws.

The resolution imports that the Secretary has violated the law of the 4th of August, 1790, by not pursuing the instructions of the PRESIDENT. That law is silent as to instructions. It does not require that the PRESIDENT shall give instructions to the Secretary; nor does it require that the Secretary shall be alone guided by the instructions of the PRESIDENT. It only directs the PRESIDENT to cause a certain sum to be borrowed, and leaves it to him to cause a proper application to be made of the proceeds. The drawing money into this country, with or without authority, to apply it to the purchase of the debt, cannot be deemed a violation of the law of the 4th of August, for it was not loaned under the authority of that act alone, but under the joint authority of the two acts. If any thing is meant by the resolution, it ought to mention both the acts.

To go further, Mr. S. insisted that the Secretary had, *virtute officii*, a legal authority to apply the moneys when borrowed, according to law, without instructions. The loans might have been made in the United States as well as abroad. Suppose them obtained of the Bank of Boston, would it have been criminal for the Secretary, without instructions, to have drawn the money to the places where it would be most advantageously invested? Suppose the loan obtained of the Bank of the United States, would it have been deemed irregular to have, without instructions, issued a warrant to place them in the Treasury? Why was it more irregular or more criminal to draw them from abroad as a preliminary step?

The moment the foreign loans were negotiated, and the moneys paid into the hands of the Secretary's agents abroad, from that moment they became as much under his control and superintendance, subject to legal appropriation, as any moneys in the Treasury. It was not necessary, to establish this position, that the subject of foreign loans should have been specially mentioned in the constitution of the Treasury Department. Many things resulted collaterally from the general structure of an institution which were not expressed in it.

He did not, however, intend that the doctrine here advanced should touch the question as to what official propriety might have required between the Chief Magistrate and the Secretary. It was the point of legality only which he meant to examine. In all Executive functions relating to the finances, the Secretary must be considered as the agent of the PRESIDENT, and the Legislature must take it for granted, where the contrary is not manifest, that the relation has been properly attended to. Justice to both characters dictated the presumption.

It clearly resulted from these remarks—

1st. That there was no ground to infer either want of instruction, or breach of instruction; but directly the reverse.

2dly. It as clearly resulted, that, if there was, it would not follow that there had been a violation of law.

Having gone through this resolution, Mr. S. observed, that, if there was as little of criminality in the subsequent charges as in that which he had just discussed—and from an attentive examination he sincerely believed it—he was satisfied that, notwithstanding all the severe animadversions within, and all the virulent calumny without, the walls of Congress, the conduct of the Secretary would come forth chaste and unblemished. Instead of anything being detected which would disgrace Pandemonium, nothing could be chargeable to him which would sully the purest angel in Heaven. Whatever difference of opinion might exist as to the wisdom and benefit of his measures, he was confident in saying, that in every thing the Secretary had done, he had been guided by principles honorable and patriotic, and he trusted that a very great majority of the Committee would, by their votes, evince the same sentiment. The sword of justice, it was said, ought at times to be taken from its scabbard to keep great public functionaries within the pale of the law; but it should be remembered that if Justice had its sword to punish the guilty, it had likewise its shield to protect the innocent. If the Secretary had committed a wanton violation of law, let the sword be drawn forth for his punishment; but if he has pursued the dictates of an enlightened patriotism, the Committee were called upon to raise the shield for the defence of a faithful officer.

Mr. FINDLEY addressed the Chair as follows:

Mr. Chairman: Being strongly impressed with the importance of our time, which is now so near an end, though I had the honor of seconding the resolutions, I took no part in the debates of yesterday; nor will I now detain you with replies to many of the arguments which have been offered against the resolution now under discussion.

Upon one argument frequently introduced by the gentleman last up, viz: the greatness of the Secretary's character, &c., I will only make a single remark. There is no character officially known in Executive Departments of this Government, who merits pre-eminence, or to whom a degree of greatness can be ascribed, but in proportion to his prompt execution of the laws, and the attention with which he discharges the duties of his office. From this rule, the PRESIDENT himself is not exempted, much less a subordinate Secretary, whose appointment is during pleasure, and the duties assigned him of a changeable and temporary nature. But to come to the resolution before us. The first questions that offer themselves, are: Was the money in question appropriated to special and distinct purposes? Did the Secretary of the Treasury apply the money to other uses than the law directed?

In answer to the first, it is only necessary to advert to the law authorizing the loans. The law authorizing the twelve million loan, appropriates

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whatever amount may be borrowed solely to the payment of debts then due to France and Holland. The law authorizing the two million loan directs the application thereof to the redemption of the Domestic Debt, in aid of about — dollars, arising from the revenues previous to the 1st of January, —. These appropriations are precise, distinct, and unconditional. With respect to the uses, no room was left for the exercise of discretion. The will of the Legislature was express and clearly defined; it left no room for evasion, nor any excuse for mistake; nor did the PRESIDENT transfer to the Secretary any other authority or instructions than what the law expressed.

But the gentleman from South Carolina says, that the presumption is, that the PRESIDENT did give other instructions than he has communicated; that, in this case, presumption should be admitted as conclusive testimony, and that neither the Secretary nor the PRESIDENT is obliged to communicate the instructions or authority to us. The gentleman is a lawyer: I will appeal to himself; I will appeal to all the professional members on the floor, whether presumptions can be admitted as proof, where, in the nature of the case, positive testimony can be procured. Surely, in Courts of Justice, positive testimony is always required, and presumptive is rarely admitted; but in this case, the presumptive is by the gentleman set in opposition to the positive. However, this is not the case in fact. The PRESIDENT did give commission and instructions, and those are fully communicated to us. If he conceived we had no right to demand them, he would have told us so; if he had kept any part of them back, he would have informed us, and assigned his reasons for doing so. I presume that the PRESIDENT has acted the part of a candid, honest man; the gentleman presumes the reverse. The suggestion that this House, which has the exclusive right of originating the appropriation of money, has no right to be informed of the application of it, is so novel and extraordinary, so inconsistent with every idea of propriety and good Government, that it requires no reply.

Did the Secretary apply the money borrowed in Europe agreeably to the legal appropriations and the instructions of the PRESIDENT? No, he did not; though some of the gentlemen do not acknowledge this, yet the Secretary has clearly acknowledged it himself, and has filled his Reports with labored and ingenious apologies for so doing. He has suggested a variety of motives, and taken infinite pains to charm us with the mighty public advantages resulting from his doing so. He acknowledges combining the loans, and directing the application of them, in the very offset, in a way contrary to law; he acknowledges having drawn to this country, and applied in Europe, to uses for which other moneys were appropriated, near \$3,000,000. Out of this he has paid upwards of \$400,000 of the French debt, to St. Domingo. I do not complain of paying the interest due in Europe out of the money drawn here. The gentlemen apply the force of their arguments, with great attention, to support or apologize for this

part of the Secretary's conduct, as if against this only the charge in the resolution lay. But we do not object to applying that money in Holland, which ought to have been brought here, if the money which, according to the appropriation, should have gone to Holland, had been put to the use here for which the other was intended. A simple exchange of money for the purposes of conveniency or economy, is properly one of those cases to which Ministerial discretion may safely be extended; but the question before us is, the money has not been replaced. The amount of money has not been applied to the uses intended; consequently, the appropriation has been disregarded. It is acknowledged that though there were upwards of \$1,300,000 of the Domestic Sinking Fund, and upwards of \$2,300,000 drawn from Europe, besides the moneys applied to the relief of St. Domingo; and yet, when these inquiries began, there was not \$1,000,000 applied to the redemption of the Public Debt, and even yet the whole of the domestic appropriation has not been applied to the Sinking Fund, notwithstanding that the Public Debt is now, and has for some time been under par. We have it on record that the Secretary never informed the Commissioners of the drafts he made on Europe, although the fund was exclusively to be at their disposal.

However, I will not detain the Committee with minute calculations. They are not necessary; the Secretary has acknowledged that he drew more money from Europe than the law authorized him to do; that he was influenced to do so by motives not contemplated in the law, and had either applied it, or drew it from Europe with the design of applying it to uses not authorized, and that he has broken in upon the fund appropriated to the discharge of the French debt.

Indeed, the delay of information, the receiving it by piecemeal, the abundance of reasoning and apologies, when only simple and plain statements were required, renders a scrutiny of all his calculations a work of time and labor. Therefore, I have contented myself with the facts which the Secretary acknowledges and vindicates on the questionable ground of policy. It remains to be inquired, had the Secretary a right to depart from the directions of the law in the execution of it? Could he, without a violation of the law, divert the money from its appropriate uses, to purposes foreign to the intention of the Legislature? He certainly could not.

The application of appropriations is the most sacred and important trust the Legislature can confer. If they may be made to bend to the will or projecting policy of a Financier, there is an end of all security and confidence. When the Legislature makes an appropriation of a general fund to a variety of uses, as has been done with respect to the impost, tonnage, excise, &c., there is necessarily a considerable degree of discretion left with the Executive, as far as respects preference to one or the other of the appropriate uses. But where the money is appropriated solely to a special purpose, as in the case of the loans, he who executes the law has no degree of power

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over the appropriation. There is ample room for discretion in many material circumstances respecting them, such as the terms of contract, the time of drawing, the agents employed, &c., but to assume or exercise the power of changing the appropriation is assuming a power to repeal the law itself in its most essential authority; it is assuming that power of dispensing with the laws which produced the late revolution in Britain. If the will of the Minister may control and give another direction to the will of the Legislature, the Sovereign Legislative authority is transferred from the Representative of the people to the temporary Minister. If we admit that the Ministerial agent is not responsible for his conduct, nor subject to censure, because he is appointed, and in this instance authorized by the PRESIDENT we will introduce the long-exploded doctrine of Charles I. of Britain, which brought ruin on the King and the Government. However, there is an essential difference, for in the case before us, the authority and instructions given by the PRESIDENT were agreeably to the law, but the conduct of the Minister was contrary to both. If, as I have said, the application of money to its appropriated uses, is the most sacred and important trust which the Legislature can confer; if the person who can apply the money to what use he pleases, may, by that means, command all the influence and all the force of the Government, I conclude that betraying the important trust partakes of the nature of treason.

The question before us is, not whether the Secretary has applied the money to a good or to a bad use? Whether he has, by departing from the legal appropriation, supported public credit better, or made a more convenient accommodation to what he or his friend may suppose to be the national interests. Neither the Constitution nor the laws have constituted him the judge of the national interests, nor submitted it to his wisdom to prescribe the degree of public credit which the nation ought to possess. The public credit and other national interests ought to be no other than the Legislature wills them to be, and ought only to be supported by the means, and in the manner thereby prescribed. This is the voice of the Constitution, the voice of the law, and the voice of reason. The PRESIDENT and both branches of the Legislature being the real, as well as the legal Representatives of the people, it is reasonable that they should be the sole judges of their interests. When this House repeatedly called for information from the Secretary, they did not call for political essays nor labored apologies; they did not constitute him the judge for, nor the instructor of the Legislature; they cared nothing about his variety of motives, nor his extensive and self-important plans. These he might have referred to embellish a system of finance, when he would again be called upon to report one to the House. They only required an account of his stewardship. It was time enough to make apologies when he was blamed; prefacing his statements with apologies, and being irritated at inquiries, and artfully evading so many calls for information, discovered a consciousness of blame.

However, I will admit that an Executive officer, pressed by some urgent and unexpected necessity, may be induced to depart from the authorized path of duty, and have great merit in so doing. This may be the case with the General of an army or the Admiral of a fleet, and, though more rarely, even with a Financier. But in such emergency, the officer so acting will embrace the earliest opportunity to explain the matter and obtain a justification, whilst the recent feelings arising from the occasion advocates his cause in the public mind.

Has the Secretary done so in the present instance? No: his conduct has been the very reverse. Notwithstanding repeated and explicit calls, both at the last session and the present, the extent of these transactions was concealed. A bill passed this House authorizing another loan of \$800,000; a second bill was urged in an unprecedented manner, for a loan of \$2,000,000; and, though this was a favorite bill with the Minister, the very inquiry after this information induced his friends to shrink from the matter, and desert the object about which they had discovered so much solicitude. But when the disclosure is made, does there appear any urgent necessity to justify this measure? No; there was none except what existed to the unauthorized plans of the Financier. He informs us that he thought it necessary to have always \$500,000 or \$600,000 at his command. I ask what law authorized him to think so? Did the Legislature judge this necessary? No. Did he ever state the necessity to the Legislature, and recommend such a provision? No, he did not; and we know he has never been backward in recommending Revenue Systems, nor in contriving uses for revenue. Supposing a sudden necessity for money, arising from a disappointment of some remittance, where was the boasted aid of the Bank, which was to have administered aid in all sudden emergencies? Could not bills have been sold for cash when the necessity pressed? Or could not a temporary loan have been procured from any of the banks? Certainly they could. Loans were obtained at the Bank when no necessity required such aid, and when the public money, to a much greater amount, was deposited with the Bank. In short, no necessity of State, for purposes authorized by the Legislature, existed. If there was a necessity at all, it must have arisen from another quarter—most probably from the Bank itself and its branches. A key to this suggestion may be discovered from a comparison of drawing at the times, and the situation of the Bank at such times? [Here Mr. FINDLEY was called to order, upon the ground of his arguments not being confined to the resolution before the Committee.] He alleged his arguments applied strictly to the charge of violating the law contained in the resolution; but as a further opportunity of applying the arguments arising from necessity and discretion would be given when a subsequent resolution was brought before the Committee, he would pass it now, and conclude with a very few remarks. He said the exercise of the power assumed by the Secretary,

was inconsistent with that public confidence upon which the Government alone was founded; that it was inconsistent with public safety and a Government of laws; that the Secretary seemed to take the whole Government upon his shoulders, and to consider all the great interests thereof to be committed to his providence. His reports spoke the language of a Frederick of Prussia, or some other despotic Prince, who had all the political powers vested in himself—not the language of a dependent Secretary, under a free and well-ordered Government.

Mr. GILES rose.—He was sensible that he stood in a peculiarly delicate situation, in which nothing short of the public good could have induced him to place himself. If a public and highly responsible officer had violated the laws, it was necessary that he should be called to an account for it; and to determine whether in the instances before the House, he had been guilty of that violation, it is necessary to compare the testimony with the facts alleged in the resolutions before the Committee. He first adverted to the law authorizing the PRESIDENT OF THE UNITED STATES to borrow twelve millions of dollars for the purpose of paying the foreign debt. On this, he remarked that the authority of borrowing was expressly given to the PRESIDENT, no doubt, with an eye to the personal virtues of the character who fills that office; the loan is also directed to be made solely for the purpose of paying the Public Debt. Here he remarked, that in every appropriation law, the appropriation is always emphatically mentioned, which is an evidence that the Legislature intend to remain the sole judges of the applications of money. He read a letter from the Secretary of the Treasury, who was employed by the PRESIDENT to negotiate this loan, to Mr. Short, the Secretary's Foreign agent for this purpose, dated the 9th of May, 1791, in which the Secretary informs Mr. Short, that one million and a half of the money he had obtained on loan, was destined for France; of which sum he was authorized to apply immediately one million, but to reserve eight hundred thousand florins to answer such subsequent directions as he should receive from the PRESIDENT. He cited this passage to show that the million and a half which had been obtained on loan, was destined for France.

To remove any doubt that might remain upon this head, he referred to a preceding letter from the Secretary to Mr. Short, dated the 13th of April, in which it is also expressly said, that of the two millions borrowed, one million and a half is intended for France, the remaining half million to wait for further directions. Having established this point, he adverted to the resolution before the Committee, which says, that he applied a portion of the principal borrowed to the payment of the interest falling due upon that principal, without being authorized so to do by any law. To show this, he referred to a report of the 3d of January, containing sundry statements respecting foreign loans. That part of the Report to which he alluded in proof of the fact, stated in general terms, a sum paid on account of foreign loans, and this

sum was taken from the principal borrowed, and amounted to 1,833,189 florins. If his statement was accurate, the fact he wished to establish was proved. He wanted more light, he confessed, than he could collect from the Secretary's official communications. He should not go into the examination of what circumstances might have induced the Secretary to deviate from the positive injunctions of the law, or to make any remarks upon his conduct, until he had heard what gentlemen would say to controvert the fact he wished to establish.

Another fact of consequence he wished to prove, viz: that part of the money obtained on loan in Europe had been drawn over, though not wanted here for any public purpose. This appeared from other papers. He turned to the instructions from the PRESIDENT to the Secretary of the Treasury, authorizing him to borrow \$14,000,000, in which the Secretary is cautioned to keep in view the two several acts authorizing the loans, and the distinct conditions they contemplate. By the instructions of the PRESIDENT, the Secretary is authorized to apply the moneys. In the execution of the trust confided to him, the PRESIDENT generally directs him to employ Mr. Short to negotiate the loans, to borrow in the manner prescribed by the acts, and to discharge immediately the arrears of interest due to the French, to which purpose and to the complete payment of that debt the twelve million loan was altogether appropriated. If this money, then, was shown to have been drawn here, it was neither warranted by law nor by the PRESIDENT's instructions. The Secretary did begin to draw as early as 1790, and had continued to draw from time to time, till 1793, without giving notice of this to the Legislature. Having shown that the Secretary had drawn without authority to draw, he next proceeded to consider the purpose of those drafts.

The money thus drawn for was not, he stated, applied to the purchase of the Public Debt. No money obtained from foreign loans was thus applied until this year; the domestic resources appropriated to this object were never exhausted. These were the facts involved in the first resolution, which he wished to establish. Before he proceeded further into the discussion, he wished to hear what gentlemen had to say to controvert them. He wished to see justice done in the matter before the House; he wished justice, also, to be tempered with moderation and mercy; and if gentlemen could show the necessity for deviations from positive law, which he had endeavored to point out, it would exonerate the Secretary from a very great share of blame.

Mr. BARNWELL called for the reading of certain parts of the two acts authorizing the loans. One, of the 4th of August, authorizes a loan of \$12,000,000, to be obtained without limitation as to the interest, for the purpose of paying the Foreign debt; the other is of the 12th of August, for \$2,000,000, the interest to be not more than five per cent., and for the purpose of reducing the Domestic debt.

Mr. SEDGWICK, to disprove that the drafts alluded to had been made without the knowledge of the Legislature, called for the reading of the

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PRESIDENT'S Speech to both Houses on the 8th of December, 1790, and a subsequent report of the Secretary of the Treasury to the same point. By this, it appeared that the power of borrowing having been exercised under the joint authority of the two acts, the Secretary states a difficulty that had occurred to him on the subject of the drafts alluded to. The money having been obtained on an interest of five per cent., exclusive of *douceurs*, he wished the Legislature to determine whether it might strictly be considered as borrowed under the second act, which limited the interest at five per cent. This was sufficient, he conceived, to show that the Legislature were not ignorant of those drafts, and an act was passed solving the Secretary's doubt, and sanctioning his construction of the law.

Mr. GILES remarked, that he had drawn before that sanction was obtained.

Mr. FITZSIMONS observed, on the first charge in the resolution, that, as the interest of the money borrowed in Europe is payable where borrowed, it was economical in the Secretary to pay that interest with moneys there, which were to be drawn here, and replace the sum by taking the amount from the funds here destined for that payment. A financial operation of this nature is simple, and saves the trouble of drawing with one hand and remitting with the other. He conceived there was no just foundation for the first charge.

Mr. LAURANCE said, that when the resolutions calling for information from the Treasury Department were first brought forward, the public mind was impressed with an idea that there were moneys unaccounted for. This charge is now dropped, and it is honorable to the officer concerned that, after much probing, nothing is found to support it. The inquiry now is, whether a debt was paid out of this or that fund. He did not admit the fact, that it was paid out of any other moneys than what law strictly warranted. He went into a history of the subject from its origin. He stated the nature and purposes of the loans. There was nothing to prevent the PRESIDENT from consolidating the two loans, provided such an arrangement did not interfere with the purposes intended by them. The PRESIDENT employed the Secretary to obtain the loans under the joint authority of both acts, as it was found that the object could best be carried into effect by such an arrangement. The money thus borrowed became subject to the appropriations of both acts, and not exclusively for the payment of the Foreign debt. Then, as part of that money was subject to be drawn here for the redemption of the Domestic debt, and the interest of the loan was to be paid with Domestic funds, it was perfectly reasonable to avoid further drafts and remittances to pay the debt there with money there, and replace it here with money already here. The fact stated in the first part of the resolution is, by this plain statement of the case, substantially refuted, and appears altogether unfounded; but if the fact is proved, what is implied? No injury to the interests of the community; the intention of the Legislature has been in every point fulfilled. If the Secretary had acted

differently, he would have been guilty of an absurdity, and to blame for sacrificing the public interest and neglecting the spirit of a law for a strict and unprofitable observance of its letter.

Mr. SEDGWICK, by adverting to the Speech of the PRESIDENT and Report of the Secretary, had shown that the Legislature had been made acquainted with the drafts, and sanctioned future ones on the same principles. The latter part of the first resolution criminate the Secretary for making them without instructions from the PRESIDENT. Even if this was the case, he did not know whether this was really reprehensible. He defended it on the ground, that the Secretary is the officer appointed by law to superintend the finances and apply all moneys agreeably to appropriations. He took a view of the subject, as stated by Mr. LAURANCE, and concluded by asking, whether, if the Secretary was found, on a critical examination, to have deviated in a trifle from the letter of the law, such a deviation was sufficient to warrant the alarm's being sounded from St. Croix to St. Mary's, and whether the precious time of the House, at the close of the session, with a vast variety of business on their hands, should be taken up in so unprofitable and frivolous an investigation?

Mr. GILES said, the transaction alluded to by the gentlemen to controvert the fact laid down in the first part of the resolution before the Committee was not immaterial, as they had endeavored to show it. It was not merely a financial operation to avoid the necessity of drawing and remitting. The truth was, that the Secretary had drawn over nearly \$3,000,000. The PRESIDENT'S authority was limited to \$2,000,000.

Mr. LAURANCE was of opinion, that if the PRESIDENT, or his agent, had drawn the whole amount of the money obtained under both loans, he could not be said to have gone beyond his authority. He was authorized to borrow \$12,000,000 to pay the arrears on the Foreign debt, and to modify the whole. In the execution of this trust, he might have found it advisable to draw to the country the whole of that sum. It had been found advisable to draw for part, and to pay the French by shipping produce to St. Domingo. If the money expended for supplies to St. Domingo is deducted, the balance will be found less than \$2,000,000.

Mr. L. contended, that the interest of the moneys borrowed was not paid out of the principal of the loan, as set forth in the first charge of the resolution before the Committee. If gentlemen would attend to the history of the transaction, they would find this strictly true. This interest was paid out of the moneys borrowed for the reduction of the Public Debt, and not out of those intended to pay the French, and the funds appropriated for the payment of that interest were here to replace the former and be applied as those were appropriated. He referred to the PRESIDENT'S Speeches at the commencement of the two last sessions, to show that the loan was obtained under the joint authority of both acts; and adverted to the act of Congress, in consequence of a doubt suggested by the Secretary, explaining that the moneys first obtained might be considered as bor-

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rowed under the act authorizing the two million loan. Having shown the first charge in the resolution to be unfounded, he turned to the second.

The Secretary is accused of drawing moneys to this country without instructions. In this transaction, the PRESIDENT must be considered as the principal, and the Secretary the agent, or the Secretary must be looked upon as the principal. If the PRESIDENT is the principal, and he be authorized to obtain the loans, as soon as the money is obtained it naturally falls under the direction of the financier; but if it be contended that the PRESIDENT was to have applied the moneys as well as to borrow them, then we have nothing to do with the agent; that agent is accountable to his principal, and as this principal is not called to an account by the Legislature for any improper exercise of discretion, he must be considered as having acted strictly within the law. If the Secretary is considered as the principal (and by a strict attention to the law, he believed, it would be found so, for the PRESIDENT is by it authorized to borrow, and it is not expressed who shall apply the money) then it was not one of the duties of the Secretary to procure the instructions of the PRESIDENT, being the principal, and consequently having the direction of the money borrowed, he is made the judge of the time of drawing, to fulfil the intention of the law. Was the money, he asked, to have remained in the hands of the banker in Europe? Since it was borrowed for the purchase of the Public Debt, the sooner it was drawn over the better, and the Secretary having the direction of those moneys, could do it without consulting the PRESIDENT. He proceeded to show, however, that the Secretary had by no means acted entirely without regard to the PRESIDENT'S instructions. His letter to Mr. Short, which had been read, expressly says, that he is waiting for instructions from the PRESIDENT, and the only instructions brought forward clearly shows, that he did not act without them. On this occasion it was not necessary, he conceived, that all the private communications between those two officers should be brought forward; indeed many of the instructions might have been verbal, and of a private nature. Another proof lies before the Committee, to show that the Secretary did not act independent of instructions. A Report of the Secretary mentions that some matters relative to the loans were under consideration of the PRESIDENT OF THE UNITED STATES. This document, the gentlemen were in possession of when they framed the resolutions; and it, in his opinion, left very little ground indeed to suppose that the Secretary had acted without instructions.

That officer, he contended, had strictly obeyed the Appropriation law; he had not drawn one dollar that the act did not warrant. On the authority of one act, the Secretary drew two millions (by the way he wished to remark, that the Secretary is not the officer who actually draws, who sells the bills, or who receives the money; this falls within the province of the Treasurer, the Secretary does not touch a penny of those mo-

neys) to apply to the reduction of the Public Debt. The other act gave the PRESIDENT power to draw every dollar of the loan it established, if he thought fit, if those who were to receive the money wished to be paid here. Will the remittance which afforded so seasonable a relief to St. Domingo be found fault with? If this mode of paying was within the authority vested in the PRESIDENT, surely the power of drawing must have accompanied it. He concluded by observing, that he had stated his ideas on the subject in a hasty manner, for the want of time to go more fully into the discussion.

Mr. MERCER next rose. None of the communications from the Secretary of the Treasury had removed his suspicions relative to the transactions of that Department. What had fallen in the course of the discussion, had not removed his doubts. He confessed himself more at a loss than ever to account for the conduct of that officer. To judge of the propriety of his conduct, it was necessary to consider what his duties are, and investigate whether a necessity existed to justify the drawing complained of. Gentlemen, in their arguments, had alluded to some observations that had fallen from him on other occasions expressive of his opinion, that there had been corruption in that Department. This opinion he still entertained. He suggested that some irregularities had taken place as to the money appropriated to the Sinking Fund. This might be the fact, and his suspicions were sufficiently urgent to warrant him in suggesting that it might be possible. At the close of 1792, he stated there was a balance of cash in the Treasury of \$2,331,182, and the bonds due in the course of the present year would produce a sum of about \$2,269,000. Yet a proposition was made in the House, predicated on a total want of money in the Treasury, to borrow \$800,000 in addition to the \$400,000 already borrowed of the Bank.

[Here Mr. BOUDINOT interrupted the member, as being out of order. The Chairman, conceiving Mr. MERCER'S remarks to be introductory to, and connected with the observations he intended to make on the resolution, declared him in order.]

Mr. MERCER proceeded to show, by sundry statements and calculations, that there was no necessity for this loan of \$800,000. The House, he said, to discharge their duty, should be satisfied how the money appropriated was applied, before they consented to repeated additional appropriations. When calls for information had been made by the House, with a view to comply with this their indispensable duty, the Secretary had thought it sufficient to balance money actually received, by calculations of sums that would probably be wanted agreeably to appropriations. Were dollars, he asked, to be balanced by absolute appropriations? Can things certain be balanced by things uncertain? Actual expenditure would alone balance actual receipt. Appropriations founded only on uncertain calculations could not show the money actually laid out. He adverted to some calculations made to ascertain the probable expenses of the War Department.

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[Here the member was again called to order, and was declared out of order by the Chairman.]

Mr. M. confined his observation more immediately to the resolution before the Committee. It had been said, that the interest paid was paid out of moneys that were to be drawn to this country, and were replaced here by funds from the domestic resources originally appropriated for that object, and that the dead letter of the law, if any part of it, had alone been violated. He contended there had been an essential violation.

The sums drawn for and appropriated to reduce the Public Debt, were not applied to that purpose; the domestic resources appropriated to that object, never were exhausted. If this is the case, conclusions surely unfavorable to that officer must naturally follow.

He proceeded to make some remarks on the question, whether the Secretary had acted under instructions from the PRESIDENT. It was disagreeable, he premised, to criminate the character of any officer. He bore a great respect for the PRESIDENT, for his virtues, talents, and services, but however grating to his feelings it might be to find fault with any part of his conduct in this matter, he was unable to discharge his duty under his present impressions, unless he avowed that he conceived that officer had violated the law, though he allowed, without intention, by not inquiring into the subject, while transacting, as it was his duty to do. He must declare that he saw no proof that the Secretary had acted under the PRESIDENT'S instructions. On the contrary, he saw the reverse, there was even no presumptive proof of the fact. The House had called for information as to the extent of the authority delegated by the PRESIDENT to the Secretary. Either the Secretary has produced the proof of this authority, or he has not complied with the order of the House; it does appear that he has gone beyond it in making the drafts complained of. The PRESIDENT directed that the proceeds of the loan be immediately applied to pay the French; yet a great portion of that money was brought over here. It was said, that he might have brought the whole here if he chose, and paid it to the French here. This argument goes on the presumption that the PRESIDENT might do wrong without incurring blame. But the PRESIDENT expressly directed it to be paid immediately to France; and the House had no right to presume that he did direct the money to be drawn here, when proof to the contrary appears. Upon the whole, he concluded that the law had been broken in letter and substance, and that the Secretary had acted without proper instructions from the PRESIDENT.

Mr. LIVERMORE observed, that the charge against the Treasury Department was at first well calculated to beget serious alarm. When misapplications of the public money are sounded in the public ear, all feel interested, knowing, that what affects the public purse, must in a degree affect the purses of each private individual. In the present stage of the subject, he was happy in being able to felicitate himself and his fellow-citizens, that even should the whole of the charges contained in the

resolutions be proved, it would not appear that they had lost a farthing by the conduct so loudly complained of. What is the charge? That the Secretary has paid an interest that was justly due; why then, he presumed, we should not have it again to pay. If the Secretary has paid what was due, what then is the complaint? It was surely not intended, that it should not have been paid. This was not the intention of Congress; for they passed an act providing funds for its payment. The Secretary was then right to pay it. But it is said, he paid with the wrong money. He saw no harm in not paying it with the very dollars appropriated, and approved of the operation, which saved drawing with the one hand and remitting with the other; in this there was no crime committed, no loss incurred. It appears, on the contrary, that something was gained by it. So far, then, he was clear, no law had been violated, nor was any rule of propriety departed from. He then touched upon the Secretary's disputed right to draw. He contended, that he had that right. The loans were obtained under the joint authority of the two acts. It was said that more than two millions, the amount appropriated for the Sinking Fund, were drawn over; but, he insisted, he might have drawn the other twelve millions, if it had been for the public interest so to do. The French wished to be paid here, and it being no loss but rather a profit to comply with their wish, where was the harm in so doing? If any public loss had been incurred owing to these drafts, then blame would lie. He concluded, by expressing his hearty approbation of the conduct of the officer who is criminated by the resolutions, and declared it as his firm intention to give them his negative.

Mr. HILLHOUSE argued, that the interest paid, was not paid out of the \$2,000,000 loan, and that the drafts were made agreeably to the directions of the PRESIDENT. He showed this by the documents which had been already referred to. He put in a clear point of view the propriety of avoiding the expense and risk of drafts and correspondent remittances, and concluded by giving his approbation to the conduct of the Secretary in the transactions complained of, and by expressing it, as his firm belief that a majority of the Committee, from the evidence before them, would undoubtedly be of opinion, that the charges brought forward are unfounded.

Mr. SEDGWICK rose to correct a mistake of Mr. MERCER'S. That gentleman had asserted, that the Secretary had drawn on Europe, before the loan, obtained by the Commissioners under the old Government, was ratified. This was not the case. The loan had been ratified in pursuance of the provisions of the act authorizing it. The PRESIDENT in his Speech, December, 8, 1790, says, "that agreeably to the powers vested in him at the last session, the loans in Holland had been completed."

By existing acts of the Legislature, and from express communications from the Secretary of the Treasury, it appears, that all the moneys borrowed were deemed borrowed under the joint authority of both acts, and not to be solely appropriated for the payment of the Foreign Debt.

Mr. MERCER explained, that he had said, that the Secretary had drawn from the loan obtained under the authority of the old Government, before said loan was legalized by law. If the Legislature had the right to legalize it, they had the right to reject it.

Mr. LEE next rose. He observed that as he found himself under the necessity of differing from his friend who had moved the resolution, with whom he generally agreed in opinion, and was accustomed to act, he begged the attention of the Committee for a few minutes. To determine whether the Secretary of the Treasury had acted legally, it was necessary to examine whether the authority from the PRESIDENT and his subsequent instructions authorized him to consolidate the loans under the acts of the 4th and 12th August, 1790.

On this question Mr. L. observed, that there seemed to be no objection to such a construction, except that which arose from the difference of interest allowed by those acts. That the first loan was commenced without any regular authority by a company in Amsterdam, that it received its authenticity from the acceptance of the Secretary of the Treasury. The interest and douceurs on this loan amounted to more than an interest of five per cent., which was the only premium contemplated by the act of the 12th of August. It could consequently be accepted only under the act of the 4th of August, which gave no limitation to the interest which was to be allowed. This money seemed therefore solely applicable to the payment of the Foreign Debt. From his report of the 24th of February, 1791, the Secretary himself seemed to have had this impression. Congress seemed also to have had this impression; as on the 3d of March following they passed an act authorizing the application of this loan to the object of the act of the 12th of August, 1790. After the 3d of March, 1791, therefore, the Secretary of the Treasury had a right to bring this money to America for the purposes of the Sinking Fund. The interest of the Foreign Debt becoming due, for which domestic revenues were pledged, he thought it prudent to pay that interest out of this loan, relying on the domestic revenues to replace it for the purposes of the Sinking Fund. This was a mode of bringing the money here, and he was not limited in his discretion as to the mode; and therefore had a right to follow that which appeared to him most advantageous. The paying of the foreign interest out of this loan was made after the 3d of March, 1791.

Mr. L. had no doubt as to the legality of all the proceedings relative to moneys drawn to this country subsequent to the third of March, 1791; even the moneys borrowed for the Foreign Debt, because an higher interest than five per cent. was stipulated for, on any of the subsequent loans, and because the PRESIDENT, in his instructions to the Secretary, leaves the mode of paying the Foreign Debt to his discretion. If he judged it for the advantage of the United States to bring this money, in the first place, to America, the legality of such a measure cannot be questioned, though the economy and wisdom of it may not be admitted.

On this point, Mr. L. acknowledged, that he had not time to examine minutely all the statements and reports of the Secretary to judge of those exigencies which induced the drawing of all the money which had been drawn to America.

Whether it had been consistent or not with the interest of the United States, Mr. L. was of opinion, that the Secretary had legally a right to bring all the money he had drawn for to America, except what was drawn prior to the third of March, 1791. This money was drawn out of the first loan; it was drawn as declared, for the Sinking Fund; the first loan, for the reasons before stated, could not be applied, and consequently till the act of the 3d of March, 1791, this money could not be legally drawn for the Sinking Fund. Perhaps this act caused the irregularity of this proceeding.

But is not the Secretary of the Treasury subject to blame? Mr. L. observed, he thought he was not altogether free from it. At the meeting of Congress on the 8th day of December, 1790, the PRESIDENT in his Speech informed both Houses, that the first loan had been accepted, and that the Secretary of the Treasury had directions to lay the particulars before them. But what did he do? On the 15th of December following, he began to draw money on account of this loan to America, for the Sinking Fund; though from his Report on the 24th of February, 1791, he appears to have had a doubt as to the legality of this proceeding. He delayed giving information, in conformity to the PRESIDENT'S Speech, till a few days before the dissolution of Congress. This conduct, Mr. L. said, seemed to argue a distrust of the Legislative Councils. Mr. L. dilated on the necessity of the purest and most confidential communication between the Secretary of the Treasury and the Legislature, and said, though he could not agree to the resolution then under consideration, there was one, subsequent to it, relating to this point, which he was sorry to find himself under the necessity of voting for.

Mr. BOUDINOT considered it as the duty of the Committee in the discussion of the charges brought forward to confine themselves strictly to the points in question. The present examination differed from ordinary Legislative business. Specific charges are brought forward against a highly responsible officer; the facts brought forward to support those charges should be understood and considered, to form a right judgment on them. The Secretary is charged with having violated a law, by paying the interest due on a loan out of the principal of that loan. He went into some statements and calculations to show that the money paid on account of foreign loans, as stated in official documents, could not have been paid on account of interest of the late loans, from the disproportion of the sums.

He need say nothing more, he conceived, to show that the first charge in the resolution immediately before the Committee is unfounded. If what he said was not sufficient to disprove it, he asked where is the evidence to support it?

He next turned to the second charge in the resolution, viz: that the Secretary had made the drafts

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complained of without the PRESIDENT's instructions. Here he noticed a mistake some gentlemen had fallen into, when speaking of the call of the House for information. This was a request to the PRESIDENT, and not an order to the Secretary. From the information communicated in consequence of this call, it did not appear that the Secretary had acted without, or contrary to instructions, and he insisted, that he ought to be presumed innocent till he was proved guilty.

He argued, that the authority given to the PRESIDENT in the subject put it in his power to draw the whole fourteen millions to this country, if he thought fit; it could not, therefore, he contended, be insisted, that the amount of the drafts had passed the limits of the authority given. It is not denied, he proceeded, that there was a right to draw for the two millions appropriated for the reduction of the Public Debt. Well, it has appeared, on a certain occasion to the House, that our Minister in France negotiated a contract with the National Assembly, or their officers, for the payment of \$800,000 of the debt due them, here; then certainly, the exigency of the case required that this sum should be drawn here for the purchase of provisions for St. Domingo, in which this payment was to be made. Here then was a positive necessity of drawing for \$2,800,000, and as a discretionary power in the subject had been left to the Executive, they might have found it advisable, perhaps, under an expectation of additional payments in the same manner, to have drawn over as much more as they might have thought prudent.

He adverted to the application of the Secretary to the Legislature to declare whether the loan obtained, for an interest of five per cent., exclusive of *douceurs*, might be considered as borrowed under authority of the \$2,000,000 act. It was his (Mr. BOUDINOT's) opinion at the time, that no explanatory law was necessary; and that the Executive had power to construe the act in that sense. This was also the Secretary's opinion, and in consequence of that opinion he had drawn bills. He thought it however right to apply to the House and have every doubt removed, and the Legislature sanctioned his construction of the law.

It had been said, that if the Legislature had a right to confirm, they also had a right to reject the construction put upon the law by the Executive. This, he conceived, they would not have been warranted in doing, after a contract agreeably to that construction had been made; such a proceeding must have involved a breach of contract.

It had been repeatedly asserted and strenuously insisted on, that the Legislature were totally in the dark, as to the drafts from Europe. To disprove this assertion, he read several items from sundry Reports of the Secretary, where sums received on account of loans are specified. It had also been said, that there was no evidence that any part of the loan was applied to or intended for the purchase of the Public Debt.

This also appears unfounded, from a note dated 25th of August, 1790, laid before the Trustees for purchasing the Public Debt, which expressly mentions, that a loan had been negotiated, part of

which was destined for the purchase of the Public Debt, and that some points relative thereto were before the PRESIDENT for his approbation. This also showed that the PRESIDENT had knowledge of such intentions. His Speech, and the Report of the Secretary, in consequence of part of that Speech, which had been so repeatedly referred to, also unequivocally prove this point.

He recapitulated the heads of his arguments, and concluded, that if nothing further could be brought in support of the charges now before the Committee, they should have his decided negative.

Mr. MADISON.—He wished not, he said, to waste a moment of the small portion of time left, by regretting its insufficiency for a full discussion of the subject before the Committee. But he thought it due to truth, and to the honorable and independent motives of his colleague [Mr. GILES] in proposing the resolutions, to remark, that the lateness of the day to which they had been postponed did not justify the strictures which had been made on it. If the delay was not to be considered as unavoidable, some blame, at least, would fall elsewhere. The inquiries in which the whole matter originated, had been moved by his colleague, and passed the House some weeks ago. The Reports in answer to these inquiries had not been finally made and printed a single day before the present resolutions were submitted to the House. He admitted that it might have been impracticable to report the information called for, as early as was desired by the House. He was sensible of the anxiety that would be naturally felt by the Officer called upon, to present every consideration that might place his conduct in the most favorable point of view; yet, with all these allowances, it was impossible to deny that the Reports contained things which did not belong to them, and therefore consumed time which belonged to the period for discussion. He would mention one instance on which there could not possibly be a difference of opinion, viz: the vindication, formally undertaken by the Secretary, of the policy of borrowing money abroad. Whether this policy was right or wrong, the Legislature had themselves decided in favor of it; and it was the duty of the Secretary, in complying with the orders of the House, to inform the House how the law had been executed—not why it had been made; to explain his own conduct, not to justify that of the Legislature.

It had been asked why the call for information had not been sooner made? The answer was obvious and simple. It was not sooner perceived by the House, that there was such a necessity for it. The want of information was first suggested by the bill for paying \$2,000,000 to the Bank, although \$200,000 only were immediately due, and for authorizing another foreign loan to the amount of \$2,000,000. From the dawn of light thrown by some circumstances incident to the occasion, on the darkness in which the House had remained, proceeded those doubts and inquiries which had led to the information now possessed. His colleague had great merit in having brought about

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this development. He had rendered a service highly valuable to the Legislature, and no less important and acceptable to the public. One good effect of the information had been, that it prevented the passage of the bill for borrowing \$2,000,000 as an anticipated payment to the Bank. The bill had dropped from the hand of its patron with the first light that broke in upon the House. What other measures would have been prevented or varied, if a like knowledge of our funds and finances had been sooner obtained, was matter of serious consideration.

Another consequence of the Reports, taken together, was, that the face of them presented to his colleague an evidence of the charges contained in the resolutions. Whether, at so late a day, it was best to leave the subject as exhibited by the various documents in print, for the examination and opinion of the public, or to press it on the consideration of the House, was a point which every member had a right to decide for himself. His colleague had viewed the positions stated in his motion as too important to be suspended, and as supported by such clear and authentic proofs, that a small portion of time would suffice for the subject. Under this impression, what was his right became his duty; and he had discharged it by offering his resolutions to the House.

As the House had refused to commit the two introductory resolutions, which established the rule of judgment to be applied to the case, and the last also, which declared the inference to be drawn, the task of the Committee was limited to a simple inquiry into the facts stated. They were to make out and report a special verdict of these, and leave it to the House to pronounce the proper judgment arising from them.

The resolution immediately before the Committee imported, "that the Secretary of the Treasury had violated the law passed on the 4th of August, 1790, making appropriations of certain moneys," first, "by applying a certain portion of the principal borrowed to the payment of interest on that principal;" secondly, "by drawing part of the same moneys into the United States, without the instruction of the PRESIDENT."

The questions here are questions of fact; and whatever quality may be attached by different gentlemen to the several facts, it would seem as if the facts themselves are too clearly supported by the Reports of the Secretary, and the documents attending them, to be denied or controverted.

The law of August 4, 1790, authorized the PRESIDENT to cause to be borrowed \$12,000,000, to be applied to the Foreign Debt of the United States. A subsequent law of August 12, 1790, authorized another loan of \$2,000,000, to be applied to the Domestic Debt of the United States. A power to make these loans was delegated, on the 28th of August, 1790, to the Secretary, by a general commission, in the usual form, referring to the several acts above mentioned, but without any further discrimination of the loans to be made. As the law, however, for applying loans to the foreign object was prior in date, the presumption would rather be, that it was to have a priority of execu-

tion; that the first money borrowed was to belong to the first object provided for. It was unnecessary, however, to dwell on this consideration, because the PRESIDENT had removed all uncertainty by the precise explanations and instructions which accompanied the power to the Secretary, and which ought, in truth, to be deemed a part of the commission. The instruction having been more than once read to the Committee, he would content himself with referring to it.

The part referred to is in the following words:

"I do hereby make known to you that, in the execution of the said trust, you are to observe and follow the orders and directions following, viz: Except where otherwise especially directed by me, you shall employ in the negotiation of any loan or loans which may be made in any foreign country, William Short, Esq.; you shall borrow, or cause to be borrowed, on the best terms which shall be found practicable, and within the limitations prescribed by law as to time of repayment and rate of interest, such sum or sums as shall be sufficient to discharge, as well all instalments or parts of the principal of the Foreign Debt, which are now due, or shall become payable to the end of the year 1791, as all interest and arrears of interest which now are, or shall become due, in respect to the said Debt, to the same end of the year 1791. And you shall apply, or cause to be applied, the moneys which shall be so borrowed, with all convenient despatch, to the payment of the said instalments, and parts of the principal and interest, and arrears of interest of the said Debt. You shall not extend the amount of the loan which you shall make, or cause to be made, beyond the sum which shall be necessary for completing such payment, unless it can be done upon terms more advantageous to the United States, than those upon which the residue of the said Debt shall stand or be. But if the said residue, or any part of the same, can be paid off by new loans, upon terms of advantage to the United States, you shall cause such further loans as may be requisite to be made, and the proceeds thereof to be applied accordingly. And for carrying into effect the objects and purposes aforesaid, I do hereby further empower you to make, or cause to be made, with whomsoever it may concern, such contract or contracts, being of a nature relative thereto, as shall be found needful and conducive to the interest of the United States."

By this formal act, issued along with the commission to the Secretary, the PRESIDENT designated the object to which the loans to be made were to be applied; and by declaring the object to be that provided for by the act of August 4, 1790, he expressly placed the loan under the authority and provision of that act; so that the moment the money should be borrowed, it was to stand legally appropriated to its specified object—as much as if another law authorizing another loan for another purpose, had not existed.

This arrangement of the PRESIDENT was the more proper, not only because provision for the payment of the Foreign Debt had been the primary object of the Legislature, and the payment of the French debt, the anxious wish of their constituents, but because payments to France were no longer matter of option, but of strict and positive obligation on the United States. In proof of this, he stated that the debt to France, calculated

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to the end of 1791, and computing the livre at 5 4-10 to a dollar, amounted to \$4,814,814, whilst the payments actually made, computing the florin at 2½ to a dollar, amounted to more than \$3,372,717, leaving, as a balance, at the end of 1791, \$1,442,097. Adding to this balance the instalments due for 1792, amounting to \$638,888, there were to be paid within that year \$2,080,985. The entire payments, however, composed of \$656,500 in Europe, and \$726,000 put to the account of St. Domingo, (although \$444,263 83 were actually paid,) amounted to \$1,382,500, leaving due at the end of 1792, a balance of \$698,485.

Here Mr. M. adverted to and read a paragraph in the Report of the Secretary, page 16, where in allusion to the measure of drawing bills in the latter part of 1792, he says: "I feel myself the more at liberty to do it, because it did not interfere with a complete fulfilment of the public engagements in regard to the Foreign Debt. It could be done consistently with a full reimbursement of all arrears and instalments which had accrued on account of that Debt."

Mr. M. observed, that, as he could not reconcile this paragraph with the calculations which he had stated, and which were drawn from official documents, he must regard it as an unquestionable error, produced by some hasty view of the subject.

Returning to the Commission, Mr. M. repeated that all the money which that instrument, defined and qualified by the instruction annexed to it, authorized the Secretary to borrow, was actually and specifically appropriated to the payment of the Foreign Debt, and under circumstances particularly urgent, in relation to a part of it.

In what manner had this trust been carried into execution? It was to be observed, with regret, that, on the very day on which the commission and instruction issued from the PRESIDENT, the Secretary commenced his arrangement for diverting part of a loan, accepted and ratified by virtue of his commission, to a purpose different from that specified and required by his instruction. That a fact of so extraordinary a complexion might be grounded on the most unexceptionable proof, Mr. M. said he should take the liberty of supporting it by the authority of the Secretary himself. Here he read from the Secretary's Letter, dated August 28, 1790, to the Dutch houses from whom the Loan had been accepted, the following passages, viz:

"I should also wish, for particular reasons, that the business may be so regulated as to give it the form of two loans—one for two millions under the first act, and the other for one million under the second. But neither about this, am I so solicitous as to be willing that it should constitute an embarrassment."

"I destine a million and a half of this sum as a payment to France, under the direction of Mr. Short, our Chargé d'Affairs at that Court, whose orders for that purpose you will please to follow."

The aspect here presented by a comparison of the several documents, was singular and remarkable. The subordinate Officer appeared in direct opposition to the Chief Magistrate. The agent was seen overruling, by his own orders, the orders

of his principal. The language of the PRESIDENT was "By virtue of the power vested in me by law, I destine the money to be borrowed to the discharge of the instalments and interest of the Foreign Debt." The language of the Secretary was: "I destine a part of the money only to that purpose, and a part to be brought to the United States for other purposes." He left every member to make his own reflections on the subject. He would only observe, in general, that it demonstrated the truth asserted in the proposition that the Secretary had violated both the law of August 4, 1790, and the instruction of the PRESIDENT relating to it.

He then proceeded to a more distinct view of the two points particularly stated in the resolution. The first was, "That a certain portion of the principal borrowed under the act of August 4, 1790, had been applied to the payment of the interest falling due on that principal." As the fact would not, he presumed, be denied, he forebore to quote that part of the documents which admitted and authenticated it. He would, however, premise to any observations on it, a cursory view of the nature of appropriations.

It was unnecessary to repeat the emphatic remarks on this subject, which had fallen from the member from Pennsylvania, [Mr. FINDLEY.] It was sufficiently understood. He concluded that appropriations of money were of a high and sacred character; that they were the great bulwark which our Constitution had carefully and jealously established against Executive usurpations. He meant only to take notice of the different plans into which appropriations might be moulded, and of the particular operation which ought to be given to them.

One of the plans was that of appropriating specified funds to specified objects, in which the supposed certainty of the funds was adjusted to the supposed importance of the objects.

The other plan formed all the branches of revenue into an aggregate fund, on which the several objects should have a priority of claim according to their superiority of importance. It was evident that in both these cases, the Legislature alone possessed the competent authority. The exclusive right of that Department of the Government to make the proper regulations, was the basis of the utility and efficacy of appropriations.

There was a third question incident to the doctrine of appropriations, viz: Whether, under specific appropriations, such as had been adopted by Congress, the Executive authority could, without special permission of the law, apply the excess of one fund to the aid of a deficient one, or borrow from one fund for the object of another. On this question, there might perhaps be a difference of opinion. He would only remark, that, admitting such a discretion to be implied in the trust of executing the laws, it would still be requisite that the due sanction of the Executive should be given, that a regular account should be kept between the different funds, and that all advances from one to the other should be replaced as soon as possible. This was equally necessary to the preservation of

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order in the public finances, and to a proper respect for the authority of the laws.

In the present case, it did not appear that the moneys taken at different times from the Loans designated by the PRESIDENT, and thereby placed under the appropriation of the act of August 4, 1790, to the Foreign Debt, had ever been replaced. It did not appear that any such replacement was regularly planned or provided for. It was particularly worthy of observation, moreover, that the only use within the United States for which any loan in Europe could be assigned, was that of the Sinking Fund; that the Trustees of this Fund had never been even informed of the drafts; that if the moneys drawn had been carried to the Sinking Fund, the limited sum of \$2,000,000 would have been exceeded; and that the statements and accounts had, in fact, been so wound up, as mentioned by the Secretary, that not a single dollar of the money laid out in purchasing the Public Debt had been charged on loans drawn into the United States, although such was the only purpose to which they were legally applicable, and such the principal reason assigned for making the drafts.

He did not go into a particular proof that the sum drawn into the United States, after subtracting the whole sum placed to a foreign account, exceeded the sum of \$2,000,000, because the fact had been conceded on the other side, particularly by the statement of the member from Connecticut, [MR. HILLHOUSE.]

Thus it appeared clearly, in confirmation of the first point, that the application of a certain portion of the principal borrowed in Europe, to payment of the interest, was not a mere transposition of moneys, to prevent the sending them backwards or forwards, nor an advance of money from an overflowing fund in favor of a deficient one; but an absolute diversion of appropriated money, and consequently a violation of the law making the appropriation.

The second point in the resolution related to the drawing of moneys into the United States without the instruction of the PRESIDENT. This point had been fully established by the documents and explanations applied to the first. They had done more: they had demonstrated that the instructions of the PRESIDENT, which dedicated the loans to be made under his commission, to a foreign object, were an express prohibition of drafts for any domestic object. It was sufficient, therefore, to refer to the instructions of the PRESIDENT, and to the contradictory steps taken by the Secretary. Two attempts had been made to elude the force of these official proofs. The first appealed to the PRESIDENT'S Speech at the opening of the session in 1790; to the Report of the Secretary, made in consequence of it, to the House; and to the supplementary act of Congress passed in conformity to the Report.

Had the circumstances involved in this transaction been attended to by those who seemed to rely on it, Mr. M. was persuaded that a reference to it would never have been made by gentlemen on that side. As they had thought fit, however, to draw arguments from that source, it was proper to

give an answer to them; and the best answer would be a naked statement of facts.

The instruction of the PRESIDENT to the Secretary was given, as has been seen, on the 28th of August, 1790. The Letter of the Secretary contravening this instruction, was dated, as has also been seen, on the same 28th day of August, 1790. The actual drawing of bills by the Secretary commenced the 15th of December, 1790. The law now pleaded in justification of the conduct of the Secretary, passed on the 3d of March, 1791.

There are other facts material to a correct and full view of the subject. The Speech of the PRESIDENT was delivered on the 8th of December, 1790. It briefly informed the two Houses that "a loan of 3,000,000 of florins, towards which some provisional measures had previously taken place, had been completed in Holland," and "that the Secretary of the Treasury had discretion to communicate such further particulars as might be requisite for more precise information." The consequent Report of the Secretary, recommending the provision in the supplementary act, was not received till the 25th of February, 1791—six days only before the constitutional dissolution of the House. In the interval between the Speech of the PRESIDENT and the Secretary's Report, he had proceeded to draw bills to the amount of 793,392 florins. His Report, notwithstanding what had been said of it, contained not a word from which it could be known that a single florin had been actually drawn over to the United States.

The other attempt to elude the evidence before the Committee, recoiled with equal force on the gentlemen who had hazarded it. In the report lately made by the Trustees of the Sinking Fund, is a statement laid before them by the Secretary, in which it is noted "that the acceptance of the loan of 3,000,000 of florins, and the application of one-third of it to the purpose of that Fund, was under the consideration of the PRESIDENT." From this fact, it had been inferred, not only that the Secretary had withheld no proper information from the Trustees, but that the result of the PRESIDENT'S deliberations on the subject had varied the purpose signified by his first instructions to the Secretary.

It happened, however, most unfortunately for the gentlemen who exulted in this argument, that they had entirely overlooked the dates of the two papers. The paper laid before the Trustees, and alleged to have explained the final purpose of the PRESIDENT, was dated on the 25th of August, 1790. The paper relied on by the other side, as the final, as well as the most formal, designation of the will of the PRESIDENT, was dated the 28th of August, 1790. The gentlemen, therefore, instead of the inference they had made, should have reversed their premises, and joined with their opponents in concluding that the PRESIDENT was led by a consideration of the subject, not to do what the Secretary, in his note to the Trustees, seemed to anticipate, but what had been evinced by the PRESIDENT'S own act of posterior date.

The second point, then, as well as the first, rests

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on the most solid proofs, taken from a collective view of authentic documents.

Much has been said on the necessity of sometimes departing from the strictness of legal appropriations, as a plea for any freedoms that may have been taken with them by the Secretary. He would not deny that there might be emergencies, in the course of human affairs, of so extraordinary and pressing a nature, as to absolve the Executive from an inflexible conformity to the injunctions of the law. It was, nevertheless, as essential to remember, as it was obvious to remark, that in all such cases, the necessity should be palpable; that the Executive sanction should flow from the supreme source; and that the first opportunity should be seized for communicating to the Legislature the measures pursued, with the reasons explaining the necessity of them. This early communication was equally enforced by prudence and by duty. It was the best evidence of the motives for assuming the extraordinary power; it was a respect manifestly due to the Legislative authority; and it was more particularly indispensable, as that alone would enable the Legislature, by a provident amendment of the law, to accommodate it to like emergencies in future.

In the proceedings falling under the present inquiry, no necessity appeared for the liberties which had been taken, the money appropriated in Europe being more wanted there than at home. It appeared that the instructions of the Supreme Executive, instead of warranting those liberties, had precluded them; nor had the proper explanations been disclosed in due time to the Legislature. To place the subject in a more distinct point of view, it was proper to advert to the precise authorities and duties of the Secretary, as his office is defined by the act establishing the Treasury Department. For this purpose, Mr. M. read the second section of that act, which is in the words following:

“That it shall be the duty of the Secretary of the Treasury to digest and prepare plans for the improvement and management of the revenue, and for the support of public credit; to prepare and report estimates of the public revenue and the public expenditures; to superintend the collection of the revenue; to decide on the forms of keeping and stating accounts and making returns, and to grant, under the limitations herein established, or to be hereafter provided, all warrants for moneys to be issued from the Treasury, in pursuance of appropriations by law; to execute such services relative to the sale of the lands belonging to the United States as may be by law required of him; to make report and give information to either branch of the Legislature, in person or in writing, (as he may be required,) respecting all matters referred to him by the Senate or House of Representatives, or which shall appertain to his office; and generally to perform all such services relative to the finances as he shall be directed to perform.”

This establishment of the office evidently had no reference beyond the case of superintending the regular and ordinary collection of the revenue, and granting warrants for moneys issued from the Treasury, in pursuance of appropriations by law.

The case of loans, as an occasional and extraordinary resource, was left to be provided for by particular laws for the purpose. The authority, with respect to the loans in question, was accordingly committed to the PRESIDENT, in order to secure for so special a trust, the highest responsibility to be found in the Government. And when it was considered that the whole sum contemplated was no less than fourteen millions of dollars, and when the latitude as to the terms and contracts was combined with the vastness of the sum, it might well be questioned whether so great a power would have been delegated to any man in whom the Legislature and the people of America had less confidence than they so justly reposed in the existing Chief Magistrate, and whether an equal power will ever be committed to a successor. This distinction between the case of ordinary revenue and that of loans is not only consonant to the actual policy of our laws, but is founded in obvious and solid considerations. In the collection and disbursement of the ordinary revenues arising from taxation, the business flows in official channels, is subject in every stage to official checks, and the money, being in constant influx and efflux, nowhere accumulates in immense sums. The case of loans is, in all these respects, different. In settling the terms and arranging the negotiations, there is always an important discretion involved. When the loans are foreign, as well as great, regulations concerning the bills of exchange form another occasion where great latitude is implied in the trust; whilst the magnitude of the sums, falling under the same direction at the same moment, present a further and material variance between the two cases. The tendency of these observations is to show that, as the permanent law establishing the Treasury Department does not extend the authority of the Secretary to the case of loans, and as the law authorizing loans exacts, for special reasons, a responsibility from the PRESIDENT himself, the authority of the Secretary, in executing the loans, and the appropriation of them, must be derived from the PRESIDENT; and, consequently, where that authority fails, there can be no resort to the law establishing the Department, much less to any general discretion incident to his official character. It is evident that the PRESIDENT, although no doubt guided by the most proper considerations in employing the agency of the Secretary of the Treasury in the business of the loans, might, if he had judged fit, have substituted the agency of another; and that, whatever agency he might prefer, his own instructions would always regulate the extent and exercise of the power conferred. The want of any apparent authority from the PRESIDENT had led several gentlemen to insist on presumed authorities, superceding the instructions joined with the commission to the Secretary. But here, again, the fair inference was to be reversed. A communication of the authorities given by the PRESIDENT to the Secretary, as to the application of the foreign loans, had been expressly requested by the vote of the House. It was not to be supposed that the Secretary, if he had re-

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ceived further authorities or instructions, would have failed to produce them, or to refer to them, in the justification of his conduct. Far less could it be presumed that the PRESIDENT, if he had given any superceding authorities or instructions, would not have caused them to be communicated to the House, or that he would have suffered a partial communication to mislead the House into an error as to so important a fact. The PRESIDENT was the last man in the world to whom any measure whatever of a deceptive tendency could be credibly attributed.

Thus far (said Mr. M.) his observations had departed as little as possible from the question in its strictest sense. He should now avail himself of the opportunity afforded by the terms of the last clause, which spoke of drafts generally, to take a more particular notice of those recently made; in doing which, he considered himself safe within the Rules of the House, which were so rigorously enforced against the affirmative side of the question. The whole amount of foreign loans transferred directly or indirectly to the United States appeared from the several statements to be about \$3,000,000. The amount of the direct drafts was \$2,304,769 13. Of the drafts made since the 16th of April, 1792, and sold by the Bank, the proceeds now in the Bank, or payable into it, before the 1st of April next, amount to \$1,220,476 01. Of this sum \$510,000 have been drawn in the course of the present session of Congress. With respect to the times and the amount of these drafts, hitherto absolutely unknown to the Legislature, because the account of them had remained in the books of the Bank without ever appearing in the books of the Treasurer, Mr. M. confessed that he had found no explanations that were satisfactory to him. He had looked through all the reports and all the communications before the House, without discovering either that they had been made by the authority or with the knowledge of the PRESIDENT, or had been required for, or applied to the purchase of, the Public Debt, or had been ever communicated to the Trustees of the Sinking Fund, who had the direction of such purchases, or that they were the effect of any necessity that could justify them. And if there was no evident necessity for the proceeding, it was the more to be lamented that, whilst we were everywhere sympathizing with our allies in their arduous struggles for liberty, and echoing from every part of the Union, our congratulations and good wishes, the pecuniary succors so critically necessary to their cause, and the most substantial proof of the sincerity of our professions, should be silently withdrawn across the Atlantic from the object for which they were intended—succors, too, which were not merely a tribute of gratitude, of generosity, or of benevolent zeal for the triumph of liberty, but a debt moreover of strict and positive obligation, for value acknowledged and received. In contemplating the subject in this point of view, he felt a pain which he could not easily express, and to which, he persuaded himself, the breast of no other member could be a stranger. Laying aside, however,

all these unfavorable considerations, the important question still remained, why the Legislature had been uninformed of the moneys so unexpectedly drawn into the Bank, and to so very great an amount? If the drafts had received every requisite sanction, if they had been produced by the most justifiable causes, the existence of \$1,220,476, in a situation so different from what had been contemplated, was a fact which the Representatives of the people had a right to know, which it was important to them and their constituents that they should know, and which it was the indispensable duty of the officer charged with it to have made known. This omission was the more remarkable when considered in relation to the measure above-mentioned, of paying off at once the whole sum of \$2,000,000, payable to the Bank by instalments in ten years. A bill for this purpose had been introduced, and was on its passage; the object of it had been patronized by a report of the Secretary not long since made. In one of his last reports he expressly states, among the inducements to such extensive drafts of money from Europe, that they were made "with an eye to placing within the reach of the Legislature" the means necessary for this object. Was it not extraordinary, was it not unaccountable, that so important a measure should be recommended, and be actually introduced, and that money otherwise appropriated in Europe should be transferred to this country and deposited in the Bank, in order that it might be within the reach of being applied by the Legislature to that measure, and yet that no disclosure should be made to the Legislature of the fact that the money was so drawn and lay at the Bank, within their reach, to be so applied? If anything could heighten astonishment on this occasion it must be the reason assigned by the Secretary for any obscurity that might have hung over our finances—"that, till the last resolutions, no call had been made on the Department which rendered it proper to exhibit a general view of the public moneys and funds, or to show the amount and situation of such as were unapplied." Mr. M. would not decide that the Legislature was free from blame in not using more full and efficacious means of obtaining such information as would have removed all obscurity. But, whatever degree of blame might fall on them, it never could be admitted that their calls on the Department had furnished no proper occasion for exhibiting a full view of the public finances. He referred generally to the various resolutions, which, without the least force of construction, would have extended to every proper article of information. He reminded the Committee of the latitude of reports under certain other orders of the House, and asked whether less freedom of construction was to be allowed when information was to be given, than when power or discretion was to be exercised? But, independently of this view of the matter, Mr. M. held it to be clear and palpable that the very situation of the money afforded an occasion which rendered it proper that the House should be informed of it. If a liberty could be taken of removing money from Europe, where it stood appropriated by law,

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to this country, where there was no legal object that required it, and with an eye, as was stated, to an object to which no money was applicable, without the authority of the Legislature, how could it possibly be supposed improper to take the further liberty of communicating what was done to the Legislature? He concluded with recurring to the particular form in which the subject presented itself to the Committee, and repeating that, whatever quality might be attached to the facts charged, or however improper it might be thought by some to proceed in haste to any affirmative decision on them, it appeared irreconcilable with the evidence which had been produced, to decide, by a negative vote, against the truth of the facts.

Mr. AMES prefaced his remarks on the subject before the Committee by some observations on the nature of the charges brought forward. He was happy that they were determinate, and conceived that the defence could be crowded in a nutshell. As to the first charge in the resolution immediately before the Committee, he had seen no proof in support of it brought forward. It is founded only on assertion, and he conceived that contra-assertion was sufficient to meet it. No authority, it was said, was given to the Secretary to obtain the Loan under the blended authority of both acts. This is not one of the charges included in the resolutions before the Committee, and therefore this is not the time to answer it. However, if this were fact, nothing criminal could in consequence be imputed; and, since the purposes of both laws were carried into execution, there could be no ground for saying that either was violated. He said much on the impracticability of the line of conduct which some gentlemen appeared to think ought to have been followed by the Secretary. It was impossible to keep different funds, differently appropriated, so inviolably separate as that one might not be used for the object of the other; all was right, he conceived, provided what was taken was to be replaced. He was also of opinion that the overflowing of one fund could be applied to make up the deficiency of another; and that all that is necessary is to give priority to the appropriation. The money paid in Europe for interest on the Loan was said to have been improperly applied, because the fund appropriated for the purpose was here. He insisted that that money was absolutely represented here by an equal sum: and he contended that, though the interest was not paid in the identical coin appropriated, yet, by allowing a very reasonable latitude of expression, it could be said that the interest was paid with the money appropriated, for the applicability of the sums there depended on the existence of the fund here. He next turned to the second charge in the resolution; and, after showing that the natural presumption was, that the Secretary either was instructed or had a discretionary power, he then vindicated his conduct in respect to the drafts of money to this country. He did honor to the motives of the gentlemen who had instituted the inquiry, and concluded an elegant speech, by a contrasted picture of our former and present

situation as a country, dwelling upon the importance of preserving harmony, and insisting on the danger of giving rise to suspicions against a highly responsible officer, and of bringing forward charges not to be supported by proof.

Mr. FINDLEY.—If my hopes respecting the Government have not been equally elevated with those of the gentleman from Massachusetts, [Mr. AMES,] neither are my apprehensions so much depressed with fears. But I hope I am equally anxious for the stability and prosperity of the Government; and though we differ in opinion on this question, yet I am firmly persuaded that the part I take is the best calculated to promote the necessary confidence in Government, and secure the virtue of its Administration. As the gentleman, in an elegant discourse, has explained no difficulties, nor adduced any proofs in support of his opinions, I will only add, that I believe the Government to be so well established, and so much beloved by the citizens, as not to be endangered by the House of Representatives' examining how the laws have been obeyed in the application of public money, and giving their opinions upon the result of that examination.

That the Secretary has not reported fully to this House, in due time, is so much within the knowledge of every member, that it is impossible to doubt of the truth of the fact, however we may differ about the propriety of the conduct. To go no further back than last session—besides the references to the Secretary to report upon the Ways and Means, and inform the House what revenues were necessary, on the 30th of February, 1791, a standing order was resolved, directing that he should report to the House, within a few days after the meeting of the next session, "an accurate statement and account of the receipts and expenditures of all the public moneys, in which shall be distinguished the expenditures which fall under each head of appropriation, and that it shall be shown the sums, if any, which remain unexpended," &c. Were not the moneys drawn upon loan, *public moneys*, and were not those loans appropriated? Undoubtedly, they were strictly so. It is a strange evasion to say, that by these expressions, only the current revenue is intended. Arguments must be scarce when this becomes necessary. It requires no refutation.

On the 19th of January last, he was called upon to "lay before the House such information with respect to the finances of the United States, as will enable the Legislature to judge whether any or what additional revenues will be necessary." In consequence of the recommendations of the PRESIDENT, and the wishes of this House, to commence the discharge of the redeemable part of the Funded Debt, a reference was made to the Secretary, requiring him to report a mode for the application of the public money for that purpose; the House being assured, by the gentleman who moved the resolution, that no new tax was intended or necessary. But the Secretary, so far from informing the House how much money he had subject to his discretion, in the Bank, in notes, &c., proposed a new and partial tax, as the foundation of

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a new system of loans. When the memorable bill to authorize another loan of \$2,000,000, was before the House, a few weeks ago, we were told by gentlemen on this floor, that there was not time for argument; that the bill must be passed in three or four days, &c.; and when we wanted information, we were told by some of the friends of the bill that it was not convenient to give information there—that we might procure information elsewhere, as they had done. I confess I did not comprehend this method of legislating; but the Secretary has since explained it, in one of his Reports, by complaining of the House, because the members did not go to his office and ask information, instead of requiring it to be publicly reported.

Even when this favorite bill for a new loan was before the House, the Secretary did not condescend to inform us that he had, without authority, provided near a million and a half of dollars for that purpose; he did not inform us how obligingly he had drawn bills upon our bankers in Holland, to have the money put in our way. Thus, in order to anticipate the payments due to the Bank, he did what he could to induce Congress to break the public faith, by repealing the existing appropriation made for securing the discharge of a debt of justice and gratitude to the French nation. From this and other instances, it appears, that however high the Secretary's regard for public credit may be, there are other considerations which have obtained a higher degree of his attention than obedience to the laws. The gentleman from Virginia [Mr. MADISON] has so clearly explained the nature of that discretion with which the Secretary is vested, and so fully proved that there was no necessity to justify a departure from the appropriations made by law, that it is not necessary for me to explain further on this head. However, I cannot help remarking, that the discretionary powers were pretty freely exercised. The drawing of bills began early indeed, and were continued to a recent period. The times of drawing fortunately corresponded with the necessities of the Bank, and the power of employing agents was pretty freely used. The same agents were frequently both the sellers and the purchasers of the bills. Perhaps this was necessary: no doubt it was convenient. Probably it was safe; but who can say it will be always so.

I have not said so much to prove the truth of the facts expressed in the resolution, for of this there can be no doubt—it is as clear as the sun, shining in day-light,—but, in order to prove the propriety of this Committee expressing its disapprobation of a conduct so unjustifiable. That information was withheld unduly, is evident, from the lateness of this discussion; that it was obtained with difficulty, is evident, from the numerous applications we were obliged to make in order to obtain it.

Mr. BOUDINOT called the attention of the Committee to the change in the usual situation of the House. They were no longer acting in a Legislative capacity, but were now exercising the important office of the grand inquest of the Nation. It was necessary to advert to this circumstance, to prevent running into the diffuse mode of argu-

ment that had improperly been adopted on this occasion. A gentleman of this Committee had thought proper to institute an inquiry into the conduct of an officer of the Government in a very important and highly responsible station. He had exhibited his charges against him in writing—had reduced them to certain and specific facts. To these, and to these alone, he had pointed his evidence, and we were bound in honor and in conscience to give a just and decisive opinion on each independent charge. In the first place, the truth of the facts must be settled and established; if in their favor, the criminality would then necessarily require a second consideration. The honor and reputation of the officer thus charged, as well as the respect due to the gentleman who had brought forward the accusation, required a steady, uniform, and disinterested examination of every question from us. Under this view of the subject, Mr. B. said he should avoid the desultory mode of argumentation that had been run into on both sides, and confine himself to the nature of the facts charged, and the evidence adduced in support of them. The short time that yet remained of the session was too precious to waste in collateral arguments, or the consideration of merely presumptive proofs. The first charge in the resolution now before the Committee was, "That the Secretary of the Treasury has violated the law passed on the 4th of August, 1790, making appropriations of certain moneys authorized to be borrowed by the same law, in the following particulars, to wit: 1st. By applying a certain portion of the principal borrowed to the payment of interest falling due upon that principal, which was not authorized by that or any other law. 2d. By drawing part of the same moneys into the United States, without the instruction of the PRESIDENT." These specific charges make it necessary for us to understand determinately the terms of the act mentioned in the resolution, and the nature of the proof offered in its support. By the act of the 4th August, 1790, section 2—

"The PRESIDENT OF THE UNITED STATES is authorized to cause to be borrowed a sum or sums not exceeding in the whole twelve millions of dollars; and that so much of this sum as may be necessary to the discharge of the arrears of interest on loans heretofore made by the United States in foreign countries, and the instalments of the principal of the said Foreign Debt, and (if it could be effected upon terms advantageous to the United States) to the paying off the whole of the said Foreign Debt, be appropriated solely to these purposes; and the PRESIDENT was moreover further authorized to cause to be made such other contracts respecting the said Debt as should be found for the interest of the said States."

It is asserted by the prosecutor of these charges that this act contained an emphatic appropriation of the whole of the twelve millions of dollars to the payment of the Foreign Debt. By a Letter to Mr. Short of May 9, 1791, read in the Committee, it appears that a Loan of three millions of florins had been made, and that one-half only was appropriated to the payment of our debt to France, and that eight hundred thousand florins were to

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be drawn to this country. This was said to be contrary to the terms of the appropriation, and without authority; and the Secretary's Report of January 3, 1793, folio 3, was referred to in proof of the fact "that the interest arising on the principal borrowed under this act was paid out of that principal;" when, by the same law, part of the domestic revenues of the United States were appropriated to that purpose. The words of the Report are, "payments on account of other Foreign Loans made and to be made to the 1st January, 1793, inclusive. February 1, 1791, two hundred and eighty-nine thousand seven hundred and eighty-three florins six stivers, with several other payments on the same terms, till January 1, 1793, amounting in the whole to one million eight hundred and thirty-three thousand one hundred and eighty nine florins two stivers eight deniers. These payments were asserted to be on account of interest on the principal borrowed, but without further proof. By the Report, folio 4, it appears that on the 1st of February, 1790, there was borrowed no more than one million one hundred and sixty-seven thousand florins, on which was due the 1st of February, 1791, one year's interest, amounting, at five per cent., to fifty-eight thousand three hundred and fifty florins; but this evidence proves that two hundred and eighty-nine thousand seven hundred and eighty-three florins were paid on that day. Can gentlemen be serious when they assert that this was for interest on this principal borrowed, being almost twenty-five per cent. per annum, instead of five. This certainly is an inattention to the subject that the serious nature of the charge cannot justify. Mr. B. then asserted that, on a critical examination of these items, they will be found to be instalments of the Dutch Loans made by the old Congress, and which this money was expressly appropriated to discharge; but he said he did not mean to avoid the fact, had it been proved, but he denied that any evidence of it arose from this testimony. The PRESIDENT was generally authorized to make the loans. Money arising from a domestic fund was appropriated to pay the interest. It happened that the Loan was made in Europe, to the amount of three millions of florins; part of it was to be drawn to this country, but before that event interest became due; this was paid out of the moneys intended to be drawn into this country, and repaid by the fund here, to prevent the unnecessary sending the moneys from one country to the other. Mr. B. asked, if the Secretary had done otherwise, would any man in his senses have thought him worthy of the trust committed to him? But the gentleman has proceeded on this charge (and has so expressed himself) as if this loan was exclusively made under the act of the 4th August, mentioned in the resolution before us, and therefore was wholly appropriated by law to the payment of the Foreign Debt, and ought not, in any part, to have been drawn into this country for other purposes. This brings to consideration the act of the 12th August, 1790, passed eight days after the act alluded to. By the 4th section of this act the PRESIDENT OF THE UNITED STATES

is authorized to cause to be borrowed a sum or sums not exceeding two millions of dollars, at an interest not exceeding five per cent., and that the interest should be applied to the purchase of the Debt of the United States. The difference between these acts was, by that of the 4th of August, the PRESIDENT had a discretion as to the application of the sum borrowed towards payment of the whole of the Foreign Debt, over and above the instalments, depending upon terms of advantage to the United States. By the second act there was no discretion, the whole moneys being positively directed by law to be applied towards the purchasing of the Domestic Debt. By the first there was no restriction, in point of interest, to be paid, but an injunction that the terms of repayment should be stipulated within fifteen years. By the second, interest was restricted to five per cent., and no terms of repayment enjoined. By the preamble to the first law, the object of it appears to be the doing of justice and supporting public credit, by the payment of the Foreign Debt; by that of the second, "the reduction of the Public Debt, which would be beneficial to the credit of the Union, by raising the price of their stock, and be productive of savings to the United States." By virtue of these acts the PRESIDENT thought proper to constitute the Secretary of the Treasury his agent to make the loans; and, accordingly, on the 28th of August, 1790, by a commission under his hand and seal, reciting both the said laws, authorized him, "by himself or any other person or persons generally, to borrow, within the United States or elsewhere, a sum or sums not exceeding in the whole fourteen millions of dollars, subject to the restrictions and limitations in the said several acts contained." With this commission the Secretary received instructions relative to the said loans, in these words: "You shall borrow, or cause to be borrowed, on the best terms which shall be found practicable, and within the limitations prescribed by law, as to the time of repayment and rate of interest, such sum or sums as shall be sufficient to discharge as well all instalments or parts of the principal of the Foreign Debt which now are due, or shall become payable to the end of the year 1791, as all interest and arrears of interest which now are or shall become due, in respect to the said Debt, to the same end of the year 1791. And you shall apply, or cause to be applied, the moneys which shall be so borrowed, with all convenient despatch, to the payment of the said instalments and parts of the principal and interest, and arrears of the interest of the said Debt. You shall not extend the amount of the said Loan beyond the sum which shall be necessary for completing such payment, unless upon terms more advantageous to the United States," &c.

These instructions related solely to the application of the twelve millions, the two millions, as before observed, being applied by law, without any discretionary power, to the reduction of the Public Debt. Under this commission, it is in proof the Secretary caused three millions of florins to be borrowed in Europe generally, without ex-

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pressing particularly under which law, but reciting under them both. He directed half of this sum to be applied to the payment of the Foreign Debt, and part of the other half he appropriated, for the purposes mentioned, towards the reduction of the Public Debt. But it is insisted that the whole of this money was borrowed under the act of the 4th August, and therefore it was highly criminal to apply any part of it to the discharge of the interest arising on the principal so borrowed, there being another fund designed for that purpose. But it has clearly appeared that the Secretary made this Loan in Europe, where the interest was to be paid and had become due; the fund for its payment was in this country; and therefore, if he was authorized to draw any part of that principal into the United States, it was a mere economical operation, to pay the interest there out of those moneys on the spot, and repay them out of moneys here, where they were to be applied, and by that means prevent the loss of insurance and interest, that must have arisen by another negotiation. This question, then, depends wholly on the fact whether this money was borrowed by virtue of both acts, or under that of the 12th of August exclusively.

The Loan was made at five per cent., subject to charges and douceurs of four and a half per cent. on the whole. The Secretary thought this within the act of the twelfth of August, limiting him to an interest not exceeding five per cent. This was the opinion of others besides the Secretary. Mr. B. himself had been of that opinion, and at the time thought an application to the Legislature unnecessary. But the prudence and caution of the Secretary led him to state this fact to Congress for their consideration and determination, who, by an act of the 3d March, 1791, declared their sense of the act of the 12th of August, and that the Loan was legally made under that act. The preamble to this act removes all doubt on this question:

"Whereas it hath been made known to Congress that the PRESIDENT OF THE UNITED STATES, in consequence of an act making provision for the reduction of the Public Debt, (that is, that of the twelfth of August,) hath caused a certain loan to be made in Holland, on account of the United States, to the amount of three millions of florins, bearing an interest of five per cent.," &c. "And whereas it hath been also stated to Congress that the charges upon said loan have amounted to four and a half per cent., whereby a doubt hath arisen, whether the said loan be within the meaning of the said last-mentioned act, which limits the rate of interest to five per cent. per annum. And whereas it is expedient that the said doubt should be removed, be it enacted," &c., "that the loan aforesaid shall be deemed and construed to be within the true intent and meaning of the said act making provision for the reduction of the public debt," &c.

This puts an end to any dispute on this subject; and if this money was borrowed under both acts jointly, or exclusively under the act of the twelfth August, there can be no propriety or justice in the charge, that the Secretary had violated the act of the fourth of August in applying

part of this money to the purposes of the act of the twelfth of August, under which the Loan, as to a greater sum, was certainly made. By this act also the opinion of the Secretary of the meaning of the act of the twelfth of August as to the restriction of the interest to five per cent. was confirmed, and of course all his proceedings under it. There can then be no foundation for the charge, and it remains unsupported by proof.

The next part of the accusation attempted to be supported, was the drawing part of the same "moneys of the United States without instructions from the PRESIDENT." The instructions from the PRESIDENT as to the making the loans and applying them were only called for, he has therefore only reported these to the House; from this negative testimony, it was presumed that no other instructions have been given. This is weak support, indeed, to a criminal charge of this nature. I know it has been urged by one gentleman [Mr. MERCER] that the Secretary has been called upon for the instructions, and if he has failed to report them to the House, he ought to suffer: this shows how fallible gentlemen's memories are. There has been no call whatever of the House on the Secretary for this purpose—our Journals do not show any. The requisition was to the PRESIDENT, and he has complied with the terms of it. But if we are to rest on presumptive evidence, the presumption is in favor of the Secretary. The PRESIDENT has not made objections to the conduct of his agent. He has mentioned the loans to Congress, without disapprobation. The agent was properly accountable to him, and he has not found fault with him; but in his Speech at the opening of this and the last session of Congress, has expressed great satisfaction in the state of public affairs. But if the gentlemen who advocate this prosecution really believed this fact, had they it not in their power to have rendered the evidence certain to demonstration, by requesting, by resolutions of the House, that the PRESIDENT would declare whether this money was or was not drawn in consequence of his instructions, or with his approbation and consent? Can any man suppose that so responsible an agent as the Secretary of the Treasury would presume (for his own sake) to proceed in so important negotiation, without the knowledge, approbation, and directions of the PRESIDENT OF THE UNITED STATES? But, for argument sake, suppose the fact to be true, is not the Secretary an officer to superintend the collection of the public revenue? As soon as this Loan was made under the act of the twelfth August, was it not his duty, without further instructions, to draw the money into the United States for the purposes mentioned in the act? Would he not have been highly culpable if he had left this money in Holland till the next session of Congress, and waited for a law authorizing him so to do? It is really a reflection on the whole Legislature to suppose they would have directed a Loan which should remain inactive on an interest of five per cent. without giving a power of application.

But it has been said that a larger sum, viz., al-

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most three millions of dollars, has been drawn into this country, which was more than the PRESIDENT himself was authorized to do. If this is meant to criminate the PRESIDENT, we ought to know it. How does the fact stand? It is agreed that the PRESIDENT had a right to draw the moneys loaned under the act of the twelfth of August

He had a right to make such other contracts respecting the Debt as should be for the interest of the United States, in consequence whereof the agent in Europe agreed with the National Assembly or the Executive of France, for the payment of four millions of livres, part of their debt, in the produce of the United States, for the supply of St. Domingo	800,000 00
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The interest to foreign officers amounted to about	191,316 90
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	2,991,316 90
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This, then, makes about the sum that it is proved was drawn for by the Secretary, and shows that he did not exceed the powers vested in the PRESIDENT for this purpose.

It has been also held up as highly criminal in the Secretary, that although he began to draw for this money in December, 1790, yet he never gave information to Congress or to the Trustees for purchasing the Public Debt on the subject; but left them wholly in the dark with respect to so important a measure, when it was his duty particularly to have kept the House constantly informed, and that this could only have happened for the purpose of covering some improper design, or aiding individuals with the public moneys of the United States.

To this charge Mr. B. said, he had paid serious attention, for as on the one hand he would ever be ready to bring every defaulter in public office, however exalted in character, to condign punishment, where found guilty: on the other hand, he wished ever to be found giving full support to every good officer of Government against unfounded charges of speculation and mismanagement of the public revenue. He had satisfied his mind on the subject, not being able to find a scintilla of evidence to support the charge, but abundant testimony to the contrary.

1. Congress knew that this money was appropriated to the payment of the debts in this country, that the Loan was made in Holland, and therefore that it must necessarily be drawn here for the purposes of the act.

2. By the Report of the Trustees of the Sinking Fund, folio 12, under the date of the 25th of August, 1790, is the following entry:

"It is probable that it will be deemed advisable to pay the interest for the year 1791 on the amount of the foreign debt out of foreign loans. There is one now matured for the acceptance of the United States, amounting to three millions of florins, the proceeds of which may be at command in the course of the present year.

The expediency of an acceptance of the loan, and of an application of one third of it, to the purpose of the act, for the reduction of the Public Debt, is under the consideration of the PRESIDENT OF THE UNITED STATES."—Alexander Hamilton, Secretary of the Treasury."

This entry affords strong presumption against all the suggestions of the want of instructions from the PRESIDENT, or his ignorance of the proceedings of the Secretary.

3. The Speech of the PRESIDENT delivered to both Houses of Congress, on the 8th of December, 1790, has the following paragraph:

"In conforming to the powers vested in me by the acts of the last session, a Loan of three millions of florins, towards which some provisional measures had previously taken place, has been completed in Holland. The Secretary of the Treasury has my directions to communicate such further particulars as may be requisite for more precise information."

4. The Report of the Secretary in conformity to that direction, dated 24th February, 1791, mentioning terms of the loans and application of moneys.

5. The preamble of the act of 3d March, 1791, already read.

6. In the Report of the Secretary of the Treasury of the receipts and expenditures from the commencement of the Government to the 31st of December, 1791, is the following article of receipts:

"FOREIGN LOANS.

"From the President, Directors, & Co., of the Bank of North America, being the produce of bills of exchange, drawn on the agents for negotiating Foreign loans in Holland	\$229,269 47
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"From the President, Directors, & Co., of the Bank of New York, being the produce of bills of exchange, drawn on the agents aforesaid	132,121 87
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\$361,391 34

7. In the Treasurer's account, commencing January 1, 1792, and ending on the 31st March, 1792, are found the following entries of receipts:

"On the proceeds of bills of exchange, drawn on Wilhelm & Jan Willink, Nicholas and Jacob Van Staphorst & Hubbard, of Amsterdam, on account of loans made for the United States, per statement, \$402,902 89."

In his account commencing on the 1st of April, 1792, and ending on the 30th of June, 1792:

"On the proceeds of bills of exchange, &c., in same words, \$1,400,000."

In his account commencing on the 1st of July, 1792, and ending on the 30th of September, 1792:

"On the proceeds of bills of exchange, &c., in same words, \$1,000,000."

Mr. B., after reading these vouchers, proceeded: These, Mr. Chairman, are the facts that have convinced my mind, at first much alarmed at the severity of the charges and the positive assertions of gentlemen, that discoveries would be made, showing corruption at the very heart of the Go-

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vernment; these have convinced me fully that this prosecution has been rashly brought forward, without a proper examination of the transaction. My mind, in a conscientious research into the facts, has not been able to raise a doubt, on which to found even a suspicion of the integrity or abilities of the Secretary in this whole negotiation. So far am I from considering those charges supported by testimony, that I consider the conduct of the officer concerned in this transaction, not only wholly cleared up, but the measures he has pursued as stamped with wisdom and official knowledge. So far am I from judging him reprehensible for the manner in which he has negotiated and applied these loans, that I think him deserving of the thankful approbation of his country for his economy and strict attention to the true interests and credit of the United States. I rejoice, sir, that after so full and zealous an investigation, this officer, though unheard, appears to be free from even a suspicion of malconduct in the whole transaction; this is not only honorable to him, but does credit to our country. On the whole, therefore, I am decidedly against the present resolutions, and shall give them my hearty negative.

The House then adjourned until seven o'clock post meridian.

EVENING SESSION—7 P. M.

An engrossed bill making certain appropriations therein mentioned was read the third time, and passed.

The bill sent from the Senate entitled "An act providing for the compensation of Ebenezer Storer," was read twice, and committed.

OFFICIAL CONDUCT OF THE SECRETARY OF THE TREASURY.

The House again resolved itself into a Committee of the Whole House on the third, fourth, fifth, sixth, seventh, and eighth resolutions contained in the motion of Thursday last, respecting the official conduct of the Secretary of the Treasury. The third resolution being still under consideration, in the words following, viz:

Resolved, That the Secretary of the Treasury has violated the law passed the 4th of August, 1790, making appropriations of certain moneys authorized to be borrowed by the said law, in the following particulars, viz: First, by applying a certain portion of the principal borrowed, to the payment of interest falling due upon that principal, which was not authorized by that or any other law. Secondly, by drawing a part of the said moneys into the United States, without the instructions of the President of the United States.

A motion was made, and the question being put, that the House do agree with the Committee of the Whole House in their disagreement to the resolution, it was resolved in the affirmative—yeas 40, nays 12, as follows:

YEAS.—Fisher Ames, Robert Barnwell, Egbert Benson, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Jonathan Dayton, Thomas Fitzsimons, Elbridge Gerry, Nicholas Gilman, Benjamin Goodhue, James Gordon, Christopher Greenup, Samuel Griffin, William Barry Grove, Thomas Hartley, James Hillhouse, William Hindman, Philip Key, Aaron Kitchell,

John Laurance, Amasa Learned, Richard Bland Lee, George Leonard, Samuel Livermore, Frederick Augustus Muhlenberg, William Vans Murray, Nathaniel Niles, Theodore Sedgwick, Jeremiah Smith, Israel Smith, William Smith, John Steele, Samuel Sterrett, Jonathan Sturges, George Thatcher, Thomas Tudor Tucker, Artemas Ward, Hugh Williamson, and Francis Willis.

NAYS.—John Baptist Ashe, Abraham Baldwin, William Findley, William B. Giles, Andrew Gregg, Nathaniel Macon, James Madison, John Francis Mercer, Andrew Moore, Alexander D. Orr, John Page, and Josiah Parker.

A motion was then made, and the question put, that the House do agree with the Committee of the Whole House in their disagreement to the fourth resolution, in the words following:

Resolved, That the Secretary of the Treasury has deviated from the instructions given him by the PRESIDENT OF THE UNITED STATES, in executing the authorities for making loans, under the acts of the fourth and twelfth of August, one thousand seven hundred and ninety:"

It was resolved in the affirmative—yeas 39, nays 12, as follows:

YEAS.—Fisher Ames, Robert Barnwell, Egbert Benson, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Jonathan Dayton, Thomas Fitzsimons, Elbridge Gerry, Nicholas Gilman, Benjamin Goodhue, James Gordon, Christopher Greenup, Samuel Griffin, William Barry Grove, Thomas Hartley, James Hillhouse, William Hindman, Philip Key, Aaron Kitchell, John Laurance, Amasa Learned, Richard Bland Lee, George Leonard, Samuel Livermore, Frederick Augustus Muhlenberg, William Vans Murray, Nathaniel Niles, Theodore Sedgwick, Jeremiah Smith, Israel Smith, William Smith, John Steele, Samuel Sterrett, Jonathan Sturges, George Thatcher, Thomas Tudor Tucker, Artemas Ward, and Hugh Williamson.

NAYS.—John Baptist Ashe, Abraham Baldwin, William Findley, William B. Giles, Andrew Gregg, Nathaniel Macon, James Madison, John Francis Mercer, Andrew Moore, Alexander D. Orr, John Page, and Josiah Parker.

Another motion was then made, and the question being put, that the House do agree with the Committee of the Whole House in their disagreement to the fifth resolution, in the words following:

Resolved, That the Secretary of the Treasury has omitted to discharge an essential duty of his office, in failing to give Congress official information, in due time, of the moneys drawn by him from Europe into the United States; which drawing commenced December, one thousand seven hundred and ninety, and continued until January, one thousand seven hundred and ninety-three; and of the cause of making such drafts:"

Mr. DAYTON said, that, at so late an hour of the night, he was unwilling to detain the Committee unnecessarily. He trusted, however, that they would grant him their indulgence and attention for a few moments before the vote was taken. The resolution upon which the sense of the Committee was about to be expressed contained a direct charge against the Secretary of the Treasury for having "failed to give Congress official infor-

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mation in due time of the moneys drawn by him from Europe into the United States, and of the cause of such drafts." He rose principally to remark, that the arguments which had been used by the advocates of these resolutions, in support of the first which had been discussed, and particularly by the member from Virginia, [Mr. MADISON,] were of such a nature as must, if applied to the one now under debate, compel that gentleman to abandon this charge, and give it his negative, if he would preserve any sort of consistency between his arguments and his vote.

It had been asserted by him, and seemed to be relied upon as an important fact, that the Secretary's agency in respect to foreign loans did not necessarily result from the duties of his office, or the constitution of the Treasury Department, which on that head was silent, but that it was founded upon a special commission and instructions given to that officer by the PRESIDENT, in whom the laws had vested an authority. Under that view, then, it was deemed convenient and proper to regard the PRESIDENT as the principal, and the Secretary as his agent, in order that there might appear to be some foundation for the charge against the latter for having acted in any instance without the express instructions of the former. If this was truly the relationship in which the Secretary stood to the PRESIDENT—if the PRESIDENT'S commission was his authority, and the PRESIDENT'S instructions his law and guide—if the case of loans was, in respect to the Treasury Department, an extraordinary and extra-official one, not necessarily falling under the head of it, but distinct from the ordinary revenues which bounded his legal authority, as had been declared by a member from Virginia and another from Pennsylvania, Mr. D. called upon those two gentlemen to explain with what propriety the Secretary of the Treasury could be censured for not comprising in his annual official statement of receipts and expenditures of public moneys in his Department a report of his agency in a business unconnected therewith, which he transacted, not in quality of financier, but of agent, and for which he was directly responsible to the PRESIDENT, who was his principal, and who could, and doubtless would, have dismissed him from office, if he had acted unfaithfully. There appeared to his mind (Mr. D. said) such inconsistency and contradiction between the reasoning he had quoted and the resolution on the table, as induced him to believe that all who gave their assent to those arguments, but especially those who had expressed and supported them, would join with him in voting against this proposition.

But there were other reasons (Mr. D. added) which seemed to his judgment to lead irresistibly to the same conclusion. The House of Representatives had already expressed their sense upon this subject. Their resolutions, passed on the 23d of January, without any opposition, evidently recognised certain principles which directly militated against those contained in this resolution. The PRESIDENT OF THE UNITED STATES was there requested to communicate the informa-

tion wanted. It is well known to every member that this mode was never adopted in any call for information respecting our fiscal concerns, or other matters relating to the ordinary business of the Department, but that it was always observed when the information wanted was of such a nature as to render it improper for either of the subordinate Executive officers to give it without the order of their head, the PRESIDENT. Shall the Secretary of the Treasury, then, be censured for not reporting to Congress transactions unasked for, which it is admitted he was not at liberty to report, even upon the order of the House, without the sanction and express direction of the PRESIDENT? Shall he be censured for not giving information of the moneys drawn by him from Europe, and of the causes of making such drafts, when the very laws which authorized the loan of fourteen millions, point out the causes, declare the purposes, and designate the appropriation? The act of the 12th of August directed the application of two millions to the purchase of the Public Debt. Was not this country the only proper place for that operation? And would any one say that those purchases could be made advantageously for the United States unless the money was drawn here? Was there not a discretionary power given to the Executive over the other twelve millions destined to the payment of our debt to France, in virtue of which, such portion of it might be drawn here as might be deemed consistent with the public good? Had not events fully justified Congress in having granted that discretionary power, and the Executive in the use they had made of it? Through the instrumentality of those drafts, we had been enabled to purchase nearly two millions of our own debt, and to pay in this country (principally in our own produce) about half a million of the French debt, by which the Colony of St. Domingo had been relieved from its sufferings, and the Government and people of France highly gratified and benefited. Far from meriting censure for arrangements so provident and beneficial, the man who had effected them was (Mr. D. asserted) entitled to the commendation and thanks of his countrymen. That the Secretary had discharged both his ordinary and extraordinary duties with ability and integrity, had been directly denied by none; that he had misconstrued the act of the 4th of August, and departed from its true spirit, had been urged and supported by very few; but that the arrangements which he made had proved beneficial to France, and highly favorable to the interests of the United States, seemed to have been admitted by all, even by the very gentlemen who had questioned the legality of them.

Mr. D. concluded with saying that he was happy to find he should be with a very large majority of the House in the vote that the Secretary was not chargeable with the omission and failure which the resolution aimed to fix upon him.

It was resolved in the affirmative—yeas 33, nays 15, as follows:

YEAS.—Fisher Ames, Robert Barnwell, Egbert Benson, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Jonathan Dayton, Thomas Fitzsimons, El-

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bridge Gerry, Nicholas Gilman, Benjamin Goodhue, James Gordon, Thomas Hartley, James Hillhouse, William Hindman, Philip Key, Aaron Kitchell, John Laurance, Amasa Learned, George Leonard, Samuel Livermore, Frederick Augustus Muhlenberg, William Vans Murray, Theodore Sedgwick, Jeremiah Smith, William Smith, John Steele, Samuel Sterrett, Jonathan Sturges, George Thatcher, Thomas Tudor Tucker, Artemas Ward, and Hugh Williamson.

NAYS.—John Baptist Ashe, Abraham Baldwin, William Findley, William B. Giles, Samuel Griffin, William Barry Grove, Richard Bland Lee, Nathaniel Macon, James Madison, John Francis Mercer, Andrew Moore, Nathaniel Niles, John Page, Josiah Parker, and Israel Smith.

Another motion was then made, and the question being put, that the House do agree with the Committee of the Whole House in their disagreement to the sixth resolution, in the words following:

“*Resolved*, That the Secretary of the Treasury has, without the instruction of the **PRESIDENT OF THE UNITED STATES**, drawn more moneys, borrowed in Holland, into the United States, than the **PRESIDENT OF THE UNITED STATES** was authorized to draw, under the act of the twelfth of August, one thousand seven hundred and ninety, which act appropriated two millions of dollars only, when borrowed, to the purchase of the Public Debt; and that he has omitted to discharge an essential duty of his office, in failing to give official information to the Commissioners for purchasing the Public Debt, of the various sums drawn from time to time, suggested by him to have been intended for the purchase of the Public Debt:”

It was resolved in the affirmative—yeas 33, nays 8, as follows:

YEAS.—Fisher Ames, Robert Barnwell, Egbert Benson, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Jonathan Dayton, Thomas Fitzsimons, Elbridge Gerry, Nicholas Gilman, Benjamin Goodhue, James Gordon, William Barry Grove, Thomas Hartley, James Hillhouse, William Hindman, Aaron Kitchell, John Laurance, Amasa Learned, George Leonard, Samuel Livermore, Frederick Augustus Muhlenberg, Nathaniel Niles, Theodore Sedgwick, Jeremiah Smith, William Smith, John Steele, Samuel Sterrett, Jonathan Sturges, George Thatcher, Thomas Tudor Tucker, Artemas Ward, and Hugh Williamson.

NAYS.—John Baptist Ashe, Abraham Baldwin, William Findley, William B. Giles, Nathaniel Macon, James Madison, John Francis Mercer, and Josiah Parker.

Another motion was then made, and the question being put, that the House do agree with the Committee of the Whole House in their disagreement to the seventh resolution, in the words following:

“*Resolved*, That the Secretary of the Treasury did not consult the public interest, in negotiating a Loan with the Bank of the United States, and drawing therefrom four hundred thousand dollars, at five per centum per annum, when a greater sum of public money was deposited in various banks, at the respective periods of making the respective drafts:”

It was resolved in the affirmative—yeas 33, nays 8, as follows:

YEAS.—Fisher Ames, Robert Barnwell, Egbert Benson, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Jonathan Dayton, Thomas Fitzsimons, Elbridge Gerry, Nicholas Gilman, Benjamin Goodhue, James Gordon, William Barry Grove, Thomas Hartley, James Hillhouse, William Hindman, Aaron Kitchell, John Laurance, Amasa Learned, George Leonard, Samuel Livermore, Frederick Augustus Muhlenberg, Nathaniel Niles, Theodore Sedgwick, Jeremiah Smith, William Smith, John Steele, Samuel Sterrett, Jonathan Sturges, George Thatcher, Thomas Tudor Tucker, Artemas Ward, and Hugh Williamson.

NAYS.—John Baptist Ashe, Abraham Baldwin, William Findley, William B. Giles, Nathaniel Macon, James Madison, John Francis Mercer, and Josiah Parker.

Another motion was then made, and the question being put, that the House do agree with the Committee of the Whole House in their disagreement to the eighth resolution, in the words following:

“*Resolved*, That the Secretary of the Treasury has been guilty of an indecorum to this House, in undertaking to judge of its motives in calling for information, which was demandable of him, from the constitution of his office, and in failing to give all the necessary information within his knowledge relatively to the subjects of reference made to him, of the nineteenth of January, one thousand seven hundred and ninety-two, and of the twenty-second of November, one thousand seven hundred and ninety-two, during the present session;”

Mr. WILLIAM SMITH said, that, after the vote which had just prevailed by so considerable a majority on the preceding resolutions, the Committee could not, with any propriety, criminate the Secretary of the Treasury for failing to give the information alluded to, because by that vote it had been established that the Secretary had only acted under the authority of the **PRESIDENT**, and conformably to his instructions. If there had been any omission to communicate information to Congress, that omission was surely not chargeable to the Secretary. But it had been already clearly shown, by documents in the possession of the House, that the necessary information had been communicated. The Treasurer's accounts, which had been from time to time laid before the House, exhibited the amount of moneys proceeding from the sale of bills, and the Secretary's Report of February, 1791, conveyed full information of the drawing. It was true, there was a sum of about \$600,000, the proceeds of bills which, as had been remarked by a gentleman, [Mr. MADISON,] did not appear in the Treasurer's account, but this was owing to the sales of the bills by the Bank not having been closed at the time the last quarterly account was rendered, and consequently that sum could not appear in the Treasurer's account.

[Mr. MADISON said, he had not meant to blame the Treasurer.]

Mr. SMITH proceeded. The gentleman, however, had attributed misconduct to the Secretary, for withholding information of the amount of moneys in the Treasury accruing from Foreign loans, when directed by the House, January 19th, 1792, to report whether the existing revenues were adequate to face the additional expense of the

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Indian war. Mr. S. could not forbear expressing great surprise at this remark of the gentleman from Virginia, [Mr. MADISON,] when he recollected what had been just before said by the same gentleman in support of the former resolution. The gentleman, on that occasion, in his attempt to disprove the right of the Secretary, *ex officio*, to superintend the moneys derived from the Foreign loans, had endeavored to establish a nice distinction between the ordinary internal revenues of the country, and the resources resulting from Foreign loans. The law constituting the Treasury Department, he had said, gave the Secretary power only over the revenues, which embraced only the ordinary resources, whereas loans were distinct things, the management of which was specially intrusted by law to the Supreme Magistrate, and in relation to which the Secretary could exercise no authority whatever that was not derived from the PRESIDENT. The gentleman now argued that the Secretary was blameable in not giving information of the state of these extraordinary resources, which were not within his Department, when only called upon to state the amount of the ordinary revenues, which were within his Department. He left it to the gentleman to reconcile this contradiction, for certainly his doctrine was erroneous on the former occasion, or it must be so now. If the moneys obtained from Foreign loans were to be deemed the revenues of the country, then they fell of course under the management of the Head of the Treasury Department, and it was wrong in the gentleman to impute misconduct to the Secretary for exercising a legal authority; if, on the contrary, those moneys were viewed as an extra resource, and not within the purview of the Secretary's functions, then it was wrong to censure him for not communicating a state of those moneys, when required only to report the ordinary revenues.

Without admitting the soundness of the distinction set up by the gentleman from Virginia, Mr. S. said that it was never in the intention of the House, nor in the idea of any individual member, to call for a state of the moneys proceeding from the Foreign loans, when they passed the order of the 19th January, 1792. That order was in these terms:

"Ordered, That the Secretary of the Treasury be directed to lay before this House such information with respect to the finances of the United States, as will enable the Legislature to judge whether any additional revenue will be necessary in consequence of the proposed increase of the military establishment."

This call was fully complied with, for the Secretary laid before the House an estimate of the internal revenues—which, unquestionably, were the only revenues in contemplation of the House at the time—and the House being satisfied that they were incompetent, laid additional duties. The House knew, as well as the Secretary, that loans had been made, and that moneys had, under them, been drawn into this country; but they knew that those moneys had been specially appropriated to the Sinking Fund, and it never entered into the idea of any member to divert them from that bene-

ficial object, in order to apply them to the current service. It was not to be supposed that the Secretary would have recommended such a diversion. To impute blame to him for not communicating the amount of moneys drawn from time to time, there must have been some law or order of the House requiring the communication, or it must have been necessary to some object depending before the House. What law or order of the House made it necessary? None. The laws authorized the loans, and prescribed their objects; the rest was mere Executive business; and no communication was necessary to any measure depending before the House.

But though the Secretary would not have been censurable for omitting to give the information, the truth was, that the PRESIDENT'S Speech of 8th December, 1790, the Secretary's Report of 25th February, and the act of the 3d of March, 1791, were conclusive proofs that the Legislature knew that the proceeds of the loans were in a train of being brought to the United States, and the accounts of receipts and expenditures presented in the first week of the session, informed the House that a large sum had been drawn for, and the Treasurer's quarterly account contained further information on the subject, all which was prior to any call of the House for such information. Hence, Mr. S. deduced, that it was not a fact that the Secretary had failed to give the information, as stated in the resolution, and that had he even so failed, he would not have been censurable for a breach of an essential duty of his office. It had been said, by a member from Pennsylvania, [Mr. FINDLEY,] that the lateness of the information from the Secretary made it inconvenient to go into an inquiry of his official conduct so near the close of the session. To this, Mr. S. replied, that he did not expect such a remark from that quarter of the House. If the gentleman had not been prepared for the inquiry, or thought it an improper season to enter upon it, why did he second the motion for bringing forward the charges? If suspicion had so long existed against the integrity of the Secretary, why was not information called for at the beginning of the session? Why was the call delayed till the session was within a few weeks of its termination? It was admitted that the Secretary had obeyed the order of the House with wonderful alacrity and promptitude. It was indeed strange that the gentleman who brought forward the charges, should be the first to complain that there was not time for their consideration.

Mr. S. concluded by noticing the observation of Mr. MERCER and Mr. MADISON, that the opinion of the House on the preceding resolutions would not change the truth of facts, and that the public would ultimately decide whether the Secretary's conduct was criminal or not. This, said Mr. S., was like the conduct of a prosecutor, who having chosen his jurisdiction, and being nonsuited, wished to appeal to another tribunal. Why were the resolutions brought before the House? Was it not to substantiate the truth of them by a vote? And had the prosecution succeeded, would the

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Secretary have had an appeal to the public? No; the resolutions would have been sent to the PRESIDENT, and the Secretary would have been removed, disgraced, and ruined forever, without appeal.

Mr. FINDLEY said: Since these resolutions were laid on the table, I have, upon reflection, been convinced of the impropriety of connecting it with the others, or of treating this part of the Secretary's conduct in this manner. It is solely in the power of this House to punish all contemptuous or indecent treatment of its authority or orders; for this purpose, it is not necessary to lay our opinions in this way before the public, report them to the PRESIDENT, or make them a foundation of impeachment. We might have ordered him to the bar of this House, and obliged him to make proper acknowledgments. I have known some high in office treated in this manner for infinitely less impropriety. It is true, in the case to which I allude, I thought the affair was carried too far; the offence was only a letter to the House respecting the conduct of a member, whom the officer charged with making free with his character in an insidious manner among the members. I would be sorry to see this House pursue such trifles. Though the indecorum of the Secretary to this House is of a higher nature, I think it is best to treat it with silent contempt; I will vote against this resolution, lest it should be interpreted as a relinquishment of our authority to punish contempts.

The question was then taken, and it was resolved in the affirmative—yeas 34, nays 7, as follows:

YEAS.—Fisher Ames, Robert Barnwell, Egbert Benson, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Jonathan Dayton, William Findley, Thomas Fitzsimons, Elbridge Gerry, Nicholas Gilman, Benjamin Goodhue, James Gordon, Thomas Hartley, James Hillhouse, William Hindman, Aaron Kitchell, John Laurance, Amasa Learned, George Leonard, Samuel Livermore, Frederick Augustus Muhlenberg, Nathaniel Niles, Josiah Parker, Theodore Sedgwick, Jeremiah Smith, William Smith, John Steele, Samuel Sterrett, Jonathan Sturges, George Thatcher, Thomas Tudor Tucker, Artemas Ward, and Hugh Williamson.

NAYS.—John Baptist Ashe, Abraham Baldwin, William B. Giles, William Barry Grove, Richard Bland Lee, Nathaniel Macon, and James Madison.

SATURDAY, March 2.

The SPEAKER laid before the House a Letter from the Secretary of the Treasury, accompanying his report on the petition of Lewis Garanger, on behalf of his brother, Charles Garanger; which were read, and ordered to lie on the table.

PUBLIC PRINTING.

Mr. FITZSIMONS, from the committee to whom was referred the Letter from the Secretary of the Treasury, stating certain inaccuracies in printing the statements communicated by his first and second Letters lately presented, on the subject of Foreign loans, and expressing a wish that some regulation may be adopted to enable the Head of the Treasury Department to secure the fidelity

and correctness of the printed copies of the reports which shall hereafter be made to the House, and shall be committed to the press by their order, made a report; which was twice read, and agreed to by the House, as follows:

“That the committee have examined into the circumstances stated in the Letter, and find

“That the standing order of the Clerk of this House to the printer, is, to send the proof sheets of all reports and statements to the Department from whence they were made, and that this practice has been generally followed.

“That it has been discontinued during the present session (so far as respects the Secretary of the Treasury) from an opinion of the printer, that the delay which the examination would occasion, might interfere with the intention of the House, of having the business speedily accomplished.

“It did not appear to the committee, that any unnecessary delay had taken place at the office of the Comptroller, by reason of the examination of the proof sheets, nor in the printer, in the execution of his business.

“The committee are of opinion, that it is not necessary for them to recommend any new regulation for the future execution of this business; but, in order to rectify the errors which have taken place in the printed reports and statements, the committee recommend the following resolution:

“Resolved, That there be printed under the direction of the Secretary of the Treasury, three hundred copies of the reports and statements made by him during the present session, and that the same be delivered to the Clerk to this House.”

Resolved, That the Clerk of the House of Representatives shall be deemed to continue in office until a successor be appointed.

Resolved, That the Doorkeeper and assistant Doorkeeper of the House of Representatives shall be deemed to continue in office until successors to those officers, respectively, be appointed.

Resolved, That the Clerk of this House be authorized to pay to Thomas Claxton, out of the money appropriated to defray the contingent expenses of this House, the sum of eighty dollars, for extra services.

The House resolved itself into a Committee of the Whole House on the bill making addition to the compensation of the Auditor of the Treasury, and the Commissioner of the Revenue; and, after some time spent therein, the Chairman reported that the Committee had had the said bill under consideration, and made several amendments thereto; which were severally twice read, and agreed to by the House.

And on the question, that the said bill, with the amendments, be engrossed, and read the third time, it was resolved in the affirmative—yeas 24, nays 17, as follows:

YEAS.—Fisher Ames, Abraham Baldwin, Robert Barnwell, Egbert Benson, Shearjashub Bourne, Benjamin Bourne, Jonathan Dayton, William Findley, Thomas Fitzsimons, Nicholas Gilman, Benjamin Goodhue, Thomas Hartley, Philip Key, John Laurance, Richard Bland Lee, Frederick Augustus Muhlenberg, William Vans Murray, Josiah Parker, Theodore Sedgwick, William Smith, John Steele, George Thatcher, Thomas Tudor Tucker, and Francis Willis.