lot, with some probability of his becoming the President. And indeed, when ever an election of President shall come into the House of Representatives, there is the greatest probability of the Vice President's succeeding to that office. Supposing that officer to be previously elected, either by the electors or by the Senate, and must succeed of course to the Presidency in case of the non-election of a President; as he would have strong temptations; so the nature of the resolution is calculated to invite intrigue, in order to defeat the election of a President. And although I have purposely guarded against running a comparison between large and small states, yet permit me to remark, that eleven representatives will be more likely to be tampered with, than seventy-four, and as according to the present apportionment, they would represent an equal number of states, they, when voting by states, would have an equal weight, in either effecting or defeating a presidential election. Upon the whole as the amendment now proposed shields us from no difficulty, and may, and probably will expose us to evils innumerable, whatever may be its fate, I feel an entire satisfaction that I shall do my duty in voting against it.

Mr. HOLLAND. I am not surprised after hearing the declarations of the honorable. I might add the venerable member from Massachusetts (Mr. Taggart), that the resolution on your table proposing an amendment to the constitution as it respects the election of President and Vice President, will not obtain his support. The venerable gentleman states that he has taken an oath to support the constitution and therefore infers that he is under sacred obligations not to admit the alteration or amendment, as it would violate his oath. If the venerable member had read a certain provision in the constitution, he would have there found that in cases of amendment he would be completely absolved from the obligations of his oath.

The venerable member has also said that the reasons offered so far as respects the will of the people in favor of this amendment is intitled to little weight. That the will of the people is unstable, versatile, fluctuating and not to be relied on. Sir, I am one of those who have been early taught to respect the will of the people and notwithstanding what has been said, I still retain an opinion that the public will is of binding obligation, and I hope I shall continue to regard it. The constitution itself is predicated upon the will of the people and in order to ascertain this will at all times, the framers were obliged to resort to elections and delegations of power by which agents were to be appointed to express and execute their will whether acting in a legislative or executive capacity. But this delegation of power ought to be imposed only in cases where the will of the people cannot be otherwise known. Under these impressions I have not admired the plan adopted in the constitution of electing those high officers by electors. I should have preferred an immediate suffrage, to this indirect mode of electing by electors; but as the framers of the constitution have thought proper to ascertain the public will through the medium of electors, I am unwilling that they also should be under any unnecessary trammels whereby the will of their constituents should be impeded.

The gentleman that I have alluded to has acknowledged that on his first reading the constitution he did not discover the policy of confining the electors to what he calls a double vote, but is now willing to suppose that it was intended for wise and good purposes. I must confess, sir, that I who have labored under the same difficulty, I never understood the policy that dictated this provision. It was doubtless intended for the best of purposes; I am far from implicating the motives—but it appears to be an effort to conceal in midnight silence and secrecy the intent of the electors as to the person intended to be President and the person intended to be Vice President. If this was the intention of this provision, let me ask gentlemen if it has been effected—a recurrence to all the elections for President and Vice President since the commencement of the government will solve this question and fully demonstrate that the person intended by the electors to fill each office was well understood and known to all the electors and to all other persons that wished to know the secret has not been kept, from which it follows that the end has not nor never will answer the original design, and for what purpose shall we continue it any longer.

This mode takes more of the nature of a lottery than an election, the electors are compelled to put two persons names in a box deprived of the liberty of exercising their rationality as to the application of either person to any specific office, and must leave the event to blind fate, chance, or what is worse, to intrigue to give him a President. Experience hath shewn that difficulties have attended this mode, and that it has not answered the original intention, and it is easy to foresee that it may be so practiced upon as to destroy the first principle of our government that of the will of the majority in their election of the chief magistrate.

I will not say that there is a faction now existing that would wish to defeat the will of the majority. But I may be permitted to say that it is a possible and a probable case such a faction may exist, and on the existence of such a faction how easy would it be for them under the existing provisions of the constitution to defeat the public will. I have before said that the intention of the majority is known to all, the electors compose a part of this faction, and knowing that the majority to fulfil their object will decline to give all their votes to the person intended by them for the second office. This minor faction will accomplish their design by giving all their suffrages to the person intended to fill the second office and by this means contravene and totally defeat the will of the majority; and all this may be right and proper in the view of many gentlemen, but to me who regard the public will, it is exceedingly improper. To prevent which I am in favor of the amendment. Nor do I conceive the force of the objection of my worthy friend from Massachusetts, Dr. Eustis, (for whose opinions I entertain a high respect), to the amendment to our original resolution as made by the Senate, in reducing the number from which the President, is to be chosen by the House of Representatives when the choice devolves upon them from five to three, and I hope when he comes to reconsider his objections that they will be found not to be solid and that the amendment of the Senate is not an innovation of the principles of the constitution but more in unison with it than our original resolution. In the constitution when the election devolves upon the House of Representatives, the President and Vice President are to be taken from the five highest numbers on the list. In our original resolution the President alone was to be elected from the five highest numbers of those voted for as President and the Vice President was to be elected from the two highest of those voted for as Vice President augmenting the numbers from which those officers were to be chosen from five to seven.

In the reduction of the Senate from five to three from which the President is to be chosen, and the Vice President to be chosen from two other distinct numbers, makes precisely the same number out of which those officers are to be chosen as in the existing provisions of the constitution.

In regard to the additional amendment providing in cases where the House of Representatives fails to elect a President. The whole objections are predicated upon a presumption, that the House of Representatives and Senate have or will become so corrupt, that they will not regard the high duties attached to their stations.

Mr. Speaker, when the American Congress are thus contaminated, it will be an extreme case, against the evils of such a situation no remedy would avail you; all is gone—But this is only a possible case, and such a one that I will not suffer myself for a moment to apprehend, and therefore, shall not attempt to guard against. And as I think that the resolution is calculated to avoid evils heretofore experienced in the election of our chief Magistrate, and is consistent with the wish of the people, and will contribute to their happiness, it shall have my most cordial support.

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## SENATE OF THE UNITED STATES.

### IMPEACHMENT.

WEDNESDAY, January 4, 1804.

At one o'clock the Managers of the House of Representatives, appointed to conduct the Impeachment against John Pickering, appeared at the bar of the Senate, when Mr. Nicholson, in their name, announced that they were ready to present the Articles.

Seats having been assigned them on the floor of the Senate, and the Serjeant at Arms enjoined silence, the Managers rose, and Mr. Nicholson read the Articles of Impeachment as follow:

### ARTICLES.

Exhibited by the House of Representatives of the United States, in the name of themselves and of all the people of the United States, against John Pickering, Judge of the district court of the district of New-Hampshire, in maintenance and support of their impeachment against him, for high crimes and misdemeanors.

### ARTICLE I.

That whereas George Wentworth, surveyor of the district of New-Hampshire, did in the port of Portsmouth, in the said district, on waters that are navigable from the sea by vessels of more than ten tons burthen, on the fifteenth day of October, in the year one thousand eight hundred and two, seize the ship called the Eliza, of about two hundred and eighty-five tons burthen, whereof William Ladd was late master, together with her furniture, tackle and apparel, alledging that there had been unladen from on board of said ship, contrary to law, sundry goods, wares and merchandize, of foreign growth and manufacture, of the value of four hundred dollars and upwards, and did likewise seize on land within the said district, on the seventh day of October, in the year one thousand eight hundred and two, two cables of the value of two hundred and fifty dollars, part of the said goods, which were alledged to have been unladen from on board the said ship, as aforesaid, contrary to law: And whereas Thomas Chadbourn, a deputy marshal of the said district of New-Hampshire, did on the sixteenth day of October, in the year one thousand eight hundred and two, by virtue of an order of the said John Pickering, judge of the district court of the said district of New-Hampshire, arrest and detain in custody, for trial before the said John Pickering judge of the said district court, the said ship called the Eliza, with her furniture, tackle and apparel, and also the two cables aforesaid: And whereas by an act of Congress, passed on the second day of March, in the year one thousand seven hundred and eighty nine, it is among other things provided, that "upon the prayer of any claimant to the court, that any ship or vessel, goods, wares, or merchandize, so seized and prosecuted, or any part thereof, should be delivered to such claimant, it shall be lawful for the court to appoint three proper persons to appraise such ship or vessel, goods, wares or merchandize, who shall be sworn in open court for the faithful discharge of their duty; and such appraisement shall be made at the expense of the party on whose prayer it is granted; and on the return of such appraisement, if the claimants shall, with one or more sureties to be approved of by the court, execute a bond in the usual form to the United States, for the payment of a sum equal to the sum at which the ship or vessel, goods, wares or merchandize, so prayed to be delivered are appraised, and *moreover produce a certificate from the collector of the district wherein such trial is had, and of the naval officer thereof, if any there be, that the duties on the goods, wares and merhandize or tonnage duty on the ship or vessel, so claimed, have been paid or secured in like manner, as if the goods, wares or merchandize, ship or vessel, had been legally entered, the court shall by rule, order such ship or vessel, goods, wares or merchandize to be delivered to the said claimant,*" yet the said John Pickering, judge of the said district court of the said district of New-Hampshire, the said act of Congress not regarding, but with intent to evade the same, did order the said ship called the Eliza, with her furniture, tackle, and apparel, and the said two cables, to be delivered to a certain Eliphalett Ladd who claimed the same, without his, the said Eliphalett Ladd producing any certificate from the collector and naval officer of the said district, that the tonnage duty on the said ship, or the duties on the said cables, had been paid or secured, contrary to his trust and duty as judge of the said district court, against the laws of the United States, and to the manifest injury of their revenue.

### ARTICLE II.

That whereas at a special district court of the United States begun and held at Portsmouth, on the eleventh day of November, in the year one thousand eight hundred and two, by John Pickering, judge of the said court, the United States, by Joseph Whipple their collector of said district, having libelled, propounded and given the said judge to understand and be informed, that the said ship Eliza with her furniture, tackle and apparel had been seized, as aforesaid, because there had been unladen therefrom, contrary to law, two cables and one hundred pieces of check, of the value of four hundred dollars and upwards, and having prayed in their said libel, that the said ship with her furniture, tackle and apparel, might by the said court, be adjudged to be forfeited to the United States, and be disposed of according to law; and a certain Eliphalett Ladd, by his proctor and attorney, having come into the said court, and having claimed the said ship Eliza, with her tackle, furniture and apparel, and having denied that the said two cables and the said one hundred pieces of check, had been unladen from the said ship contrary to law, & having prayed the said court, that the said ship with her furniture, tackle and apparel, might be restored to him the said Eliphalett Ladd, the said John Pickering, judge of the said district court, did proceed to the hearing and trial of the cause, thus depending between the United States on the one part, claiming the said ship Eliza, with her furniture, tackle and apparel, as forfeited by law, and the said Eliphalett Ladd, on the other part, claiming the said ship Eliza, with her furniture, tackle and apparel, in his own proper right: And whereas, John S. Sherburn, attorney for the United States in and for the said district of New-Hampshire, did appear in the said district court, as his special duty it was by law, to prosecute the said cause in behalf of the United States, and did produce sundry witnesses to prove the facts charged by the United States in the libel filed by their collector, as aforesaid, in the said court, and to shew that the said ship Eliza, with her tackle, furniture and apparel, was justly forfeited to the United States, and did pray the said court that the said witnesses might be sworn in behalf of the United States, yet the said John Pickering, being then judge of the said district court, and then in court sitting, with intent to defeat the just claims of the United States, did refuse to hear the testimony of the said witnesses so as aforesaid produced in behalf of the United States, and without hearing the said testimony so adduced in behalf of the United States in the trial of the said cause, did order and decree the said ship Eliza, with her furniture, tackle and apparel, to be restored to the said Eliphalett Ladd the claimant, contrary to his trust and duty as judge of the said district court in violation of the laws of the United States, and to the manifest injury of their revenue.

### ARTICLE III.

That whereas it is provided by an act of Congress, passed on the twenty-fourth day of September, in the year one thousand seven hundred and eighty-nine "that from all final decrees in a district court in causes of admiralty and maritime jurisdiction, where the matter in dispute exceeds the sum or value of three hundred dollars exclusive of costs, an appeal *shall* be allowed to the next circuit court to be held in such district." And whereas on the twelfth day of November, in the year one thousand eight hundred and two, at the trial of the aforesaid cause between the United States on the one part, claiming the said ship Eliza with her furniture, tackle and apparel, as forfeited for the causes aforesaid, and the said Eliphalett Ladd on the other part, claiming the said ship Eliza, with her furniture, tackle and apparel, in his own proper right, the said John Pickering, judge of the said district court of the district of New Hampshire, did decree that the said ship Eliza, with her tackle, furniture and apparel, should be restored to the said Eliphalett Ladd the claimant: And whereas the said John S. Sherburne, attorney for the United States in and for the said district of New-Hampshire, and prosecuting the said cause for and on the part of the U. States, on the said twelfth day of November, in the year one thousand eight hundred and two, did in the name and behalf of the United States, claim an appeal from the said decree of the district court, to the next circuit court, to be held in the said district of New-Hampshire, and did pray the said district court to allow the said appeal, in conformity to the provisions of the act of Congress last aforesaid, yet the said John Pickering, judge of the said district court, disregarding the authority of the laws, and wickedly meaning and intending to injure the revenues of the United States, and thereby to impair their public credit, did absolutely and positively refuse to allow the said appeal, as prayed for and claimed by the said John S. Sherburne, in behalf of the United States, contrary to his trust and duty as judge of the said district court, against the laws of the United States, to the great injury of the public revenue, and in violation of the solemn oath which he had taken to administer equal and impartial justice.

### ARTICLE IV.

That whereas for the due, faithful and impartial administration of justice, temperance and sobriety are essential qualities in the character of a judge; yet the said John Pickering being a man of loose morals and intemperate habits, on the eleventh and twelfth days of November, in the year one thousand eight hundred and two, being then judge of the district court, in and for the district of New-Hampshire, did appear upon the bench of the said court, for the purpose of administering justice, in a state of total intoxication, produced by the free & intemperate use of inebriating liquors; and did then and there frequently, in a most prophane and indecent manner, invoke the name of the Supreme Being, to the evil example of all the good citizens of the United States; and was then and there guilty of other high misdemeanors, disgraceful to his own character as a judge, and degrading to the honor and dignity of the U. States.

And the House of Representatives by protestation, saving to themselves the liberty of exhibiting, at any time hereafter further articles, or other accusation or impeachment against the said John Pickering; and also of replying to his answers which he shall make to the said articles, or any of them; and of offering proof to all and every the aforesaid articles, and to all and every other articles, impeachment or accusation, which shall be exhibited by them, as the case shall require, do demand that the said John Pickering may be put to answer the said high crimes and misdemeanors; and that such proceedings, examinations, trials and judgments may be thereupon had and given, as may be agreeable to law and justice.

Whereupon the Vice-President informed the Managers, that the Senate would take order on them, and inform the House of Representatives thereof.

The Managers having retired, Mr. Adams moved that the Senate, as a court of Impeachment, should adjourn until to morrow.

Much diversity of opinion arose on this motion, some gentlemen being in favor of the Senate, as a court of Impeachment, adjourning from time to time, distinctly from their ordinary adjournment; others being in favor of pursuing one common mode of adjournment.

On the suggestion of Mr. Venable, Mr. Adams withdrew his motion, and acquiesced in a postponement of the subject until to-morrow.

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