government. No one on that occasion stepped in between the demand for an inquiry and those officers implicated in it? No enquiry was made, and it precluded any further proceeding on the part of the House; since the charges which had been attempted to be brought forward would not bear examination. Mr. R. concluded by calling for the yeas and nays.

Mr. GREGG said he should vote against the postponement and in favour of the resolution. The case was somewhat new, but he perceived no impropriety in giving it the same direction with all the other business originated in the House. What is this committee to be appointed for? To investigate facts, and report them to the House. Was it not most proper that gentlemen whose characters were implicated should have, in the first instance, facts stated privately before a committee, than that parts of their character should be immediately brought into view before the House? He recollected one fact not yet alluded to in debate. In 1792 after the army, under the command of General St. Clair, was defeated, great dissatisfaction arose, and the character of the commander was implicated. The idea was that the expedition had not been conducted with propriety. The business was brought before Congress. It was understood at that time, whether justly or not Mr. Gregg would not pretend to say, that the commander in chief could not be tried by a court martial. Congress therefore took up the business and appointed a committee of enquiry, who went through a lengthy examination of the subject. Mr. Gregg mentioned this precedent that gentlemen might turn their attention to it.

Mr. R. GRISWOLD. I had hoped that the language used by me, when I was up before, would not have led gentlemen to suppose that I was acting as the friend or the enemy of judge Chase. I am acting in neither capacity. I am acting only as a member of this House, who ought to be anxious on an occasion of such importance to take that course which is most consistent with propriety, that course which results from the duty this House owes the nation, and that duty which they owe the character of a judge. It did appear to me that it was not correct to call the character of a public officer into question, unless some necessity should first appear. No facts are presented on this occasion. The gentleman from Virginia has said that he is in possession of facts, or of something, that makes him believe that an enquiry is proper; but he does not choose to communicate those facts. The gentleman from Pennsylvania has given us his information. The question is whether it is proper on these light suggestions to institute a solemn enquiry into the character of this judge. It appears to me that we ought not to throw any imputation on the character of any officer without evidence that such an enquiry is necessary. The case mentioned by the gentleman from Pennsylvania (Mr. Gregg) does not apply. Dissatisfaction existed in the country and in this House on the events of a campaign; an enquiry was instituted; but what was its object? The committee were appointed to enquire into the general causes of the failure of the expedition; they were not instructed to enquire into the character of a particular officer.

The gentleman from Virginia has referred to another case, when he says we were ready enough to institute an enquiry, and has left it to be inferred that the enquiry was made without any previous proof of its necessity. But certainly on that occasion enquiry was not made without proof. I suppose the enquiry alluded to was that which related to the conduct of the commissioners of the sinking fund. It was instituted on a report made by them, and which we tho't was not satisfactory. The resolution offered was adopted, and enquiry was made, the result of which is well known to every gentleman. It follows, therefore, that there are no precedents adduced, which apply to the present case.

It is my wish that the proceedings of this House may on this occasion be perfectly correct, and that we may not be precipitated into the adoption of this resolution without due consideration.—If it is correct to vote an enquiry in all cases, where a member rises on this floor and desires it, it is correct to vote it in this case. In this case, a gentleman rises and says he is satisfied an enquiry ought to take place. The question is whether it is proper to enquire on the suggestion of a member? If it is proper without facts being adduced, then it will be always proper to enquire whenever any member requires it, and it will be also proper whenever any individual citizen requires it. This course I have never thought correct. On the contrary I think some facts ought to be previously presented to establish the necessity of an enquiry before it is voted. In the case of judge Pickering a very different course has been pursued. The appointment of a committee of enquiry originated from a message of the President. We find in February, 1803, the House received the following message.

"The enclosed letter and affidavits exhibiting matter of complaint against John Pickering, district judge of New-Hampshire, which is not within executive cognizance, I transmit them to the House of Representatives, to whom the constitution has confided a power of instituting proceedings of redress, if they shall be of opinion that the case calls for them."

This message was referred to a committee, with the accompanying papers, furnishing evidence of the necessity of an enquiry. But the course pursued to-day is very different. A gentleman gets up, and moves an enquiry into the conduct of judge Chase, and says that he is of the opinion that it ought to be made. This course, I think, is incorrect. Some facts ought first to be adduced—I repeat it, I am on this occasion neither the friend or the enemy of judge Chase. I am the friend of this House: I wish their proceedings to be correct, and I hope they will not do hastily what they may hereafter regret.

Mr. DENNIS. The only question now before the House is whether they will postpone the consideration of the motion on the table. I cannot but express my surprise that the gentleman from Virginia should oppose this motion, when several gentlemen have declared that they are not prepared to vote on his resolution. Gentlemen ought to recollect that, according to our rules, on all motions which require the concurrence of the two Houses, one day's delay is necessary. Although this resolution is not of this kind, yet it surely is not of inferior importance.

I believe that the gentleman alluded to by the motion would rather court, than shrink from, an investigation of his official conduct. I believe also that it has become necessary from the discussion of this day that an investigation should take place. I am not therefore prepared at this time to say whether I shall not ultimately vote for an enquiry. But it appears to me that the course proposed is inverting the natural order of things, inasmuch as it institutes an enquiry not growing out of facts, but for facts. I believe also that the facts stated, if authenticated, will furnish no ground for impeachment. Circumstances attending his motion shew that the gentleman from Virginia does not consider them as a sufficient ground for an impeachment. The refusal to hear the point of law discussed was the act of the court. Mr. Chase did not sit alone on the bench. Another judge must have been associated with and have concurred with him. If so, why does not the resolution allude to the other judge? Why select one judge when both are equally implicated in the charges?

I believe the most parliamentary way would be for a gentleman to state in the form of a resolution the grounds of impeachment, and then to refer such a resolution to a select committee for investigation. In this mode the House may correctly institute an enquiry and send for persons and papers. This is the only parliamentary mode of proceeding. In every case where impeachments have been made the facts have been stated in a resolution concluding with a motion for an impeachment. The House possess no censorial power over the judges, except as incidental to the power of impeachment. If gentlemen are possessed of facts, why not state them in the form of a resolution, and move an impeachment. Then if the facts appeared to me to warrant an impeachment, I would not object to their going to a select committee, though I believe the most proper course would be for the House to send for persons and papers, and to examine for themselves. But it is extremely novel and unprecedented for the House, without facts, to institute an enquiry into the character of a high officer of the government.

May they not in the same way extend their enquiry into the conduct of every judge in the United States, without stating any facts on which the enquiry is founded? For these reasons I shall vote for postponing the further consideration of this motion for one day, on account of the importance and delicacy of the subject, and the serious deliberation it is entitled to. I do not know whether, if sufficient time is allowed for consideration, and I shall be convinced that this course is consistent with parliamentary usage, I shall not be in favor of an investigation.

Mr. ELLIOT. When the Yeas and Nays are called, I shall on every occasion rise in favor of taking them. I wish the votes I give in this House entered on the Journal, and known to every citizen of America. The more I contemplate the course pursued on this occasion, the more extraordinary and unprecedented it appears to me. The gentleman from Virginia rose, and after an elegant exordium, stating that the streams of justice should be preserved pure, and other fine things, told us that he had received information of facts that convinced his mind, that an enquiry ought to be made into the conduct of a judge. Suppose the gentleman on facts known to himself, had stated his opinion, that an enquiry ought to be made into the conduct of the President of the United States. We have the same right to impeach the President as a judge. If the enquiry would be improper in the one instance without facts being adduced, it would be equally so in the other. For we possess no censorial or inquisitorial powers over the conduct of the judges of the Supreme Court. If judge Chase has been guilty of misconduct, let it be stated. If that misconduct be of a private nature let the House assume the character of a grand jury, hold private sittings, receive evidence, and determine whether the judge shall be impeached or not. The gentleman asks, whether a grand jury in the case of a charge of murder can send for persons. Undoubtedly they can; but did the gentleman ever hear of their appointing a committee to enquire, whether a man charged with a partial offence, ought to be indited? We are called on as the grand inquisitors of the nation, to appoint an inquisitorial committee to get evidence; for it is granted that as yet we have none. I believe that no committee of this nature ought to be constituted without previously ascertaining facts that will warrant the delegation of such great powers. No accusation even is before us. But we are called upon to appoint a committee to look one up; a committee to be invested with power to send for persons and papers; a committee to enquire in private. I will never consent to the appointment of such a committee, until facts that will justify the enquiry are stated.

The facts adduced by the gentleman from Pennsylvania, if proved, could not induce me to believe that the judge is impeachable. I may suspect that his conduct was erroneous and improper, but I cannot conceive it proper to impeach a single judge for the act of the court. Believing, therefore, this course unprecedented, unparliamentary and replete with improprieties; believing it novel; believing that in an affair of so much consequence we ought not to proceed with precipitation; believing that we are entitled to demand one day to reflect upon it, I am proud on this occasion to record my vote in favor of the postponement until to-morrow; and if it were for a week, I should with equal pride and pleasure vote for it.

Mr. HOLLAND moved an adjournment.

Mr. J. RANDOLPH said, that considering a motion to adjourn equivalent to a postponement for a day, he moved the taking the Yeas and Nays on it.

The question of adjournment was accordingly taken by Yeas and Nays and passed in the negative—Yeas 53—Nays 62.

The question of postponement recurring—

Mr. HUGER considered the course contemplated by the resolution as improper, unparliamentary and unprecedented. To make up his mind on the course proper to be pursued, he was in favor of the postponement.

Mr. HOLLAND observed, that he had moved an adjournment to allow those gentlemen time for reflection who had not yet made up their minds on the propriety of the motion. He was himself of this number. Having been allowed no time for reflection, he did not feel perfectly satisfied with the appointment of a committee of enquiry before any facts had been substantiated. Desiring further time to form his judgment and seeing no occasion for precipitation he should vote in favor of a postponement.

Mr. G. W. CAMPBELL. I will not at this late hour detain the House with the expression of my ideas in detail. I am as desirous as any member of this House that the streams of justice should flow pure and unsullied, as on their purity depend the safety and liberties of the people of the United States. But when we are about to enter into measures for preserving them clear, we owe it to ourselves to preserve order in our conduct, and to act in such a manner as we shall be able to justify to our constituents. Every member of this House on such an occasion ought to be as cautious in his proceeding as a judge in delivering his opinions; least while we are condemning the conduct of the judge, we ourselves go astray from our duty. For this reason I am against the adoption of a measure which may throw a censure upon a character invested by the United States with high authority, until I am convinced we have sufficient grounds for doing so. The resolution on the table can have but one object, to wit: The direction of an enquiry whether sufficient evidence can be procured to authorize an impeachment. I conceive that this House cannot proceed in any other way. I am therefore of opinion that before the vote for an enquiry there ought to be probable grounds that facts exist that authorise an impeachment, and that evidence can be procured of their existence. I am not prepared to say from any thing which has been adduced that such evidence does exist. I conceive that until probable grounds are shewn we ought not to authorise such a procedure, inasmuch as it may establish a precedent that we may hereafter regret, a precedent which will put it in the power of any member to move and obtain an enquiry into the conduct of the President, a judge, or any other officer under the government. Under these circumstances I am not prepared to say this is the regular course of proceeding. I do not profess to have much knowledge of parliamentary proceedings, and have therefore waited before I expressed my opinions to hear such precedents as gentlemen could adduce. Having heard none, I conclude none exist.

I conceive that the act of this House in voting for a committee of enquiry is equivalent to the expression of the opinion that they have evidence of the probable grounds of the guilt of the judge. The gentleman from Virginia has told us that the powers of this House are in some degree like those of a grand jury. I agree that they have all the powers of a grand jury; and it is on this ground that I deny the power now contended for. I say that a grand jury has no right to send for testimony. They have only a right to receive testimony from any one of their body, and to receive such witnesses as the court may send them. If then there be evidence in the present case, let us act upon it, even though it be *ex parte*, and although that might, perhaps, be going too far.

I repeat it, I have heard no statement, satisfactory to my mind, that there are probable grounds for proceeding in this business. It is true, the gentleman from Pennsylvania has made a statement; but that statement appears to me to depend not so much on facts as on opinions; and it is not my wish to decide on the propriety of the conduct of the judge until the facts are before us. It is certain that a judge has a right to control counsel, and to say when his mind is made up, while it is also his duty to hear the allegations that shall be made.

In addition to these reasons for a postponement I am also in favor of it, because whenever a sincere desire exists to gain information, which can only be done by allowing further time, I shall always be in favor of it, when no material injury can result from the indulgence.

Mr. MOTT. I am in favor of the postponement, because I wish time for consideration, and because I am against the resolution itself. I think it is improper to go into such an enquiry before specific charges are laid before the House, when it will be proper for the House to consider whether those charges are sufficient to sustain an impeachment; then it will be proper to proceed, and not till then. No charges have yet been laid before the House; we have only been told by one member that he is satisfied sufficient grounds exist.

Mr. J. RANDOLPH was sorry to be obliged to trespass again on the patience of the House, but the direct application made to him by the gentlemen from Tennessee and South Carolina imposed upon him the necessity of stating his reasons for proceeding in, what they were pleased to term, so precipitate a manner. They ask, why not have laid the resolution on the table by way of notice to the House? Because, sir, (said Mr. R.) I cannot in a matter of extreme delicacy make the opinions of other gentlemen the standard of my own actions. I should have conceived the character implicated in the resolution, as having just cause of complaint against me, had I not been ready to decide in a moment on it, and did I not press its immediate decision. I should have deemed it an act of cruel injustice to have hung the enquiry over his head, even for a day. I should have expected the reproach of setting suspicion afloat whilst I avoided examination into them—for I should have deserved it, had I pursued the course which gentlemen wish to adopt. I can see no difference between hanging up this motion for a day or a year, but the mere difference of time. What is the object to be obtained? Do we wait for evidence, or any information, which will assist us in forming a correct opinion? Not at all—To-morrow the question will recur upon us—"Is it proper from what has already appeared to institute an enquiry into the conduct of this officer?" and this we are as competent to decide, at this moment, as at any future day. When however gentlemen consider a resolution to make enquiry the same as an enquiry already had, I am not surprised at finding myself opposed to them in opinion. I repeat that all their arguments are applicable to a motion of impeachment only. But it seems that no precedents have been adduced and time is wanted to hunt them up. Gentlemen should recollect that but two cases of impeachment have taken place under this government; one of a senator from Tennessee, the other of a district judge of New Hampshire. By what precedents were the proceedings in these cases regulated? How is it possible in a government, hardly in its teens, where new cases must daily occur, as its various functions are called into exercise, to find precedents? It did so happen, in the case of the senator from Tennessee, that the information, on which his impeachment was grounded, came from the Executive. But suppose that information had not been communicated by the executive? Would that have precluded all enquiry? Suppose too, in the case of Mr. Pickering, that no information had been received from the executive, and that a gentleman from New Hampshire had risen and said, "However painful painful the task, I deem it my duty to state the conduct of the judge of the district, in which I reside, has been such as renders him unfit for the important station which he holds, and I therefore move for an enquiry into his conduct"—would the House have denied the enquiry? Will they rely altogether on the attorney of the district whose interest it is to be well with the judge, and whose patience must be worn out with his misconduct before he will undertake to call the attention of government to it. Are gentlemen aware of the delicate situation in which those officers are placed? Suppose information had been given to a member, of the malfeasance of a judge, by a person, who should say—it is not pleasant to originate accusations—those who come forward in these cases undertake an invidious task—whilst, therefore, I wish my name not to be mentioned, I shall be ready, when called upon, by proper authority, to give my testimony. This is a hypothetical case, but one by no means improbable. Would it not be a point of honor not to expose the name of the informant.

But, say gentlemen, the charge is of a general nature—Whilst I do not admit the force of this remark, supposing it to be correct, I deny that it is a general charge. The enquiry is general, but it is founded on a statement made by the gentleman from Pennsylvania. I made no other statement—I have said that I believed there existed grounds of impeachment. What they are I shall not state here. They may be those exhibited by the gentleman from Pennsylvania—or they may be others. Will gentlemen assert that the statement of facts made by the gentleman from Pennsylvania will not, if true, warrant an impeachment? What does it amount to? A person under a criminal prosecution, having a constitutional right to the aid of counsel in his defence has, by the arbitrary and vexatious conduct of the court, been denied this right—Such is the nature of the charge. Has it come to this? that an unrighteous judge may condemn whom he pleases to an ignominious death—without a hearing—in the teeth of the constitution and laws—and that such proceedings should find advocates here? Shall we be told that judges have certain rights and whatever the constitution or laws may declare to the contrary we must continue to travel in the go-cart of precedent and the injured remain unredressed. No, Sir, let us throw aside these leading strings and crutches of precedent and march with a firm step to the object before us.

As to the motion of postponement, Mr. R. said, it was of little consequence to him, whether it prevailed or not; on a charge of specific malfeasance, he thought it impossible to refuse an enquiry. Whatever should be the result he should rest satisfied with having discharged his duty to the House and to the nation. Believing the circumstances to demand enquiry, he had made it.—Without circulating whispers of reproach he had given the person implicated that opportunity of vindicating his character, which he himself should require if he stood in the same unfortunate situation.

FRIDAY, January 6.

Mr. SMILIE. When the motion now under consideration was made yesterday, I should have felt surprised at the course which the debate took, had I not often witnessed such things in former times. It seems to be considered as improper that a gentleman should bring forward a motion for an enquiry into the official conduct of a public officer and expect the House to comply with his request unless he should at the same time produce such evidence as shall prove the facts charged. If this course of proceeding be correct, I have ever been in error. What does the gentleman from Virginia ask? Suppose he has taken exception to the conduct of the judge from some facts which have come to his own knowledge. Under such circumstances it will be allowed that it is the duty of the House to make the enquiry. When the question shall be whether an impeachment shall be preferred, it will be proper that evidence should be produced. But now only a committee is asked for, to receive evidence, and to determine whether it be such, as in their opinion will afford grounds for an impeachment. It is impossible for me to conceive any way that can be pursued which will be more favorable to the person whose character is implicated than that which is proposed. It is merely to enquire whether such facts can be sustained as will afford grounds for an impeachment. Certainly in this stage of the business it is not necessary to produce evidence to the House, as the House are not competent to receive testimony, which a committee is. It is a rule of this House that so much respect is due to a member that if he states that he possesses information proper to be communicated to the House, but which in his opinion ought not to be done but with closed doors, that in such case the doors shall