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CONGRESS.

HOUSE OF REPRESENTATIVES.

FRIDAY, January 6.

Debate on Mr. Randolph's motion for the appointment of a committee of enquiry into the official conduct of SAMUEL CHASE.

(Continued.)

Mr. GRIFFIN. I had hoped that no subject would have been agitated during this session which should have interrupted the tranquility or disturbed the harmony of this house, so necessary to the faithful and correct discharge of our public duties—but, sir, I perceive from the turn which the debate upon the resolution now before the house has taken, that sensations have been excited which I fear it will be difficult to allay.

The proposition now before the house nursed with so much secrecy, and forced on us so suddenly and unexpectedly, comes in such a questionable shape, that I must beg the attention of the house for a few moments while "I speak to it."

What, sir, does the resolution demand of us? That a committee be appointed to enquire into the official conduct of Samuel Chase and Richard Peters, &c. But how is this enquiry to be conducted? Are there any data by which the committee are to be guided? Is there any specific charge to which their attention or enquiries are to be directed? none; and who, sir, before this enlightened day ever heard of a committee of enquiry being raised, without possession of a single subject to direct or guide the enquiry? What, sir, erect an enquiring committee vested with all the powers of a Star Chamber and yet assign them no specific objects of their duty? But, sir, the official conduct of these judges has given offence—and are we now sir, to probe and search the whole judicial lives of these gentlemen, for causes of complaint and censure? Are the records of the states of Maryland and Pennsylvania now to be ransacked, for evidences of their guilt and cause of impeachment? I never have and never shall deny the right of this house, to enquire into the conduct of public officers—but, sir, if the honorable mover of the resolution is serious,

(Here Mr. Randolph interrupted, and desired the gentleman to explain his meaning by the word serious.)

Mr. Griffin continued. I will answer the gentleman—my meaning is, that if the gentleman believes there are just grounds for impeachment—if he is in possession of information or facts, let him declare them, and if they appear to my mind to be sufficient whereon to ground an impeachment, let him demand it and I will join with him—let him specify the instances of mal-feasance of which these judges have been guilty, and I will unite with him—let him declare the mal-conduct of these public functionaries, and I will cordially cooperate with him; if these judges have travelled beyond the line of their duty—If they have wantonly exceeded the limits of their power, I will aid in the infliction of such punishment as they may merit—but, sir, I cannot, I will not in this indirect manner wound the feelings or censure the characters of men, holding high responsible offices under your government—could I induce myself to believe, that the course now proposed to be pursued is correct, I will gladly give it my assent—but for reasons very different from those, the advocates of this measure adduce—could I deem it correct I would support the resolution because I believe the characters implicated therein, will safely pass the ordeal preparing for them, and that the enquiry will redound to their honor—I would cheerfully support the resolution, because, by the impeachment which I predict will follow, an opportunity will be offered to remove that load of unmerited calumny under which the federal judiciary of the United Seates have too long labored, and with which our public prints have been long filled—but the course is incorrect—the measure in its present shape appears to me, to be fraught with incalculable mischief to our country, and I never will assist in the establishment of a precedent which may at some future day be made an engine of persecution, as "wicked as intolerant." Mr. Speaker, let me ask of you, sir, to remember the consequences which may flow, from the adoption of this resolution—let me conjure this House to reflect upon the dreadful effects which must arise to us, if upon the bare assertion of a single gentleman unsupported by any direct allegation, a committee of this nature shall be raised, a precedent of this kind established—what public character will be safe—nay, sir, how soon may not we ourselves feel its baneful influence—Far be it from me, sir, to impute to the honorable mover of the resolution, any impurity of motives. I believe his conduct has proceeded from a consciousness of duty, and from a similar consciousness of duty I must oppose the measure. I cannot deny the power of this house to adopt the resolution upon your table, but I beg of you to pause ere you take the fatal step, and do not, because, "dressed with a little brief authority, play such fantastic tricks before high heaven as make e'en angels weep."

Sir, I have endeavored to discharge what I conceived my duty upon this occasion, and when experience shall fatally convince us of the dreadful effects of the precedent we are now about to establish, I shall derive consolation from the reflection, that I lent my feeble aid to check the overwhelming torrent.

DR. EUSTIS said he did not view this subject in the same light with the gentleman last up; he did not see those awful consequences which he had pointed out. He hoped the time would never come, when an enquiry into the conduct of an officer of the government should be deemed a subject of alarm in that House. It was the first principle of the constitution that every man was amenable to the constitution and laws of his country, and however elevated any one might be, that he could not be raised above the reach of enquiry. The observations of the gentleman, who had last spoken, and of others who had preceded him, were predicated on a principle that was not correct. If the resolution on the table was to impeach the judge, those observations would be relevant, but they were incorrect on the preliminary motion to enquire.

In making up, said Dr. Eustis, my judgment on this subject, I have endeavored altogether to avoid the enquiry, whether the officer implicated in this resolution, has so conducted himself as to require impeachment by this House. I have not accepted the opinion of the mover of the resolution, and I have excluded all the other information adduced in the debate; because I consider it as alone applicable to the question of impeachment, which is not now before the House. The question before the House is a very different one, and, in my opinion, it is plain and simple. What is it? It is that a committee be raised to enquire into the official conduct of a certain public officer. When a member of this House, under the obligations of honor, and the additional obligation of an oath, rises and takes upon himself the responsibility of moving an enquiry into the official conduct of a public officer, which can only be effected in virtue of the impeaching power of this House, which power it exclusively possesses. I view the request for an enquiry in the nature of an information laid before the House as the grand inquest of the nation.

When this proposition was made the mind of every gentleman was naturally cast about for the situation of the officers in question. If it shall be the opinion of the House that their conduct is such as to afford grounds for an impeachment, it will be granted that it is an indispensable duty to make the enquiry. If on the other hand the House are of opinion that no testimony can be produced which will lead to an impeachment, then it is due to the officers to institute an enquiry. The object of enquiry is two fold, arising from the duty due to the people, and that due to the officer whose conduct is impeached. If gentlemen are of the opinion that in this case there are no grounds for impeachment, then it is clear that the conduct and character of the officer ought to be vindicated, and the enquiry instituted to afford him the means. If they are of opinion that there are grounds for an impeachment, then the duty they owe to the people, urges them to the enquiry. In the constitution I find no excuse, no justification, on which to ground a refusal to institute an enquiry into the conduct of any public officer charged with misbehavior.

To such an enquiry what is objected? That the power may be abused. Indeed the objection is, that it is abused in this instance. How abused? To argue from the abuse of a power against the use of it, is no argument at all. If the House believe either alternative I have mentioned, and one or the other they must believe, it is their duty to make the enquiry. But it is said that the committee are to be clothed with power to send for persons and papers—Granted. That power is indispensably necessary. It is said their powers are to be inquisitorial. This is not true. Will not the committee be accessible by every member of the House, and what are their ulterior powers but to collect facts, and to express an opinion whether they afford grounds for an impeachment? That opinion they will eventually submit to the House, and without its approbation it will be futile.

It is further said that no specific charge is adduced, and if there were, gentlemen say they would vote for the enquiry. But if a specific charge were made, I ask if any member would be enabled to give a more enlightened vote than on the present resolution. I consider the general power to enquire as most important, and that it is the duty of the House on such occasions as the present, to enlarge rather than to narrow the field of enquiry.

It is further said that this course of proceeding will discourage respectable men from accepting the offices of government. But certainly every officer, from the President to the most menial, knows that he holds his office, subject to enquiry, to impeachment, and to punishment in case of criminality.

If the House do not pursue the present course, from what quarter are they to expect the origination of an enquiry? Is it to be supposed that it will come from the citizen, when his life and fortune are probably at the disposal of particular officers charged with misconduct. This line of enquiry ought, in my opinion, to be courted and encouraged; more especially in this instance, after the course which the debate has taken, and after specific charges have been adduced. The debate has given an importance to the enquiry, which its original merits may not, perhaps, have entitled it to.

When this subject was first introduced, it appeared to me novel, and that there were no precedents in point under the federal government. It is time that this precedent should be established. It is time that every officer should know that this House is ready at any time to enquire into his official conduct if charged with misbehavior; and instead of declining the enquiry, in this instance, from a false delicacy to the officer, it becomes the House to embrace the resolution and make the enquiry. If evidence shall be collected, and it appears that there are no grounds for impeachment, the officer will be restored to the public confidence, and will be acquitted. If on the other hand, it appears that he has been guilty of mal-feasance in office, a duty will be imposed upon the House, from which they cannot recede, to bring him to trial.

Mr. THATCHER. As gentlemen seem to consider the decision of the court in the trial of Fries as unprecedented; I beg leave to refer them to the cases of the United States *versus* Vigol, and the same *versus* Mitchell, 2 Dallas's Reports, 346 to 357. They will find that the decision of the court in the case of Fries, was exactly conformable to cases adjudged in 1795. Without troubling the House with the whole of those cases, I beg leave to read the decision of the court in the last case. "The charge of the court, says the reporter, 'was delivered to the jury in substance as follows—' Patterson justice. The first question to be considered is, what was the general object of the insurrection. If its object was to suppress the excise offices, and to prevent the execution of an act of Congress, by force and intimidation, the offence in legal estimation, is high treason: it is an usurpation of the authority of government; it is high treason by levying of war.' This decision, sir, is also conformable to the English authorities. The charge then against judge Chase and judge Peters, after divesting it of the coloring which imagination has given it amounts to this—that in the trial of Fries for treason, the court prevented the counsel from arguing to the jury against a point of law long settled by that and other courts of the United States. I have attended closely to the statement made by the gentleman from Pennsylvania, (Mr. Smilie) and I believe I am correct.

The very point which the council of Fries would have argued to the jury was that which had long before been settled by the courts of the United States. I contend sir, that this court did no more than they had a right to do—no more than is practised by every well regulated court.——They prevented council from arguing law in the face of the authorities, and of the opinion of the court. That this is usual I appeal to gentlemen of the law who are present. This, sir, is the only fact stated to the House upon which the motion is founded.

The gentlemen from Virginia, Mr. Randolph, has said, that he has been informed of facts, which convince him that an enquiry ought to be made. But that gentleman has not stated to the House what those facts are.

It has been contended that where a member of this House shall state that he is convinced that an enquiry ought to be made, the House ought to institute such an enquiry. Precedents have been adduced to prove that this has been done in the British parliament. There certainly has been no case cited where an enquiry has been commenced upon the motion of a member without stating his facts or his evidence. But whatever may have been the practice in England I can never consent to vote upon any impressions or convictions but my own.

If the official conduct of the judges upon the trial of Fries was such as to require the interposition of this House (why, as the gentleman from Connecticut, Mr. Griswold, has asked) why was not this enquiry sooner announced. This trial, I am told, was in February, 1800. It took place, within the hearing of Congress. It was the subject of universal attention. Why has it slept four years? Upon what ground shall we invest a committee, with power to ransack the country for charges against our judges? Shall we upon the motion of a member, shall we upon the statement of the gentleman from Pennsylvania, (Mr Smilie,) commence an enquiry, troublesome and expensive—an enquiry which must attach suspicion to the official conduct of the judges? Sir, I respect the conduct of gentlemen who attempt to remove obstructions from the stream of justice, but I must be convinced that obstructions now exist, before I can vote for this resolution.

Mr. EARLY. Like other gentlemen, who have gone before me in this discussion, I do not consider myself at liberty to vote against the resolution on the table. Like them I deem myself bound to vote for an enquiry into the conduct of any public officer, when that enquiry is demanded by a member of this House. After the view taken of the merits of this measure by the gentlemen from Pennsylvania and Virginia I did expect that all further opposition to it would have ceased. In this expectation I have been disappointed.

I feel constrained to vote in favor of this resolution, because I believe that the enquiry it contemplates is an act of justice due to the people of the U. States on one hand, and to the characters of the individuals charged on the other. A charge of high crimes and misdemeanors has been made on this floor against two individuals, and two members of this House have demanded an enquiry into their official conduct. To this demand may be added the weight of public opinion. I am apprised of the delicacy of this ground, and when I resort to it, it is my wish to be understood as meaning that when charges of a high nature are instituted and reiterated from one end of the Union to the other, so as to create a general belief, so as to destroy confidence in the principle and integrity of those who administer justice, and to beget a suspicion that justice cannot be obtained equally by all men, under such circumstances the public voice demands an enquiry into the truth of the charges. Is this a fact, or is it not, in relation to the officers implicated in this resolution? I presume that it is the fact to a great extent will not be denied. Every gentleman on this floor, in the habits of reading the public prints, must have had so forcible an impression made on his mind on this subject, as not to have lost a recollection of the conduct charged upon one of the judges, named in this resolution, in the case of Fries, Cooper, and Callende. I cannot, therefore, refuse my assent to the enquiry, because I believe it due to the public, as well as to the individuals charged with improper conduct, and who, if they were on the spot, would undoubtedly memorialise us for an enquiry. Indeed one of the officers, referred to in the resolution, if conscious of his innocence, ought, in my opinion, long since to have demanded an enquiry into his official conduct, when he witnessed the strong and numerous charges against him in the public prints from one end of the Continent to the other.

It is objected to this resolution that no proof has been adduced to the House of the truth of the allegations preferred. In my mind there is all the difference that can be imagined between an enquiry and an impeachment; and almost all the arguments, urged on this occasion apply exclusively to an impeachment—A strong proof of this has been given by the gentleman who just set down.—That gentleman (Mr. R. Griswold) has taken this remarkable ground, that this House ought not to enquire without proof. I suppose he meant by proof the depositions of witnesses; this is, in other words, saying that we, whose constitutional duty it is to enquire, may omit to do it, because they whose duty it is not to enquire, have not done it.

The present resolution is nothing more than this:—A certain officer of the government is charged, in the face of the nation, with mal-feasance in office, and a committee is appointed to enquire into the truth of the charge. Gentlemen allege that the committee is to be appointed to enquire what accusations can be found, and then for testimony to sustain them. But this is not so. The accusations have been long since made, and they are not of a day, but of years standing.

The analogy between the functions of this House and a Grand Jury is correct and forcible. Before a grand jury, it is the right of any individual to apply for and demand an enquiry into the conduct of any person within their cognisance; and it is more especially the right of any member of the jury to make such a demand; and it is their bound duty, according to their oaths, to make the enquiry, when so demanded.

The official conduct of the judges I view as more delicate and important than that of any other description of officers. For on their impartiality the whole people of the United States depend for obtaining justice in ordinary cases, and individuals depend in the last resort for the preservation of their lives. Their official conduct should, therefore, not only be correct, but likewise free from suspicion. Simply to be charged ought to produce an enquiry; and I must confess that a recent case, in which the integrity of a judicial officer was impeached, excited my warmest approbation. I mean the case of a judge (judge Tucker) in a neighbouring state, who, on a suggestion believed by no man, deemed it a duty to himself and his country, to demand an enquiry into his conduct.

Another view, by no means unimportant, which may be taken, is that the reputation of the government, of which the judges are a component part, demands the enquiry in question. Will any gentleman pretend to say, that reputation is not at stake, that it is not affected at home or abroad by the charges which have been so long and so loudly made? I presume not. Whether those charges are true or not, is not the question; for whether true or not, so long as they are generally believed the reputation of the government is affected; its reputation for impartial justice is affected, and deeply too. To refuse this enquiry, will be to give weight to this impression broad, to add to the suspicion at home and abroad that impartial justice is not done to all men. Let us then make the enquiry, and restore the reputation of the government, by inflicting a proper punishment upon these officers, if guilty, and if innocent, by proving the charges made against them calumnies.

MR. EPPES. If in adopting the resolution before us, we were to attach odium to the characters in question, I should feel no surprize at the course pursued by the gentlemen who oppose this enquiry. In this country the official conduct of every man is, and ought to be, subject to examination. It is not the examination, but the result of that examination, which attaches merit or demerit to a public character. In a government like ours, no principle ought with greater care to be cherished than a free enquiry into the conduct of public officers. So friendly am I to this principle in its fullest extent, [illegible] necessary do I believe it to be the preservation of that purity in public officers essential to a republic, that it will always be sufficient for me to vote an enquiry, for a member to declare he considers an enquiry necessary. A proper regard to his own reputation will always, I am certain, prevent any member of this House, from calling on us to exercise this important duty on light or trivial grounds. As to the extensive field of enquiry to which this doctrine may lead, I care not; and whenever a member of this House shall rise in his place, and declare that he considers an enquiry into the conduct of a public officer, or officers necessary, I shall be ready to pass the whole circle in review, to begin with the first and end with the last, to vote an enquiry into the conduct of each, and even to go further, to vote an impeachment, if necessary. I shall on every such occasion consider it a duty I owe to the individuals and accused, to the com-