right of petition. In the first amendatory article—and it ought to be deeply impressed upon the mind of every one that it was the expectation, the prospect of being able to obtain these amendments, that induced a majority of the people to adopt the original constitution—we read, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances." And the tenth amendatory article is in these words: "The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively or to the people." I know that men with whose information and talents I have no right to place my own in competition, are opposed to the Yazoo claim, as it is called; but in this number I am far, very far, from including the gentleman from Georgia. [Mr. Troup called to order, and Mr. Elliot, on Mr. Troup's taking the floor, retorted the call. The Speaker desired them both to sit down, and remarked that no observations of a personal nature could be in order.] Mr. ELLIOT again rose and proceeded. I had no idea, sir, of transgressing the rules of the House. Although I did not designate the particular member from Georgia to whom I alluded, every member of the House must have understood the allusion and the reason of it. When we were in conclave, not many days since, the gentleman from Georgia assailed me with the same remark, and it was not then pronounced out of order. [The Speaker said he was not then in the chair.] I know it, sir. We were then in committee of the whole. The gentleman made an unprovoked attack upon me, and was not called to order by myself or any other member, still less did he call himself to order for the same remark which he now considers disorderly on my part, merely because I have retorted it upon himself. This statement of proceedings in conclave was necessary by way of explanation. The public eye was not then upon us, and the public could see no natural connexion between the debate of that day and this. But it is not my object *in vulgum ambiguas spargere voces*, on this or any other occasion. I do not speak *ad captandum vulgus*, not to the crowd, unusually numerous & respectable as it is, by which we are this day surrounded, but to the sober and solid sense of the wise and honorable representatives of this great nation. And in closing this digression I beg leave to assure the other members from Georgia that I have a high respect for them and for the state. To return to the subject. The constitution has secured to the people the right of petitioning the national government; but of what consequence is this right, if, according to the new fangled notions which have been broached the present session, in relation to this constitutional privilege, you are under no obligation to receive and hear their petition. No, sir, it is unquestionably the true construction of the constitution, that the people have a right to petition, and that it is our duty to hear and consider their petitions. And the powers not delegated to the United States, are reserved to the states respectively or to the people. The state of Massachusetts, to all intents and purposes, so far as it respects powers not constitutionally delegated to the general government, remains a sovereign and independent state. Among the rights which it has not surrendered is that, indubitably, of memorializing the government of the United States; and this they have now exercised, for the application before us, if not in form, is in substance a memorial from the consituted authorities of Massachusetts to those of the United States. Yet gentlemen talk of throwing it under the table! Why, sir, in the famous case of the memorial from Philadelphia, they did not seem disposed to go so far; those who opposed the reference were willing the petition should lie upon the table for consideration. Let me call the attention of gentlemen for one moment to the celebrated claim of Amelia de Beaumarchais, which the government of this nation has so long declared to be unjust, but which the imperial power of the French empire declares to be just, and elevates its voice with a demand that we should pay it at all events. This remark is made, because I will venture to predict that in a very few days gentlemen will tell us that as France vouches for the justice of this claim, and has called upon us to pay it, pay it we must. Indeed, if the claim be in fact just, and we pertinaciously refuse to do justice, even to a solitary subject of France, that power may in time be warranted in considering our denial cause of war. Upon the principles of the law of nations, Massachusetts, as a sovereign and independent state, within the sphere of those powers which are reserved to her by the constitution, has the same right to demand of us to do justice to her citizens. From the nature of our federal union, that state cannot make war upon us to enforce the claim: but let me warn this government against making war upon Massachusetts. To attempt to throw the constituted authorities of Massachusetts under your table, would be taking the bull by the horns with a vengeance. Grasp that state with a view to trample it under your feet, & you will find that Hercules has a club, and can use it too—that the modern as well as the ancient Hurcules is a hero. On this subject I may be warm. I ought to be so. I am so. Whenever the idea is suggested of humbling my native state in dust and ashes, I will never restrain the ardent expression of the most ardent indignation.

But the old cry of Yazoo is raised against this memorial and its supporters. All are Yazoo speculators of course. Will any one say that I am a Yazoo man? The farthest from it of any person in the world. Just as much interested in the land speculations that may be going on in the moon. Nor do I know one of my constituents who has the most remote interest in the question. But will any one venture to charge the legislative and executive departments of the government of Massachusetts—the vote in the legislature is stated by the governor to have been unanimous—with being the patrons, still less the efficient agents of fraud and corruption? No, not for the world, but these wicked speculators have imposed upon the easy sincerity and zeal for the rights of its citizens, of that respectable government. Gentlemen may rest assured that this subject is perfectly understood in the Eastern country. Those, in that quarter, who interested themselves in the Yazoo purchase, had no reason to presume there was fraud in the case at all. Had they any *prima facie* evidence of fraud and corruption? Exactly the reverse. *Prima facie* evidence of an equitable and just title. A title sanctioned by all the solemnities with which the government of an independent nation solemnizes all its grants. And in looking over the names of the memorialists of the government of Massachusetts, I notice the names of men, against whom, in their own country at least, no one would dare to make an insinuation questioning the respectability of their characters. Men, whose characters would not suffer by a comparison with the members of this House. But what has the great bugbear, Yazoo, to do with the question? Nothing at all. Will you reject this application from the government of Massachusetts? No, sir, you will not reject it. It is a subject upon which high ground ought to be taken. I will take that high ground, and say, that this House dare not reject it without consideration. It dare not throw it under the table. It dare not, and it will not.

(TO BE CONTINUED.)

DEBATE

On the Resolution for requesting the President to cause an enquiry to be made into the conduct of GENERAL WILKINSON.

TUESDAY, JANUARY 5.

Mr. RANDOLPH said he was afraid that the motion which he made a few days ago, and which he wished yesterday to have considered, was not intended to be decided upon. When he had first made the motion, a very prevalent opinion seemed to exist, and it was expressed by one gentleman particularly, that he hoped it would be forthwith and unanimously agreed to; the same gentleman on the same day had moved to postpone its further consideration till yesterday; and yesterday its consideration was evaded. Mr. R. asked the Speaker and the House whether this could be considered as candid treatment? He knew that it had been said upon this floor, that the right of the House to make such enquiry and enter upon such matters at all was extremely questionable. But did not the constitution of the U. States enjoin upon its citizens that they should not accept of any title of nobility from any foreign prince or power? And did not the same constitution enjoin that the persons holding authority under this government should not accept of any present, even of a complimentary nature, from any foreign prince or power without the consent of Congress? And if persons holding high authority under this government were found to be, or if there were reasonable ground on which to believe they were in the habit of receiving money unconstitutionally from foreign states, he would ask the House where was this matter to be taken up?

[The Speaker here interrupted Mr. R. declaring that he was out of order as the subject was not yet before the House.]

The House now agreeing to take up the resolution for consideration, the Speaker stated that when the subject was last considered, a motion had been made (by Mr. Gardenier) to refer it to a Select Committee *with power to send for persons, papers, &c.* That a motion had also been made (by Mr. Mario) and was now under consideration, to strike out the clause of the preceding motion which is in Italic, on which the yeas and nays had been required.

Mr. LYON said that he was among the first who thought it proper to send the information presented to this House by the gentleman from Virginia, (Mr. Randolph) on this subject to the President of the United States. He felt at that time neither delicacy nor repugnance in calling on the Executive to investigate the conduct of General Wilkinson, he then considered that a certain duty attached to him, which duty he was anxious to perform promptly and without delay. It had been said that the gentleman from Virginia ought to have sent the information he had given to the House to the President as soon as it came to his knowledge; but he had chosen to give this House the information, & to send it through that channel to the President, with the opinion of this House, of the necessity of an investigation, I felt, said Mr. L. that the same duty attached to me and to every member of this House, immediately on receiving this information which some gentlemen seemed to consider to be the duty of the gentleman from Virginia to send the information to the President; I was not at that time so anxious as to the manner of doing the thing as to act promptly. This business had been protracted by what he had considered unnecessary debate.

He had yesterday received authentic information that General Wilkinson applied to the Executive for an enquiry into his official conduct in general terms when he first arrived at the seat of government; that he had repeated that application within a few days, and a court of enquiry was appointed to sit in a few days, who were empowered to examine and enquire into the conduct of the commander in chief of the army on as general principles as could be wished for. He was confident that in the directing and appointing this court, the Executive of this country had done its duty. He had confidence in the officers appointed. The information and the papers which had been read by the gentleman from Virginia, if he condescended to lay them on the Clerk's table, could be sent to that court; no doubt the court would call for this and every information and testimony in the power of that House, as well as from every other quarter.

All that he wished at the outset of this business was like to be effected without the original resolution or any of the subsequent motions; he should therefore vote against the whole; he could not answer it to himself to call on the President of the United States to do a duty which he knew he had done. He wished therefore to get rid of this resolution altogether. The Executive were proceeding in the course of their duties. The House had business of the highest importance to the nation to attend to, legislative business. Let us, said he, proceed with our duties while the Executive are proceeding in theirs; in this way we will be best able to answer for our own conduct to our constituents.

Mr. THOMAS hoped the gentleman who made the motion now under consideration, would withdraw it, in order to save time. The House could then disagree to the original motion for reference, and to the resolution.

Mr. G. W. CAMPBELL said, for his part, he considered the question now before them, one of considerable delicacy. He did conceive, when the House took up the examination of a new question, that they ought to examine whether or not they were going out of their province. He did not know that this House could act in any other capacity than legislative, except in the single instance of prosecuting in cases of impeachment, which power the House possessed; and when such a subject came before them, they could take such measures as they chose to procure evidence to support the charge which they might make; but he was not satisfied that in any other case the House could erect itself into a tribunal to collect evidence. He believed it was admitted that the present case was not cognizable by the House, as civil officers were alone impeachable by this body. Should they then appoint a committee to collect testimony relative to the conduct of any military officer? He would ask what use could be made of the testimony when collected? He would ask what had the House to do with the commission of the crimes of murder or treason, or other crimes of which they had not cognizance? The House would go out of its province to collect evidence on any case in which it could not act. In collecting this evidence they would not act in a legislative capacity. If not acting in a legislative capacity, or on an impeachment, (the only other case in which they could act) in what character did they act in appointing a committee to collect testimony? He did hope that the House would not erect a new principle; at the same time he wished it to be distinctly understood, that he was in favor of an enquiry as much as any man in the House. Gentlemen had taken the liberty to express their impressions on this subject; he did not feel himself at liberty to express his opinion. It would not be said that he had any particular partiality to that officer; but at the same time would not do any thing to exclude a fair and impartial investigation of his character.

If evidence on this subject were laid before the House, they might in his view with propriety order that evidence to be transmitted to the Executive department. In doing this they would do their duty; and by doing it, would sufficiently express an opinion, not only that an enquiry was necessary, but that the proper department would make it. He could not conceive that it was proper for them to give in this manner a specific direction to the President; because it would be saying that they thought it was necessary to stimulate him to do his duty. It was understood that the evidence which had been adduced in this case had not been laid before the court or grand jury at Richmond, and that the Executive had not possessed it; there was no reason therefore to believe that the Executive had neglected its duty; and it would be going too far to tell the President that he should do his duty, when he had not neglected it. Had it appeared that he had neglected his duty, it might have become a question whether the House should express an opinion as to the propriety or necessity of an enquiry. If the House should even, after discovering that the proper department had been negligent of its duty, express an opinion as to the necessity of an enquiry, they would in his view go full as far as (if not farther than) they could be constitutionally warranted in going. He would not say whether such an opinion should or should not be expressed: but till some reason were shewn to justify an opinion that the proper department had been deficient in its duty, he could not see the propriety of the House taking any step to stimulate it to an enquiry.

It had already been said that a court of enquiry had been appointed. Were this the case (and he did not doubt the fact) it would seem to him altogether improper for the House to act on this subject at present, if they had the power. He did think it important that the House should keep strictly within the pale of its jurisdiction, and act within its constitutional province; for the constitution had provided limits to this House as well as to other departments of government. He conceived they had no more right to infringe on the province of the Executive in its executive capacity, than the Executive had to interfere with the legislature; each should keep within its proper sphere; and from all the consideration he had given this motion, he could not perceive any authority in the possession of the House to give a direction to the Executive on the subject.

The only ground on which they could even send papers to the executive on this occasion was, that the constitution did prohibit any officer of the U. S. from receiving a sum of money from any foreign prince or power. Now as the evidence which had been read to them did appear calculated to prove that a sum of money had been received by the officer who was the subject of this resolution, he thought it would be perfectly proper to send the evidence. He would again state, and wished it to be distinctly understood that he was one of the last who would prevent a full investigation on this subject; he wished it was in his power to hasten it, but it was not. He had always conceived that an examination of this kind was essential to establish the character of the officer involved, and to say that he was or was not worthy his trust; and he had supposed and did still believe, that it had been hitherto withheld only from the effects which it might have upon other trials now pending. Being of this opinion, if the gentleman from Virginia would put the House in possession of the papers, he would move the following order: "ordered, that the documents laid before this House relative to the conduct of Gen. James Wilkinson be transmitted to the Executive of the U. S."

With respect to the motion at present under consideration, he was certainly opposed to giving the power of collecting testimony to the committee, and to the reference to the committee proposed to be appointed; because such testimony could be of no more purpose than if three, five, or seven men out of doors had performed that duty; and because it would be going a step farther than propriety would warrant, to give authority to a committee to collect testimony of which the House could make no use whatever. Under these impressions he should vote for striking out these words, and trusted the modification which he had suggested would take place. The transmission of the papers would give to the public and to the executive the opinion of the House as fully as if expressed in any other way, and might furnish the executive with information which it did not now possess.

Mr. STANFORD said, this doctrine that mere resolutions of *request* to the executive were unconstitutional was new, and one indeed to which he could not subscribe. He well recollected, that in the 5th Congress, perhaps the last session of it, a resolution was introduced, which gave rise to a famous debate, *requesting* the President to institute a new mission to France, the first having failed of success—and that then it was not opposed on the ground of constitutional difficulty. A mere *resolution of request* was no exercise of authority. It had till now, he believed, been the practice of every session, and to his recollection had not before been scrupled as to its propriety. In the constitution it was expressly provided that no person holding an office of profit or trust under the U. States, should, *without the consent of the Congress*, accept of any emolument, or present from any king, prince, or foreign state; and notwithstanding this provision, they were told that the commander of our army being a military and not a civil officer, it belonged solely to the executive to take his own course with that class of officers. He thought otherwise, and that this clause of the constitution fully warranted the enquiry contemplated on the part of this House, and that if it should be found that the officer in question had been in the receipt of large sums of money as alledged, from a foreign state, and that without the consent of Congress, it was time the House felt some jealousy on the score of their own privileges, and that some step should be taken to check such encroachments. The alarm made that they might seem to encroach by this enquiry upon the executive functions, had once before, he recollected, been carried to a like extreme, and gave occasion to pass the noted law, called the *Logan law*, in order to guard those functions. He could see no reason why they should not be equally concerned for legislative prerogative, and take some step to guard them as well as executive prerogative.

Mr. S. concluded by asking, if it would be in order to move a preamble by way of amendment to the present motion?

The SPEAKER replied that it would not, as the motion now under consideration was for reference.

(DEBATE TO BE CONTINUED.)

WEDNESDAY, JAN. 6.

The *Speaker* laid before the House a letter enclosing a report unfavorable to the petition of Joseph Ward; which was ordered to lie on the table.

Mr. *Poindexter* presented the petition of a number of inhabitants of the Mississippi territory, stating that before the line of demarcation was run, they had considered themselves within the Spanish territory; but the surveyor-general having completed a part of the line, they were found to be within the jurisdiction of the United States. Under the impression that they were Spanish subjects, they had not filed their grants as required by law, and therefore their claims were barred by the treaty of 1795. They pray that they may be permitted to file their claims in the register's office notwithstanding. Referred to the committee on public lands.

Mr. Poindexter presented also the petition of Alex. Bailly, late collector of customs for the port of Natchez, confined as a debtor to the United States; and praying that he may be discharged from confinement, to give an opportunity of paying the debt, as he possessed no property. Referred to a select committee.

Mr. G. W. Campbell moved that the unfinished business of yesterday (the resolution relative to General Wilkinson) be postponed, in order to take up the bill relative to the Mediterranean Fund—Agreed—Ayes 59—Nays 18.

Mr. J. Richards, from the committee to whom the subject had been referred, reported a bill granting to A. J. Villard a certain sum of money for his improvement in mounting cannon on batteries. Read twice and referred to a committee of the whole.

The House then went into a committee of the whole, Mr. J. RICHARDS in the Chair, on the bill for continuing in force for a further time the first section of the act for the protection of our commerce and seamen against the Barbary powers.

Mr. G. W. Campbell moved to insert the words "revived and" in the bill. The reason for this was, that the act which this bill went to continue, had expired since the present bill was reported; it was therefore necessary that it should read "is hereby *revived and* continued in force."

Mr. Dana said the United States were not now in a state of hostility with any Barbary power, and the naval force employed by the United States in the Mediterranean had been recalled. The duties proposed by this bill were not intended to protect the commerce of the United States against the Barbary powers. He therefore submitted it to the sense of the committee, whether the law on the face of it should not speak the purpose it had in view; whether it was proper to revive a law which had expired by the same title, when a different purpose was contemplated by it. Instead of Mediterranean Fund, it might be called the defensive or protective fund; for it did not really meet his idea of consistency, that it should be called the Mediterranean Fund, when there was no occasion for such a fund. He wished the bill to be so amended as to express the purpose for which it was intended; it might read for the purpose of providing means of defence. It might seem, if the bill passed in this way, that there was a wish to conceal its real object; not that he believed himself that this was the case.

Mr. G. W. Campbell was not particularly attached to the words in reviving and continuing these duties. The question now proposed to the House had twice at former sessions been before it. This section was continued in 1806, by a law in nearly the same words as that now before the House. At that time it had been objected that the objects of the original law being answered, it was unnecessary to continue it in the same form. The House then did and perhaps now would think proper to continue the same phraseology in the law. Having been twice