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CONGRESS.

HOUSE OF REPRESENTATIVES.

DEBATE

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

TUESDAY, JANUARY 5,

CONTINUED.

Mr. G. W. Campbell rose to answer a question of the gentleman from New York, for what purpose he would send these papers to the Executive! There were very few gentlemen in the House to whom an answer to such a question could be necessary. Was it as *evidence* that they were to be sent? Mr. C. had stated before and he repeated it now, that it should not be sent as evidence, but as *information* which would enable the President to procure evidence. The papers read were not evidence. It must be well known to that gentleman who Mr. C. believed was a legal character, that no extracts of letters, memorandums, &c. were evidence; they might however serve as an aid to procure evidence. Gentlemen enquired if he would send a part, why not the whole? Mr. C. would transmit to the proper authority all the information which might be in possession of the House, but would not take any steps for procuring more. It was perfectly within the power of any person to inform any tribunal that certain information was in possession of any member of this House, if it were wished to procure it.

Mr. C. did not agree that a court of enquiry did not possess the power of collecting evidence; he was of opinion that it was competent to call upon any person for information. The only doubt was, what might be the effect of its summons upon a member of this House? The practice in these cases had been for the House to give leave of absence to any member to give evidence when it became necessary on any trial, and the House would not hesitate in this case to give it to the gentleman from Orleans; and leave being given, Mr. C. was convinced that the gentleman would not hesitate to attend and give his evidence. It was not consistent with the principles of justice, that a court martial should not possess power to bring before them persons who possessed information on the subject under their consideration. If a doubt existed whether they could call on any other than military characters, the principle ought to be fixed one way or the other.

The case cited by the gentleman from New York of a Senator, had no relation whatever to the present subject, and was meant merely to shew that the House had the right to clothe a committee with power to send for persons, papers, &c. The distinction which had been before taken, and which still applied was this: that where the House had a right to examine and act on a subject, they might clothe a committee with this power. If the House possessed the right to use the evidence when they got it, he did not doubt their power to send for persons, papers, &c. But if the right to use it were not possessed by the House, the power to obtain it ceased.

It had been stated also by the gentleman that he could not sufficiently express his reprobation of the position taken by some gentlemen that this House had not authority to direct the President to institute an enquiry. For himself Mr. C. could not account for the opinions the gentleman entertained, or on what ground he could support them; for the gentleman had not deigned to examine into minutiae, had told them he could not condescend to reason. Mr. C. conceived the gentleman had evinced by his conduct that the arguments in favor of a doctrine contrary to his own, could not be met by fair argument.

The gentleman from Vermont (Mr. Elliot) had told them because this power was not expressly denied, that the House possessed it. Now Mr. C. conceived that the House had no powers except such as were given to it by the constitution, and that when about to act on any case, they should look to that instrument as to a power of attorney from which they derived their authority, and unless they found it there that they ought to stop and proceed no further in the object under their consideration. It was not pretended that this House could impeach a military officer, or that the Executive was bound by the instructions of the House on this subject; it was not a legislative act, nor intended to produce a law. It was in this view that in his opinion the House ought not to step out of its way to give directions to any part of the government not immediately under its control.

He could assure that gentleman and all who heard him that no man was more unwilling to obstruct an enquiry into the conduct of the commander in chief of the army, or would go farther than himself to promote it. It was wished for strongly in the country which he represented; but he was induced to believe the object was about to be accomplished by the only proper authority, indeed that it was already in its progress. It seemed as if the gentleman on his right (Mr. Gardenier) depended entirely on the resolution for an enquiry: Mr. C. almost doubted his hearing of the gentleman's language, that since a deaf ear had been lent to information in the palace, they, the representatives of the nation, ought not to be silent. It was important that facts should be correctly stated and correctly understood. There had not been heard in this House even an insinuation that this transaction had come to the knowledge of the Executive, or that the evidence adduced was known to that department. The contrary was stated; for it had been expressly stated that this evidence had neither been before the grand jury or the court at Richmond. So far then from the Executive having had it in his power to avail himself of this evidence to enquire, it had never been in his possession or before him. Mr. C. had thus stated the manner in which he understood the matter, that false impressions might not go abroad.

MR. GARDENIER said he never would for his part consent to the making such a request as that contemplated to the President, except he was well convinced that such an enquiry was necessary: Before, therefore, he would consent to adopt the main resolution, he would wish to put himself in possession of all evidence that was within his reach, to satisfy his own mind that the enquiry was necessary. If it were contended however, that this resolution should not be adopted on the ground that it was not necessary to make such a request, it followed that they must take some course or other to ascertain what was the real ground. How should they proceed in any other way than in that which he had proposed? The gentleman from New Orleans might be called upon to give evidence on this floor; but Mr. G. apprehended that this was not such a body as could properly receive oral evidence. It should be sent to a committee for that purpose, they might receive that evidence in form, it would then answer the best purpose, and would be obtained in the shortest way. It was for this reason that he had added to his motion the power to send for persons, papers, &c.

The gentleman from N. Carolina (Mr. Alston) seemed to apprehend that Mr. G. had mistaken what had fallen from the gentleman from New Orleans on a former day. Mr. G. had stated that the Executive had turned a deaf ear. What did the gentleman from Orleans say? That he had it in his power to give testimony which would implicate gen. W. he did not deny, and what was the reason that he had not given this information to the House?—Because he had before made application to the Executive to give information not only with regard to this officer, but to others, and the President had turned a deaf ear to all; not only to this particular point, but to the whole. The gentleman's expression "particularly" did not convey a meaning that this was not among the subjects, but that it was not exclusively the subject of his communication, being included in the rest. Mr. G. so understood him, and the gentleman would correct him if he misunderstood him.

The gentleman from Tennessee (Mr. Campbell) had taken a distinction between evidence and information; the gentleman would send these papers not as evidence but as information. Mr. G. would not enter into a grammatical contest as to the exact definition of the word information. If he would send these papers for informing the Executive (to use his own word) why not send other testimony which was not upon paper? His argument or reasoning, if it amounted to any thing, was equally applicable to one as to the other. As Mr. G. knew that they had means of acquiring more information than they possessed, and that that proposed to be acquired would be more to the point than what they had, he wished to send that also. He was not however tenacious of the particular form of his motion: if gentlemen thought the House should appoint a committee of enquiry in the first instance he was agreed; so that the great object was attained by securing the American nation from the danger of having its forces commanded by officers not worthy of confidence, on the one hand, or of wiping off the stain which had attached to the character of the commander in chief on the other. God knows, said he, that I would rejoice as much as any gentleman on the floor after a proper enquiry to find that this officer did not merit the accusation, and would be the first to retract my opinion on conviction of my error.

The gentleman from Vermont (Mr. Fisk) had asked at what time the character of gen. Wilkinson had been first impeached? Mr. G. was no advocate of Burrism; nor was he one of those opposed to gen. W. for putting down Burrism; for he never had confidence in Burr at any period of his life.—Therefore if the gentleman meant to insinuate that he had symptoms of partiality for any other than the good old school, he was greatly deceived. Mr. G. said he was a friend to this government, thought it should not run to Democracy on the one side, or Aristocracy on the other: and also thought when a military commander violated the constitution, it became a duty for the people to raise their voices against it. He had dared to express his opinion because he conceived it to be his duty; and he hoped no member of this House would be deterred from doing his duty by having his name written on every house in the city. He had a confidence in every representative of the people: he looked at the events spoken of by the gentleman from New Jersey as doing honor to the nation, and was happy that a member of this House had not descended so low as to disgrace himself by such a competition, and when the time should arrive that a representative should be deterred from his duty by insult he should feel the character of the House degraded. Upon the whole, if a serious, fair and candid enquiry was intended to be made, he should be content with any mode which might be pointed out.

MR. CLARK said the gentleman from N. Carolina (Mr. Alston) had mistaken him, representing him as having used the word "meant" instead of "attempted." Mr. C. said he had not, in attempting to make these communications, mentioned general Wilkinson's name: nor did he know whose name he had then mentioned. His intention at that time might be known by application to the secretary of state for the letter which Mr. C. had written to him. His information had related to efforts made by the Spanish government to detach the western country from the union. He had various proofs of it: and among others a letter which he now held in his hand in Spanish, a translated extract of which he read.—[For this extract see the proceedings of Friday in our last paper.] He had thought it his duty to give this information: he had not been attended to—he presumed not, however, to call the Executive to account for its conduct; as consul he had attempted to make it known, and that attempt was made known further by an application to know if he was understood. [A member asked the date of the letter from which an extract had just been read?] Mr. C. said the letter was dated the 27th April, 1796: the other part of the letter related to matters not relevant to business. It would shew that there had been a delegate sent by certain persons in Kentucky to treat, and this he wished to have made known. [Mr. Chandler asked at what time Mr. C. became possessed of this letter?] He had a knowledge of these circumstances to which the letter alluded, before he came to this part of the country; but he had not the letter in his possession at that time. [Mr. Chandler asked if by "coming to this part of the country" the gentleman meant at the present Congress?] No, said Mr. C. It was the first time I came here in the year 1802.

The yeas and nays being taken on the motion for striking out that part of the motion for commitment of the resolution to a select committee, which gave power to send for persons and papers, it was carried, 72 to 38.

The motion for reference was then lost without a division.

The original resolution now recurring for consideration,

MR. DANA said the course which appeared most proper to him would be to transmit the information to the President of the U. S. that he might proceed in such a manner as to him might appear correct and most for the public service. Without undertaking to express what was the amount of evidence, without saying whether innocent or guilty, it would be expressing an opinion that this information came from such a source and was of such a nature that it should be attended to. And as they found that there was a gentleman in the House possessed of information, Mr. D. had prepared a form of a resolution for procuring his evidence, which the Speaker could determine to be correct or not.

The SPEAKER said the motion could not be received till the resolution at present under consideration was disposed of.

MR. BLACKLEDGE said, as there was now no information before the House on which they could act, he should oppose the resolution. He had been in favor of a reference in order to obtain that evidence which was necessary for proceeding on the subject. Being now without any evidence which would authorise a resolution, he felt compelled to vote against it.

MR. G. W. CAMPBELL rose to enquire whether the House were in possession of any documents or not relating to this subject?

The SPEAKER said they were not.

Mr. C. then said that he should vote against the resolution. If they were in possession of the House (and this was sufficient reason for his present vote) he would vote to transmit them to the Executive of the United States.

MR. GARDNER said it had been stated that an enquiry had been instituted; he was willing to believe it; if such was the case, they might obtain the enquiry without the proposed resolution, but the proceedings of the House would have a bearing on the public mind. Mr. G. was sorry that evidence had been brought forward in this way, and had reduced the House to such a situation, that adopting or rejecting the resolution must convey an expression of their opinion. He was unwilling to vote for a resolution carrying with it such a weight as this resolution must. If the resolution were rejected after evidence had been produced from two different sources, what impression would it convey? If he were to vote for its rejection, he should not give full credit to the evidence, which had made such an impression on his mind, that he felt it his duty to give this information to the suitable authority to make the enquiry; but he was sorry that the question should have been proposed to the House in this manner. He could wish the resolution might be disposed of in some way, and that the measure recommended by the gentleman from Connecticut should be adopted.

MR. BURWELL said before the question was taken upon the resolution he must be permitted to explain his vote. It would be recollected by the House, that he had a few days since declared that he considered it proper that an enquiry should take place into the conduct of the officer implicated, that it was due to General Wilkinson himself, the government, the people, and the army under his command. It was peculiarly important at this time, to understand thoroughly the character and disposition of an officer holding so high a command in the service of the United States; there were then some doubts expressed, as to the form in which the subject was presented, but a vast majority seemed to be favorable to its adoption, for the same reasons which influenced his mind, and which were expressed to the House. He could not tell what had produced a change, and introduced such a diversity, if not a complete revolution, in the opinions of gentlemen; he had paid the closest attention to the discussion, and still thought the House might adopt the resolution, without offering disrespect to the Executive branch of the government, without transcending their constitutional powers, or doing injustice to the person whose conduct was involved. They were now told a court of enquiry had been ordered, and that it was unnecessary to proceed. This Mr. B. said might or might not be the fact; he had no doubt the member who made the declaration had been so informed. But rumor had never been considered sufficient authority to arrest the proceedings of Congress on any subject before them. The deliberations of that body could only be influenced by information laid before them in a manner less susceptible of doubt.

Mr. B. said he wished the House to recollect that they were not sitting in conclave, with closed doors, every thing which passed upon the floor was reported; not an expression or idea but what was known to the people, who would be able to separate that part of the discussion irrelevant to the subject, and appreciate properly that part relative to it. What then was the inference? With this copious stream of light, the true motives of every member would be readily discerned; he felt the fullest confidence in the Executive, and was certain the conscientious discharge of his duty would never be construed into the contrary. Mr. B. said the President would never impute to men who had here and elsewhere uniformly evinced the warmest attachment to their country, and the most liberal support of the administration, dishonorable motives, when others would so readily explain their conduct; for he had too much good sense, and was too well acquainted with the constitutional duties of members in this branch of the government, to imagine any disrespect was intended to him. But said Mr. B. the facts stated by the gentleman himself, who originated this motion, preclude the possibility of this imputation; they expressly tell you the information upon which they act has never been in the possession of the Executive department: how then could he act on evidence, the existence of which was utterly unknown to him? The gentleman a few days since declared he had only been himself in the possession of it two or three days.

[Here MR. RANDOLPH interrupted Mr. B. and observed some of it had been put into his hands the very morning preceding the motion.]

Mr. B. said it was still more impossible to attach blame. The delegate from Orleans had equally exculpated the President. The intelligence he intended to have imparted, we have been told, did not relate to the subject of the resolution. It was worthy of remark, that at the same time they were informed that a deaf ear had been turned to what was attempted to be communicated, the papers containing it were left with the Secretary of State, and lodged in his office; and the presumption is they were properly attended to. Mr. B. called upon gentlemen to bear these things in mind, and not suffer themselves to be driven from the true course by the observations which had fallen from any side. This was his determination, since he neither approbated the language or participated in the feelings which had been expressed by some members during the debate. Mr. B. said the very act of transmitting the evidence, instead of insinuating any charge, would clearly be an expression of confidence, and certainly a respectful communication of information to the Executive, to be properly used, for the public good.

Gentlemen had indulged themselves in fulminations against the commander in chief. Mr. B. would not imitate them. During his remarks he had sedulously avoided expressing any opinion of the merits or demerits of that officer; he would neither prejudge him, or forestal public opinion, by giving utterance to his impressions. He wished to bring every offender to justice, but not to deprive him of the only valuable privilege of the accused, an impartial trial. Mr. B. said, within a few years past, the United States had been menaced by the most serious conspiracy. The nation had been convulsed by a plot, whose machinations were extended and ramified into the remotest corner of the country. The detestable wretches who had reared this detestable fabric, who deserved, and he hoped had received the detestation and execration of every honest man, attached to his country, and capable of estimating the value of those liberties which were threatened with destruction, had notwithstanding received a fair trial, they had passed through all the process of an investigation, in the slow pace of the common law. He thought it certainly not less just and incumbent to give a fair opportunity to the commander of our army to meet the charges exhibited against him, and to dispel the suspicions which clouded his reputation, by an investigation, if he was really innocent. Mr. B. said he had no hesitation in saying, that the officer in question should invite himself the most thorough examination; this was the only expedient to remove the obloquy under which he labored; & this course ought to be equally desirable to gentlemen, whether friendly or inimical. But said Mr. B. there is a consideration superior to those of a personal nature, the delicate state of our affairs; the possibility of a contest with foreign nations, and the indispensible necessity to give efficacy to our army, and quiet to the nation; whose jealousy was admitted on all sides to be great, and could only be quieted in this manner. A gentleman from New York (Mr. Gardenier) had spoken of the events at New Orleans, and the violation of the constitution by the commander in chief. Mr. B. said, he certainly condemned, and would readily punish every infraction of that instrument by the military; but he would ask gentlemen if they really possessed correct knowledge upon that subject, and suggest the impropriety of pronouncing upon the guilt of a man from rumors of the most contradictory kind. He advised gentlemen to be thoroughly and minutely acquainted with the occurrences in the western country before they pronounced that Gen. W. had not contributed [illegible] to the preservation of tranquility in that quarter of the United States. Mr. B. said he thought whenever a member of the House in his place gave information relative to the conduct of a public officer, the House could do nothing less than make a proper disposition of it; and whenever he demanded an