Matthewson, Milledge, Moore, Pope, Robinson, Smith, Ten. Turner, and White.

NAYS—Messrs. Adams, Anderson, Giles, Gregg, Hillhouse, Maclay, Mitchill, Parker, Pickering, Reed, Smith, of Md. Smith, of N.Y. Sumter, and Thruston.

There are some amendments, made by the Senate, which require the concurrence of the House of Representatives.

DIED, on the 7th inst. of a lingering illness, in the 53rd year of his age *JAMES BARRY*, esq. consul-general from the Prince Regent of Portugal to the Eastern States.

CASE OF JOHN SMITH.

WEDNESDAY, JANUARY 20.

After the examination of Mr. Tiffin, the following report of the select committee was taken into consideration:

Mr. Anderson, from the committee to whom were referred several resolutions, which were offered to the consideration of the Senate, in the case of John Smith, Senator from the state of Ohio, reported the following resolution:

Resolved, That on the first day of March next, the Senate will receive such testimony as John Smith, Senator from the state of Ohio, may then adduce in his defence, and that the Senate will then proceed to the final consideration of the report of the committee appointed on the 27th of November last, to enquire into his conduct, as an alleged associate of Aaron Burr; provided, in case Mr. Smith shall adduce evidence to discredit any witness, whose testimony has been made use of against him; that he shall make it appear to the Senate, that reasonable notice had been given to the witness so intended to be discredited, of the time and place appointed for the taking of such evidence, and that he was served with a copy of this resolution.

Mr. Robinson moved to strike out "the first day of March," for the purpose of inserting "on Monday the 25th inst."

Mr. Anderson suggested the propriety of dividing the question, and observed that it had been stated by Mr. Smith that it would be the beginning of February before he could have the assistance of counsel in the room of Mr. Martin.

Mr. Robinson acquiesced in dividing the question.

Mr. Bayard said he understood that it was the object of the motion to preclude Mr. Smith from the opportunity of adducing additional evidence. The committee to whom the different resolutions were referred in the report made by them went on the principle that it was correct and obligatory on the Senate to hear any evidence Mr. Smith could bring from the state of Ohio, the scene of the offences alleged against him. The first of March had been fixed on as the result of a calculation, which allowed two weeks to travel to Cincinnati, two weeks to collect evidence, and two weeks to return. It would be impossible, in a less period of time, to accomplish this object. If, therefore, the amendment were adopted, it must be on the principle of denying to Mr. Smith the opportunity of obtaining this evidence. To deny him such an opportunity, Mr. B. should view as equivalent to an absolute denial to hear him. For what, said he, is a hearing? Not the vain words of counsel unsupported by evidence. Mr. Smith is charged by the allegation of certain facts. If then he is not heard in his defence through the medium of facts, he is substantially not heard at all. I will put the case, that under present circumstances, grounds of suspicion exist that render him unworthy of a seat in this body. But how often has every man, conversant with criminal justice, on the hearing of exparte evidence decided one way, and afterwards on hearing both sides decided otherwise? I will ask gentlemen, what they would say of the judge or jury who, on hearing one side, should declare that the case was so plain that it would be a waste of time to hear the other? Is this procedure sanctioned by any court in this country, or in any part of the world? It is a mockery of justice to say to an individual accused, we will hear you, and yet preclude him from all possible means by which he can be fairly tried. Mr. Smith says he can adduce proof to shew the existence of a conspiracy to destroy his character; unless, therefore, you allow him a reasonable time, you prejudicate his case. You refuse him the means of a defence.

Further the committee viewed this, not merely as a decision on the personal application to Mr. Smith, but as establishing an important precedent that would not be confined to this individual case. Let it also be observed that the charges in this case are generally founded on conversations, charges, which, even if unfounded, are from their peculiar nature, the most difficult to be repelled. Shall we, under all these circumstances, say we will hear Mr. S. and yet not listen to his defence? If we will not allow him a reasonable time, we may as well decide on his case at once, for to allow him counsel, without giving him materials for a defence, will be a burthen instead of a benefit.

Mr. Franklin spoke against the amendment, but in so low a voice that we are scarcely able to give his leading ideas. He read the provision of the constitution that authorises the expulsion of a member, and then observed that a member might be expelled on various grounds, some of which, such as disorderly behaviour, might occur under the eye of the Senate, in which case it would be unnecessary to go abroad for testimony; but that the charges in this case were not of this nature. They had been preferred on testimony received from a distance; and all that Mr. Smith asked was the indulgence in the same right of going abroad for evidence to confront that brought against him. And if, as he alleged, he could defend himself by this testimony, Mr. F. was of opinion that the first of March allowed him no more time than was reasonable.

Mr. Adams said he should not have risen, had not the gentleman from Delaware stated the motives of the committee in allowing Mr. Smith until the first of March to adduce additional testimony, and had he not stated that the committee considered this as not only correct in itself, but obligatory upon the Senate. I, said Mr. A. as a member of that committee, thought it not obligatory, tho' I assented to the resolution. I thought, and still think it a measure resting with the discretion of the Senate to adopt or refuse. Nor do I think, if this resolution shall not be adopted, that such a refusal could be considered as refusing a hearing.—Notwithstanding, however, this opinion, I gave it may assent, and altho' circumstances have since occurred which render delay less necessary, I am still in favor of it.

[Mr. Adams here specified some of the prominent points of col. James Taylor's testimony before the Senate, as highly corroborative of his previous testimony before the committee. And as to the evidence of Peter Taylor, Mr. A. said it was strongly supported by a late article in the Richmond Enquirer, which he read.]

Mr. Adams observed that under these circumstances, the probability that Mr. Smith would be able to discredit the witnesses, who had testified against him, was very much weakened. He might go on, and say that the importance of discrediting Glover's testimony was also very much weakened by the evidence of col. Taylor at the bar of the Senate; for the git of Mr. Smith's affidavit was to shew that the charges against him had arisen from a confederacy between Nimmo and Glover. Whatever the testimony of Nimmo and Glover was, it appeared, that it was not transmitted to the Executive until December, 1806; while, by the evidence of col. Taylor it appeared that he had communicated grounds of suspicion totally separate from Nimmo and Glover six weeks previously.

Mr. Adams concluded by observing that, notwithstanding these strong circumstances, he was not disposed to refuse the indulgence desired by Mr. Smith; not because he believed he would not be heard without it, or that he had not already been allowed ample time to collect testimony, or that it was obligatory on the Senate to allow further time; but because he was willing to allow him every indulgence consistent with a shadow of reason.

The question was then taken by yeas and nays on striking out "the first of March," as follows:

YEAS—Messrs. Anderson, Condit, Gilman, Kitchel, Maclay, Mathewson, Moore, Parker, Robinson, and Smith, (Ten.)—10.

NAYS—Messrs. Adams, Bayard, Crawford, Franklin, Gaillard, Giles, Goodrich, Gregg, Hillhouse, Howland, Milledge, Mitchill, Pickering, Pope, Reed, Smith, (Md.) Smith (N. York) Sumpter, Thruston, Turner, and White—21.

The yeas and nays were then taken on the original resolution, and are as follows:

YEAS—Messrs. Adams, Anderson, Bayard, Condit, Crawford, Franklin, Gaillard, Giles, Goodrich, Gregg, Hillhouse, Howland, Kitchel, Milledge, Mitchill, Pickering, Pope, Reed, Smith, (Md.) Smith, (N. York) Smith, (Ten.) Sumpter, Thruston, Turner, and White—25.

NAYS—Messrs. Gilman, Maclay, Mathewson, Moore, Parker, and Robinson—6.

On motion of *Mr. Adams*, *ordered*, That the Secretary of the Senate cause to be obtained from the files of the Circuit Court for the Virginia district a certified copy of the papers under the signature of the Querist, and a file of the Enquirer for the year 1807.

The following reply from COL. MUNROE *to the address of the House of Delagates, was read in that body on Thursday:*

Richmond, Jan. 12, 1808.

SIR,

My return, after an absence of almost five years, to my native country, which I am bound by so many considerations to regard with the utmost degree of gratitude and affection, was in itself an event that afforded me the most sincere pleasure. But it is impossible to describe the sentiments produced in my mind, by the reception which I experienced from my fellow-citizens, and the high honor conferred on me by the Assembly in which you preside, by its address of the 21st of December last.

I rejoice to find that the principles of our revolution, on which all our governments are founded, continue to gain strength in the confidence and affection of our fellow citizens. Having imbibed those principles from education, I contended for them in early life in the great and glorious struggle which atchieved our independence. Experience and reflection have since impressed their truth indelibly on my mind, and in all the transactions in which I have been engaged, I have invariably made them the guides of my conduct. It cannot therefore be presumed that they will cease to animate me hereafter, or that I shall fail to obey their dictates, as long as I exist.

My late employments abroad were conferred on me at a time, when I had contemplated the application of my labors altogether to private purposes. It was at the moment of my retirement from the office of chief magistrate of this commonwealth, in which I had the good fortune to acquit myself to the satisfaction of my country. I did not however hesitate to obey the summons addressed to me by a wise and virtuous administration, and to undertake the very arduous duties, in which I was called to participate. In the discharge of those duties I am conscious that I have exerted my best and most unwearied efforts, to maintain the honor of my government and country, and to promote the prosperity and happiness of my fellow citizens. How far I may have succeeded, it is not for me to decide, but the expression of the public sentiment, by the House of Delegates, communicated by you, will afford me great consolation through all the vicissitudes, whatever they may be of future life.

I beg you to present to my fellow citizens of the House of Delegates my best wishes for their welfare, as individuals, and to be assured of the high consideration and esteem with which I have the honor to be, your obedient servant,

JAMES MONROE.

The honorable the Speaker of the House of Delegates.

From the Albany Register.

It has been lately asserted, that Mr. Masters, one of our members of Congress, declared on the floor of Congress, speaking of the embargo, that he saw the hand of NAPOLEON in the measure. We are told by one of Mr. Masters's immediate constituents, that he denies ever having made such a declaration. The truth is, that the administration are incapable of being actuated either by *French* or *British* influence; they are *truly American*, and as such all *true Americans* will support them in their just and patriotic determination, to render their country independent in fact as well as in name.

An embargo has been laid on all vessels in the port of Bordeaux, which continued until the 25th of Nov. on account of the sailing of the frigates which lately arrived at Martinique. They sailed on the 17th; but an embargo laid in France in consequence of the departure of national vessels on a foreign service generally continues eight days after their sailing.

REPUBLICAN MEETING.

At a general and full meeting of the Republicans of the city of New-York, regularly convened by public notice, at Martlin's Long-Room, on Monday evening, Jan. 18th, 1808.

DE WITT CLINTON, Chairman,

JAMES TOWNSEND, Sec'ty.

The following resolutions were unanimously passed:

1st. *Resolved*, That we retain the most full and undiminished confidence in the wisdom, patriotism and integrity of the President, Vice-President and Congress of the United States.

2d *Resolved*, That approving of the measures which the administration have pursued, we have seen with regret & indignation, that certain public prints (and some of them affecting to speak the sentiments of "nine-tenths" of the citizens of New-York) have stigmatised the general government, and attributed the measures of security which have been adopted, to the "undue influence and interference of one of the belligerent powers." These not being the sentiments of the Republicans of this city, we feel ourselves called upon, by all the ties of honor and duty to the general government, in justice to our own feelings, and for the information of our fellow Republicans elsewhere, to declare, in this explicit and public manner, that the slanders circulated, of "French influence" are in no wise credited by the Republicans of New-York; but on the contrary, we believe them to be base and infamous calumnies, destitute of the semblance of truth, and which have to other effect on our minds than to excite a just contempt and abhorrence of the authors and propagators.

3d. *Resolved*, As the sense of this meeting, that the period has arrived when it becomes the duty of every American citizen, to submit to all deprivations consequent to the measures government may adopt to redress the violated honor of our country; and, therefore, the citizens here assembled, solemnly pledge themselves to meet every exigency which may result from the measures government may think proper to adopt, to obtain ample reparation for the past and security against future wrongs.

4th. *Resolved*, That we sincerely sympathise with our fellow-citizens, in this and the other states, who in common with many of ourselves do, and may experience inconvenience, and in some instances distress, in conquence of the present Embargo. But when from information publicly and abundantly received, it appears that we had no alternative but a choice of evils we have no hesitation in declaring that we approve of the course which government has pursued, and we are ready to make any sacrifice in defence of our rights, or to avenge the insults offered to our country.

5th. *Resolved*, That the proceedings of this meeting be published in all the public papers printed in this city.

By order of the meeting,

DE WITT CLINTON, Chairman,

JAMES TOWNSEND, Sec'ry.

DECREE, NO. II.

At the Court of Queen's Palace, the 11th Nov. 1807.

PRESENT.

The king's most excellent majesty in Council.

Whereas articles of the growth and manufactures of foreign countries cannot by law, be imported into this country, except in British ships, or ships belonging to the countries of which such articles are the growth and manufacture, without an order in Council, specially authorizing the same.

His majesty, taking into consideration the order of this day's date, respecting the trade to be carried on to and from the enemy, and deeming it expedient that any vessel belonging to any country in alliance, or at amity with his majesty, may be permitted to import into this country articles of the produce or manufactures of countries at war with his majesty.

His majesty, by and with the advice of his privy council, is hereby pleased to order, and it is hereby ordered, That all goods, wares and merchandize specified and included in the schedule of an act, passed, in the 43d year of his present Majesty's reign, entitled an act to repeal the duties of customs, payable in Great-Britain and to grant other duties in lieu thereof, may be imported from any port or place, belonging to any state not at amity with his majesty, subject to the payment of such duties, and liable to such drawbacks as are now established by law upon the importation of said goods, wares or merchandize, in ships navigated according to law, and with respect to such of the said goods as are authorised to be ware-housed under the provisions of an act, passed in the 43d year of his present Majesty's reign, entitled, an act for permitting certain goods imported into Great Britain, to be secured in warehouses without payment of duty, subject to all the regulations of the said last mentioned act, and with respect to all articles which are prohibited by law from being imported into this country, it is ordered, that the same shall be reported for exportation to any country in amity or alliance with his majesty.

And his majesty is further pleased by and with the advice of his privy council, to order, and it is hereby ordered, that all vessels which shall arrive at any port of the United Kingdom, or at the port of Gibraltar or Malta, in consequence of having been warned pursuant to the aforesaid order, or in consequence of receiving information in any other manner, of the said order, subsequent to their having taken on board any part of their cargoes, whether previous or subsequent to their sailing, shall be permitted to report their cargoes for exportation, and shall be allowed to proceed upon their voyages to their original ports of destination (if not apprized before the issuing of the said order) or to any port at amity with his majesty, upon receiving a certificate from the collector or comptroller of the customs at the port at which they shall so enter, which certificate the said collectors & comptrollers are hereby authorised and required to give; setting forth that such vessels came into such port in consequence of being so warned or of receiving such information as aforesaid, and that they were permitted to sail from such port under the regulations which his majesty has been pleased to establish in respect to such vessels; but, in case any vessel so arriving shall prefer to import her cargo, then such vessel shall be allowed to enter and import the same upon such terms and conditions as the said cargo might have been imported upon according to law, in case the said vessel had sailed after having received notice of the said order, and in conformity thereto.

And it is further ordered, that all vessels which shall arrive at any port of the United Kingdom, or at Gibraltar, or Malta, in conformity or obedience to the said order, shall be allowed in respect to all which may be on board the same, except sugar, coffee, wine, brandy, snuff and tobacco, to clear out to any port whatever, to be specified in such clearance, and with respect to the last mentioned articles to export the same to such ports, and under such conditions and regulations, only, as his majesty, by any licence to be granted for that purpose may direct.

And the right honorable the Lords Commissioners of his majesty's treasury, his majesty's principal Secretaries of State, the Lords Commissioners of the admiralty, and the Judges of the high court of admiralty and the courts of vice-admiralty, are to take the necessary measures herein, as to them shall respectively appertain.

W. FAWKENER.

DECREE, NO. III.

At the Court at the Queen's Palace, the 11th Nov. 1807.

PRESENT.

The king's most excellent majesty in Council.

Whereas, the sale of ships by a belligerent to a neutral, is considered by France to be illegal; and

Whereas, a great part of the shipping of France and her allies, has been protected from capture during the present hostilities, by transfers or pretended transfers, by neutrals; and

Whereas, it is fully justifiable to adopt the same rule in this respect towards the enemy, which is applied by the enemy to this country.

His majesty is pleased by and with the advice of his privy Council, to order, that in future, the sale to a neutral of any vessel, belonging to his majesty's enemies, shall not be deemed to be legal, nor in any manner to transfer the property, nor to alter the character of such vessel; & all vessels now belonging, or which shall hereafter belong to any enemy of his majesty, notwithstanding, any sale or pretended sale to a neutral, after a reasonable time shall have elapsed, or receiving information of this, his majesty's order, at the place where such sale or pretended sale was effected, shall be captured and brought in, and shall be adjudged as lawful prize to the captors.

And the right honorable the Lords Commissioners of his majesty's treasury, his majesty's principal Secretaries of State, the Lords Commission ers of the admiralty, and the Judges of the high court of admiralty and courts of vice-admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

Will be Sold at Public Auction,

ON the Premises, on Thursday the 25th day of February next, part of LOT [illegible] 4, in Square 78 being 28 feet front, near the Western Market, and extending back about 147 feet to an alley. There is erected upon this Lot, a good BRICK BUILDING covering the whole front, with a good Kitchen and enclosure, and was formerly occupied by Dr. Bullus. As the property is well known, nothing further descriptive is thought necessary.

J[illegible] 25—[illegible]

COLUMBIAN LIBRARY.

The Shareholders in the Columbian Library, who have not paid the annual contribution which became due on the 1st inst. will take notice that their Shares will be forfeited, if payment is not made before the 1st day of February next.

DAVID WILEY, Treasurer.

Georgetown, Columbia Jan. 22—[illegible]