positive law, any legislative act specially providing for the restoration of original papers introduced into court? If there is, I have never heard of it; but under the practice of all courts, it has been established as a common rule of justice, that the witness introducing a paper, or a record, should have a return of it; it would be hard indeed if a court could thus arbitrarily deprive another of his property, especially as the only object of introducing a paper is answered by the inspection of it.

The gentleman from Kentucky (Mr. Rowan) has again attempted to excite our apprehensions, for the safety of the civil officer, who shall be charged with the service of the process. He has told us that if in civil cases he makes default, before he is made to suffer, he is entitled to the right of trial by jury; if indeed this be the case, where is the clause of this bill, which deprives him of that right? Does it confer on a military court the right of fining or imprisonment? If it does not, the officer is still left to the power of the civil court and in express terms the civil court is required to proceed in the usual manner to levy the fine for his misconduct in office. The position taken by the gentleman, that the officers of courts are entitled to a trial by jury before a fine can be inflicted on them, it is not now necessary to observe on; it has however so far as my experience has enabled me to inform myself been considered as a proper and necessary incident to the honor of a civil court to fine its own officers for misconduct in the performance of official duties; it is only when the party suffering by the neglect of the officer has sought redress, that the officer is entitled to the trial by a jury, who are to assess the damages the injury demands.

The hardship of compelling a witness to attend a military court, where it is said he is to receive no compensation, has been elaborately dwelt on. Mr. L. said he would ask the gentleman what provision is made for payments of that sort in civil courts, is there any law which authorises by summary process a recovery? He had always considered it as a matter of practice only, which would equally apply in the cases contemplated by the bill; there is no process of the court by which a witness would be enabled immediately to levy his money; but why is it said that a witness is obliged to attend in pursuance of a summons to a military court, more than to a civil court? There is no positive law, it is true, which declares that a party shall be obliged to tender a witness his wages before he sets out to court; but the practice of courts as in the other instance has adopted rules, which are equally calculated to ensure justice, and which are under the operation of this bill, secured to the civil courts; for should a witness fail to obey the summons, the practice already established, would secure him against any evil consequence, if he had demanded from the party summoning, his wages, and they had not been tendered him: if on the other hand the witness does attend and is not paid, he can only have recourse to the common process of law, in a civil court, which still remains superior, and I trust always will to the military, in order to recover and levy by execution his money.

It is objected by the same gentleman, that the bill operates unequally on the officer and soldier; that the life of a soldier may be taken by the introduction of evidence which would not be sufficient to affect an officer; but this construction, like many others of the gentleman, is not warranted by the terms of the bill; the third section which had been alluded to, when we have recourse to it, we find in no case authorising the reading of testimony by depositions unless in cases where the punishment may extend to cashiering an officer, or flogging a soldier; but if that section had been obscure in its terms, the general provision, which is of unlimited operation in the fourth section, and declares that in no case where the punishment is capital a deposition shall be read in evidence, unless when the witness resides at more than one hundred miles from the court, completely refutes the distinction made by the gentleman's argument.

A general objection has been made against summoning a witness before a military court, because it is said that kind of court is not regular in the times or places of its sittings, and the gentleman from Kentucky has intimated that in this respect the civil courts are differently organised. These, if objections at all, are objections to the constitution of the military court itself, and not to the provisions of this act, which are intended to enable it to effect the purposes for which it was intended; from the very nature of a military court it was impossible, such court could by law be fixed as to the time and place of its sessions. The gentleman is mistaken too, when he supposes that the civil courts are limited in the duration of their sessions, and in this respect different from the military court. The Supreme court of the U. S. is unlimited in this respect, and the inferior courts all have the power to adjourn as may suit their convenience, and to sit as long as the business before them may require. The dangers then which have been apprehended to exist in a greater degree in a military court, from their power to continue longer in session than a civil one, and thus harrass a witness unnecessarily, are also found to be but ideal.

Mr. L. said he was willing to admit, that if an objection did exist to any part of the bill, it was to the fourth section — it is certainly jeopardizing in a very dangerous degree the life of a fellow being, to permit testimony taken by deposition to be read in evidence on his trial; it is not objectionable in this law however on constitutional grounds, as a gentleman from Vermont (Mr. Elliott) has supposed, because by the letter of the constitution the right of being confronted with the accuser, and the witness at the time of trial is in express terms confined to civil cases, in exclusion of military trials. This civil right is as expressly excluded from the military as the right of trial by jury; and it is easy to see the necessity which exists for this distinction which our constitution has made. That necessity was no doubt lamented by the humane and wise framers of our constitution. The section in question however, although it ought to be acted on with great caution, affords perhaps the best mode which can be adopted considering the convenience and rights of the citizen, to obtain testimony so situated; to make no provision for obtaining testimony, which might happen to be at the distance of an hundred and one, or a thousand miles from the seat of the court, might, particularly in courts of enquiry, be productive of evils in the investigation of charges, which the public interests required to be supported, if true, or which the accused if false might thus disprove.

Too much of the time of the House has already been taken up in replying to objections to the bill, which have been urged in many instances without even the shew of plausibility, and could only have been intended to mislead the public mind.

Mr. L. said he would only beg leave to remark before he concluded, that the bill in his opinion had been unfairly opposed; a military court, altho' admitted to be a necessary institution for the trial of offences, has been mentioned as if it was now intended to form an usurpation over the civil authorities, altho' the bill itself has in the closest manner pursued from the beginning to the end, the principle of subordination which is acknowledged to be due from the military to the civil. The courts themselves have been represented as formed of men already determined on the most violent abuses of the rights of society, and as wholly uninfluenced by the usual restraints of prudence & discretion which actuate judicial tribunals; if indeed this be the case, abolish these courts as useless and dangerous; but who in the candor of his mind, and when the effervescence of the occasion shall have subsided will say so? Has any part of the conduct of those courts heretofore published warranted the stigma? The late instances have been honorable ones to the characters of its members. The judge advocate has been selected from the civil orders of society; gentlemen have been appointed who stand first in the line of their professional pursuits, distinguished no less for legal ability than moral integrity; men whom no one dare suspect of a disposition to harrass the citizen or trample on his rights; it is most probable that examples so satisfactory might in future be followed, but if the law as it at present stands does not give that assurance, let it be altered, and make it necessary uniformly hereafter to select from civil life the judge advocate of the court, whose details of the testimony reliance may be placed on.

In all the objections which have been made, Mr. L. said he could see nothing, unless indeed it was such clamor as ingenuity may at all times give birth to, against the most unexceptionable laws, and which the time and circumstances under which this bill has been necessarily introduced, are particularly calculated to bring forth. For his own part he was willing to risk its passage, for he could see nothing like danger in any of its parts, to the civil liberties of the people of the U. States.

JOURNAL

OF SECRET PROCEEDINGS, FROM WHICH THE INJUNCTION OF CONFIDENCE HAS BEEN REMOVED.

WEDNESDAY, MARCH 30.

A message in writing was received from the President of the U. S.

On motion of *Mr. Randolph*, and seconded, that the House do come to the following resolution:

Resolved, That the President of the U. States be and he hereby is requested to cause to be laid before the House of Representatives information of the dates of the extract and copy of two letters respectively from the French minister to our minister at Paris, referred to in his letter to the Secretary of State of the 22d of January, 1808; and also of the date of the receipt of the said communications and of the letter of M. Champagny of the 15th January, 1808, by our said minster at Paris.

The House proceeded to consider the said proposed resolution at the Clerk's table,

And on the question that the House do agree to the same, it was resolved in the affirmative, Yeas 93, Nays 24.

The Yeas and Nays being demanded by one fifth of the members present,

Those who voted in the affirmative are,

Messrs. Alexander, L. J. Alston, Bassett, Bibb, Blackledge, Blake, Blount, Boyle, Brown, Burwell, Butler, Calhoun, G. W. Campbell, Champion, Chittenden, Claiborne, M. Clay, Clinton, Clopton, Cobb, Culpepper, Dana, Davenport, Dawson, Desha, Durell, Elliot, Ely, Eppes, Franklin, Gardenier, Gardner, Garnett, Goodwyn, Gray, Harris, Helms, Hoge, Holland, Holmes, Howard, Humphreys, Jenkins, Johnson, Jones, Kenan, Key, Love, Lyon, Macon, Marion, Masters, Milner, D. Montgomery, N. R. Moore, T. Moore, Jer. Morrow, John Morrow, Mosely, Mumford, Newton, Pitken, Porter, Quincy, Randolph, J. Richards, Riker, Rowan, Russell, Smelt, Smilie, S. Smith, J. Smith, Stanford, Stedman, Storer, Taggart, Tallmadge, Taylor, Thompson, Trigg, Troup, Upham, Van Allen, Van Cortlandt, Van Dyke, Van Horne, Van Rensselaer, Verplank, Wharton, D. R. Williams, M. Williams, and Wilson.

Those who voted in the negative are,

Messrs. W. Alston, Bard, Green, Heister, Ilsley, Lambert, M'Creery, J. Montgomery, Newbold, Nicholas, Pegh, Rhea (T.) M. Richards, Seaver, Sloan, J. K. Smith, Southard, Whitehill, Wilbour, Winn, and Witherall.

Ordered, That Mr. John Randolph and Mr. G. W. Campbell be appointed a committee to wait on the President of the U. S. pursuant to the said resolution.

The several orders of the day were further postponed until to-morrow; and then the House adjourned until to-morrow morning, 11 o'clock.

THURSDAY, MARCH 31, 1808.

The House being cleared of all persons except the members and the clerk.

Mr. Randolph, from the committee appointed to wait on the President of the U. S. pursuant to a resolution of the 30th instant, reported that the committee had, according to order, performed the service assigned to them and received an intimation that the President was indisposed, and could not give them a personal interview; and that at his request they had left the extract entrusted to them with his private Secretary.

On motion of *Mr. Randolph*,

The House resumed the reading of such documents accompanying the message from the President of the U. S. of the 22d instant, as in his judgment require secrecy, and were communicated by him, in confidence, and went through them.

A motion was made by *Mr. Randolph* and seconded, that the House do come to the following resolution:

Resolved, That the injunction of secrecy imposed on the message of the President of the U. S. of the 30th inst. be taken off, so far as respects the documents accompanying the same with the exception of the letter from our minister at Paris to the Secretary of State of the 27th of December 1807.

On the question that the House do now proceed to take the said proposed resolution, into consideration.

It passed in the negative, Yeas 42, Nays 77.

The yeas and nays being demanded by one-fifth of the members present,

Those who voted in the affirmative, are—Messrs. Bibb, Champion, Chittenden, Clinton, junr. Cobb, Culpepper, Dana, Davenport, Durell, Elliot, Ely Gardenier, Gardner, Garnett, Gray, Harris, Hoge, Jenkins, Key, Lewis, Lyon, Macon, Masters, Milner, Moseley, Mumford, Pitkin, Quincy, Randolph, J. Richards, Rowan, Russell, Stanford, Stedman, Tallmadge, Trigg, Upham, Van Cortlandt, Vandyke, Van Horne, Van Rensselaer, D. R. Williams—42.

Those who voted in the negative, are—Messrs. Alexander, L. J. Alston, W. Alston, Bacon, Bard, Barker, Bassett, Blackledge, Blake, Blount, Boyle, Brown, Burwell, Butler, Calhoun, G. W. Campbell, M. Clay, Clopton, Cutts, Dawson, Desha, Eppes, Findley, Fisk, Franklin, Goodwyn, Green, Heister, Helms, Holland, Holmes, Howard, Ilsley, Johnson, Jones, Kenan, Kirkpatrick, Lambert, Love, Marion, M'Creery, D. Montgomery, J. Montgomery, N. R. Moore, T. Moore, Jer. Morrow, Jno. Morrow, Newbold, Newton, Nicholas, Porter, Pugh, Rhea, (Tenn.) M. Richards, Riker, Seaver, Sloan, Smelt, Smilie, J. K. Smith, S. Smith, Jno. Smith, Southard, Storer, Taggart, Taylor, Thompson, Troup, Van Allen, Verplanck, Wharton, Whitehill, Wilbour, M. Williams, Wilson, Winn, Witherall—77.

A motion was then made by *Mr. Randolph* and seconded, that the said message and documents be referred to the committee of the whole House on the state of the Union.

And the question being taken thereupon,

It was resolved in the affirmative.

A motion was then made by *Mr. Randolph* and seconded, that the House do come to the following resolution:

Resolved, That the injunction of secrecy imposed on the message of the President of the U. S. of the 30th instant, and the documents accompanying the same, be taken off, so far as relates to the copy of a letter from M. Champagny to Gen. Armstrong, of the 15th of Jan. 1808.

And on the question that the House do now proceed to consider the same.

It passed in the negative, Yeas 45, Nays 71.

The Yeas and Nays being demanded by one-fifth of the members present,

Those who voted in the affirmative, are—Messrs. Alexander, L. J. Alston, Bibb, Champion, Chittenden, Clinton, junr. Cobb, Culpepper, Dana, Davenport, Desha, Durell, Elliott, Ely, Gardenier, Gardner, Garnett, Gray, Harris, Hoge, Jenkins, Key, Lewis, Lyon, Macon, Masters, Milner, Jno. Morrow, Mumford, Pitkin, Quincy, Randolph, Rowan, Russell, S. Smith, Stanford, Stedman, Tallmadge, Trigg, Upham, Van Cortlandt, Van Dyke, Van Horne, Van Rensselaer, D. R. Williams—45.

Those who voted in the negative, are—Messrs. W. Alston, Bacon, Bard, Barker, Bassett, Blackledge, Blake, Blount, Boyle, Brown, Burwell, Butler, Calhoun, G. W. Campbell M. Clay, Clopton, Cutts, Dawson, Eppes, Findley, Fisk, Franklin, Goodwyn, Green, Heister, Holland, Holmes, Howard, Ilsley, Johnson, Jones, Kenan, Kirkpatrick, Lambert, Love, Marion, M'Creery, D. Montgomery, J. Montgomery, N. R. Moore, T. Moore, Jer. Morrow, Newbold, Newton, Nicholas, Porter, Pugh, Rhea, (Tenn.) J. Richards, M. Richards, Riker, Seaver, Sloan, Smelt, Smilie, J. K. Smith, Jno. Smith, Southard, Storer, Taylor, Thompson, Troup, Van Allen, Verplanck, Wharton, Whitehill, Wilbour, M. Williams, Wilson, Winn, Witherall—71.

FRIDAY, APRIL 1.

A message from the President of the United States accompanied with a report from the Secretary of State was received.

The House being cleared of all persons except the members and the clerk,

The said message was read, in the words following, to wit:

To the House of Representatives of the U. S.

In answer to the enquiries of the resolution of the House of Representatives of the 30th of March relative to certain dates. I transmit a report of the Secretary of State made to me on that subject.

TH: JEFFERSON.

April 1, 1808.

Copy of a report from the Secretary of State to the President of the United States.

The Secretary of State has the honor to report to the President in conformity to the resolution of the House of Representatives of the 30th of March that the only information which has been received repecting the letter, from which the extracts inserted in General Armstrong's letter to the Secretary of State of January 22d, 1808 was taken, is in the extract itself, to which no date is given; and that no copy of any letter, from the French Minister to him, is subjoined to, or known to be referred to in his said letter of January 22d, except that a copy of which was communicated to Congress by the President, on the 29th of March, and which bears date the 15th of January, 1808. It does not appear from any information received by the department of state, at what date either this letter of January the 15th, or the letter from which the inserted extract was taken, were received by the Minister of the U.S. at Paris

Respectfully submitted.

JAMES MADISON.

DEPARTMENT of STATE,
April 1, 1808.

A motion was made by *Mr. Randolph*, and seconded that the House do come to the following resolution.

Resolved, That the injunction of secrecy imposed on the message of the President of the United States of the 30th March be taken of so far as respects the documents accompanying the same with the exception of the letter from our Minister at Paris to the Secretary of State of the 27th of December, 1807, and the words contained in the parenthesis in the last sentence of the extract from Mr. Pinkney's letter of Jan. 26, 1808.

And on the question, that the House do now proceed to take the said proposed resolution into consideration, it passed in the negative, Yeas 45, Nays 71.

The Yeas & Nays being demanded by one fifth of the members present, are,

YEAS.—Messrs. Alexander, Bibb, Champion, Chittenden, Claiborne, Clinton, Cobb, Culpepper, Dana, Davenport, Durell, Elliot, Ely, Gardenier, Gardner, Garnett, Gray, Harris, Hoge, Jenkins, Key, Lewis, Lyon, Macon, Marion, Masters, Milner, Mosely, Mumford, Pitkin, Quincy, Randolph, Rowan, Russel, S. Smith, Stanford, Stedman, Tallmadge, Trigg, Upham, Van Cortlandt, Van Dyke, Van Horne, Van Rensselaer & D. R. Williams—45.

NAYS.——Messrs. W. Alston, Bacon, Bard, Barker, Basset, Blackledge, Blake, Blount, Boyle, Brown, Butler, Calhoun, G. W. Campbell, M. Clay, Clopton, Cutts, Dawson, Deane, Desha, Eppes, Findley, Fisk, Franklin, Goodwyn, Green, Heister, Helms, Holland, Holmes, Howard, Humphreys, Ilsley, Johnson, Jones, Kenan, Kirkpatrick, Knight, Lambert, M'Creery, D. Montgomery, J. Montgomery, N. R. Moore, Jer. Morrow, Newbold, Newton, Nicholas, Porter, Pugh, Rhea (Ten.) J. Richards, M. Richards, Riker, Sloan, Smelt, Smilie, J. K. Smith, J. Smith, Southard, Storer, Swart, Taylor, Troup, Van Allen, Verplanck, Wharton, Whitehill, Wilbour, M. Williams, Wilson, Winn, Witherell—71.

A motion was then made by *Mr. Randolph*, and seconded that the House do come to the following resolution:

Resolved, That the injunction of secrecy imposed on the message of the President of the United States and the documents accompanying the same, be taken off so far as relates to the copy of an official note from M. Champagny, to gen. Armstrong, of the 15th of January, 1808, and of an official letter from Mr. Erskine (his Britannic majesty's envoy) to the Secretary of State of the 23d Feb. 1808.

And on the question that the House do now proceed to take the said proposed resolution into consideration.

It passed in the negative, Ayes 45, Nays 73.

The Yeas and Nays being demanded by one fifth of the members present.

Those who voted in the affirmative are.—Messrs. Alexander Bibb, Champion, Chittenden, Clinton, Cobb, Culpepper, Dana, Davenport, Durell, Elliot, Ely, Gardenier, Gardner, Garnett, Gray, Harris, Hoge, Jenkins, Key, Lewis, Lyon, Macon, Marion, Masters, Milner, Mosely, Mumford, Pitken, Quincy, Randolph, Rowan, Russel, S. Smith, Stanford, Stedman, Taggart, Tallmadge, Trigg, Upham, Van Cortlandt, Van Dyke, Van Horne, Van Rensselaer & D. R. Williams—45.

Those who voted in the negative are.—Messrs. L. J. Alston, W. Alston, Bacon, Bard, Barker, Bassett, Blackledge, Blake, Blount, Boyle, Brown, Burwell, Butler, Calhoun, Claiborne, G. W. Campbell, M. Clay, Clopton, Cutts, Dawson, Deane, Desha, Eppes, Findley, Fisk, Franklin, Goodwyn, Green, Heister, Helms, Holland, Holmes, Howard, Humphreys, Ilsley, Johnson, Jones, Kenan, Kirkpatrick, Knight, Lambert, M'Creery, D. Montgomery, J. Montgomery, N. R. Moore, T. Moore, Jer. Morrow, Newbold, Newton, Nicholas, Porter, Pugh, Rea, (Pen.) Rhea, (Ten.) J. Richards, M. Richards, Sloan, Smelt, Smilie, J. K. Smith, J. Smith, Southard, Storer, Swart, Taylor, Troup, Van Allen, Wharton, Whitehill, Wilbour, M. Williams, Wilson, Winn & Witherell—73.

A motion was then made by *Mr. J. Montgomery* and seconded that the doors now be opened.

And debate arising thereon,

An adjournment was called for,

Whereupon the several orders of the day, were further postponed until to-morrow and the House adjourned until to-morrow morning at 11 o'clock.

SATURDAY, APRIL 2.

The House being cleared of all persons except the members and the Clerk.

A message in writing was received from the President of the U. S. by Mr. Coles, his Secretary.

[This message appeared in our last, as introductory to the publication of the letters of M. Champagny and Mr. Erskine.]

On motion of Mr. *Randolph*, and seconded, that the House do come to the following resolution:

Resolved, That the injunction of secrecy, imposed on the message of the President of the U. S. of the 30th of March, and the documents accompanying the same, be taken off, so far as relates to the copy of an official note from M. Champagny to General Armstrong, of the 15th of January, 1808, and of an official letter from Mr. Erskine, (his Britannic majesty's envoy) to the Secretary of State, of the 23d of February, 1808, and that five thousand copies thereof be printed.

The question was taken that the House do now proceed to take the said proposed resolution into consideration, and resolved in the affirmative—Yeas 106—Nays 1.

The said resolution being then twice read, was on the question put thereupon, unanimously agreed to by the House by yeas and nays.

A motion was made by *Mr. Blackledge*, and seconded, that the House do agree to the following order:

Ordered, That the secret journal of this House from the 30th of March to this day inclusive be published.

And the same being under consideration,

A motion was made by Mr. *Blackledge*, to amend the said proposed order, by inserting after the word "published," the words following, "to wit: "excepting the message of the President of the U. S. of that date."

And the question being put thereupon,

It was resolved in the affirmative—Yeas 85—Nays 22.

The yeas and nays being demanded by one fifth of the members present.

Those who voted in the affirmative are—Messrs. Alexander, L. J. Alston, Bacon, Bard, Barker, Bibb, Blackledge, Blake, jr. Blount, Boyle, Brown, Burwell, Butler, Calhoun, Chittenden, M. Clay, Clopton, Cobb, Cutts, Dawson, Desha, Elliot, Eppes, Findley, Fisk, Franklin, Garnett, Goodwin, Gray, Green, Harris, Heister, Hoge, Holland, Holmes, Howard, Humphreys, Ilsley, Jenkins, Johnson, Jones, Kenan, Key, Kirkpatrick, Lyon, Marion, M'Creery, Milner, D. Montgomery, jr. J. Montgomery, N. R. Moore, T. Moore, John Morrow, Mumford, Newbold, Pitken, jr. Pugh, Quincy, M. Richards, Riker, Seaver, Sloan, Smelt, Smilie, S. Smith, Southard, Stanford, Taggart, Tallmadge, Taylor, Thompson, Trigg, Troup, Upham, Van Allen, Van Dyke, Van Horne, Van Rensselaer, Verplanck, Wharton,